

JANUARY 5, 2009
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 5, 2009 with Chairman John Martin and 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.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

ELK CREEK RV PARK

Miles Richards, Elk Creek LLC and Ben Genshaft, Thomas Law firm attorney were present.

Miles stated the County has filed an injunction to shut down their RV Park immediately. He stated he has never had the opportunity to talk with the County Commissioners.

Don DeFord stated he would like his attorney, Cassie Coleman to be here as she is the one working on this project.

Miles has been trying for months to resolve issues, whatever the issues may be; there are no public safety issues with the wastewater, power or water. It had gone for 11 years without any inspections; he has brought everything up to code. He is willing to work with the Commissioners and feels it seems silly to go to court. He stated he does not know what the issues are specifically; every issue brought up can be easily resolved and he is not litigation oriented. Ben feels there is a better way to resolve this than wasting time and money in court. Chairman Martin asked if they had a sit down meeting with the Garfield County Attorneys, the Code Enforcement officer and also the planning and zoning folks.

Miles stated they would not let him talk to the planning and zoning; he did go in and fill out a grading permit. Miles stated that Miss Coleman told him they were not allowed to talk to anyone.

Cassie stated they did have prior conferences with Mr. Richards and his prior attorney. This was prior to filing this complaint; but after this, the Board authorized litigation. They are currently involved in settlement discussions and she would like to discuss this with the Board this morning.

Ben stated there is a hearing this Wednesday to shut down this RV Park and it is putting them in a difficult position. Chairman Martin said they would be in touch later today with more direction.

COUNTY MANAGER UPDATE – ED GREEN

AMBULANCE SERVICE LICENSING – DALE HANCOCK

Dale stated this is the annual licensing required by statute. He has all the information for each fire department and would ask the Chair be authorized to sign and issue the licenses for Silt West Care Ambulance, Rifle Fire Protection District, Grand Valley Fire Protection District, Burning Mountains Fire Protection District, Carbondale and Rural Fire Protection District and Glenwood Springs Rural Fire Department.

Commissioner McCown – I make a motion the Chair be authorized to sign the ambulance inspection forms.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

APPOINTMENT OF COUNTY’S REPRESENTATIVE FOR COLORADO RIVER DISTRICT

Commissioner Martin received a letter from David H. Merritt, P.E.D. of WRE welcoming an opportunity to discuss this position with him. Mr. Merritt has a thorough understanding of the issues and the personalities affecting the Colorado River system in general and Garfield County in particular.

Chairman Martin asked if this should be posted in the paper and Don stated as an appointed position, you are not legally required to do that; but you could as a matter of policy. Commissioner Houpt stated it has been a matter of practice for them to do that and as soon as this was seen on the agenda, she received calls from people waiting on a formal announcement in the paper. Commissioner McCown was under the impression that it was the River District’s responsibility to post in the paper since this is an individual who is on their board. He stated, we do the appointment; but it is a River District board. He asked if they were required to do library board notices when there are vacancies. Don stated that was different because that is a statutory requirement. Chairman Martin asked, what is the pleasure of the Board? Commissioner McCown said if they post it, he would make a motion that it be heard no later than the January 19, 2009 meeting. Commissioner Houpt – Second.

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

CITY OF RIFLE REQUESTED A JOINT MEETING TO DISCUSS THE ACCESS CONTROL PLAN WITH C-DOT ON JANUARY 14, 2009 AT 6:00 P.M.

Mike Sampson was in the audience and stated he would be available to attend the meeting along with Chairman Martin. Commissioner Houpt will be in Denver.

DISTRICT ATTORNEY - REQUESTING APPROVAL FOR THE APPOINTMENT OF A CHIEF DEPUTY ATTORNEY IN EACH DISTRICT

The Board discussed this and concluded that it was not in their purview to appoint the position. Martin Beeson, District Attorney could appoint the position if he had the funds in his budget to pay for it. Ed confirmed there was no impact to the budget.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Vacancy issues: Lou said they have 10 openings now and had people show up today for physical training in Two Rivers Park. Lou feels they have obtained some amazing quality individuals over the last 6 months.

Commissioner McCown asked how it balanced out with patrol and jail. Lou stated he has two openings in patrol and the jail would be the remaining 8 or 9. They will be doing a little restructuring and he will post a current organizational chart. Garfield sent deputies to Aspen on New Year’s Eve and they put the all hazards team on standby. Everything worked out well except the gentleman who committed suicide.

NEW SHERIFF’S BUILDING

Lou said he is ready for a new building and has been working with an architect. Ed said they would need to have the concept and then integrate that into a design build RFP. They will need to sit down and do some programming. Ed would like to include the outdoor package as well. Commissioner McCown said they are probably looking at 30 to 45 days in getting the final design work done.

REVAMPING OVERTIME

Lou stated they revamped their overtime program with the oil and gas industry. About 6 years ago, they had worked with EnCana doing some overtime patrols; they have now incorporated several of the operators that have contributed to the fund. The State Patrol is on board now and we are incorporating the municipalities; they obviously have some oil and gas issues. We are trying to get as much law enforcement to focus on traffic issues that are a result of the oil and gas industry. Commissioner McCown asked how the funding stream was functioning; is it a grant? Lou said it is basically a relief grant; EnCana and Williams give so much and the sheriff's office is actually the fiscal agent. It is strictly an overtime rate.

MODEL TRAFFIC CODE

Chairman Martin asked how the progress was on the model traffic code adoption. Lou said that was a good question and he will need to meet with Don and they have had some response. Don asked Lou if they decided to get the chief judge involved. Lou did not think so. The biggest issue was who would supply the FTE clerk to do this program. The court clerk's office was not in favor as they are in a hiring freeze. They are concerned about an increase in productivity, traffic enforcement etc. Lou would ask for an FTE to manage this as a traffic court similar to what each municipality does with their local courts. The revenue from that would offset the cost of the FTE.

Commissioner McCown asked if this was still the call of the chief judge as to where the fines go. Don stated the fines go to the County. In the past when looking at the fiscal impact of this, they did not anticipate the fines paying for the program. Commissioner McCown said his only concern and probably not even valid at this point, we will set this program up, hire people, and then all of a sudden the willingness to participate goes away from that side of the street and we are left with a code that is in force and nowhere to take it. Given the past unwillingness to participate by the judges and the DA what do you do if they do not want to play anymore? Lou said that right now we run our County ordinances such as animal control issues through the courts. With regard to traffic, nothing will change. Most of them are infractions and the district attorney does not get involved. Don said if it has a fiscal impact they will come to this Board for funding. They will look again but he thinks this time the program will pay for itself accounting for the fact we may need to reach a payment agreement with the district court. Right now, they cannot employ anyone. Lou said it is difficult to track, every ticket is unique but just from the volume there is more than enough revenue to support a full time person. Lou said they stay consistent with the state fines and fees. He is not suggesting they will increase the volume of traffic enforcement. It may increase in time. Other places have used this to generate needed revenues; this has not been his intention. His intention is to have more local control over traffic matters; particularly parking. The revenue will come simply by the number of tickets we write. The money will come to the County instead of the State. Commissioner McCown said given the possibility of the downturn in the economy and the implementation of this program, and all of a sudden people start being hammered with violations they never had before such as parking in Battlement Mesa; you could fill a courtroom with individuals with illegally parked vehicles. Lou said parking tickets are a big concern and that is what drove him to look at the Model Traffic Code. It would have to be approved by the Board. Commissioner McCown asked if Lou could write that in on abandoned vehicles and Lou said absolutely.

COUNTY ATTORNEY UPDATE – DON DEFORD

AMENDMENT NO. 1 TO RTC NO. 12 – CHANGE TO NOT TO EXCEED FIGURE

Carolyn said this is a \$5.00 issue. When the amendment was approved, it had an error in the amount and she is asking the Board to cancel the prior motion and present a new motion and authorize the Chair to sign. Commissioner Houpt – So moved.

Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

Don DeFord asked that item "f" be removed from the consent agenda; he would like to discuss it.

CONSENT AGENDA

- a. Approve Bills
- b. Inter-fund Transfers
- c. Changes to Prior Warrant Lists
- d. Authorize the Treasurer to Release \$1,485.00 to RFTA Pursuant to Resolution 05-95 – Georgia Chamberlain
- e. Authorize the Chairman to Sign a Special Use Permit for "Processing and Material Handling of a Natural Resource" in the ARRD Zone District. This Permit Allows for a Compressor Station on County Road 300 South of Parachute – Applicant; Williams Production Company RMT – Kathy Eastley
- f. Authorize the Chairman to Sign the 2008 Intergovernmental Agreement with Pitkin County Concerning the Trails Planning/Construction Grant for the Crystal River Trail and the Garfield County Contribution of \$50,000.00 from the Conservation Trust Fund – David Pesnichak
- g. Authorize the Chairman to Sign the Third and Final Partial Satisfaction of the Subdivision Improvements Agreement for Big R Commercial Subdivision near rifle – Applicant; Big R Enterprises, LLC – David Pesnichak
- h. Authorize the Chairman to Sign a Special Use Permit for an Accessory Dwelling Unit at 1065 Gage Road, off County Road 319 Southeast of Rifle, in the ARRD Zone District – Applicants; Gary and Pat Wallace – Dusty Dunbar
- i. Authorize the chairman to Sign the Resolution of Approval and Special Use Permit for an Accessory Dwelling Unit at 3410 County Road 151, Gypsum, in the ARRD Zone District – Applicant; Burnt Park Trail, LLC – Dusty Dunbar
- j. Authorize the chairman to Sign the Resolution of Approval and Special Use Permit for the Expansion of the Hyrup Compressor Station Located on County Road 306 Southwest of Battlement Mesa – Applicant; Hyrup Investments, LLLP – Dusty Dunbar
- k. Authorize the Chairman to Sign the Resolution of Approval for the Queen Subdivision – Applicants; Daryl and Cathi Queen – Fred Jarman
- l. Liquor License Renewal for Nepal Restaurant Glenwood Springs LLC – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a - m; excluding f; motion carried.

AUTHORIZE THE CHAIRMAN TO SIGN THE 2008 INTERGOVERNMENTAL AGREEMENT WITH PITKIN COUNTY CONCERNING THE TRAILS PLANNING/CONSTRUCTION GRANT FOR THE CRYSTAL RIVER TRAIL AND THE GARFIELD COUNTY CONTRIBUTION OF \$50,000.00 FROM THE CONSERVATION TRUST FUND – DAVID PESNICHAK

Don stated about item “f”; Debbie Quinn has had a chance to review this IGA and Pitkin County has signed it, but there are a few typos and one change in Article III. This needs to be extended and Don would like the Chair to be authorized to sign and extend the time until the end of January 2009. Commissioner McCown asked if any funds were drawn in 2008. Don stated no and it was his understanding that Mr. Pesnichak checked with finance and we can still draw on the 2008 budget if this contract is completed.

Commissioner McCown asked if this was a reimbursable contract. Ed stated no, it was a gift. Don stated if they were in agreement with the substance of the contract, he needs a motion for the Chair to sign. Commissioner Houpt – So moved. Commissioner McCown – Second.

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

EXECUTIVE SESSION: LITIGATION UPDATE - LEGAL ADVICE

Don needs to discuss the Board’s position on an annexation of CR 335 into the Town of New Castle; he also needs direction and to discuss a liquor code enforcement violation; provide an update on the Iron Rose litigation; and Cassie needs to discuss settlement negotiation in the Elk Creek LLC litigation. Chairman Martin asked for an update on Vezzoso. Commissioner McCown asked if it was appropriate for Commissioner Elect Mike Samson to sit in on the executive session. Don stated this has been a subject of debate throughout the state with County Attorneys.

There is no consensus on this issue; there is some risk of waiver of privilege. With that in mind if the Board would like to have Commissioner Elect Mike Samson attend the executive session you can take that action. Commissioner McCown said he would anticipate nothing other than just listening. Don said there is the potential it could be asserted on a waiver of privilege. Commissioner McCown asked, by whom, the entity? Don stated by the opponents in litigation or in contract negotiation, which are usually the basis for our discussion. They could assert that and then ask that the Board disclose the discussion we had in executive session. Commissioner Houpt stated because these are updates on litigation; she hesitates to take that risk. Commissioner McCown agreed not to take the risk. 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.

No Action taken.

COMMISSIONER REPORT

Commissioner McCown – This is my last meeting so my week is blank as far as Commissioner activities are concerned.

Commissioner Houpt – I70 collation board meeting on Thursday; a legislative reception on Thursday evening; Tresi said she appreciated being the new person on the block and having Larry’s leadership.

Chairman Martin – We need to make sure they do the review on facilities with Mr. Green; need to have our top 10 list of priorities together for the Commissioners; make sure the strategic plan is distributive and all the program are complete; we’ll have a brain storming session with Mike Samson.

REGULAR AGENDA PUBLIC MEETINGS:

ROARING FORK WATER SHED PLAN UPDATE – MARK FULLER

Mark gave a presentation and talked about the watershed plan they have been working on for the last couple of years. Mark said they have just released Phase I of the plan and he has the entire plan here with him today. It is available on line through the Roaring Fork Conservancy’s web site and he strongly recommends they take a look at it. The summary the Board received is just the tip of the iceberg as far as the plan goes. Phase I began a couple of years ago and was intended to do an inventory of watershed conditions. The participant’s were the Watershed Collaborative, Ruedi Water and Power Authority. The Roaring Fork Conservancy was their primary contractor for the plan as well as the local governments and other agencies. He showed the plan as part of a puzzle of various parts of issues and the intent of the plan. Water is a big issue and it is only going to become a bigger one over a period of time. He feels it is critical that local governments work together. Phase I of the plan does a good job of defining the problems and issues associated with Roaring Fork Watershed as a whole.

Sherri Clark from the Roaring Fork Conservancy focused on issues for Garfield County. In the executive summary, there are key findings for each of the sub-watersheds. She showed a map of the rivers in the Power Point.

Commissioner McCown asked what time of the year the water was tested. Sherri said they looked at all the available data for all the seasons. She showed the red areas as severely degraded. Lower Cattle Creek is severely degraded.

Chairman Martin stated that degraded means it has been changed from natural habitat. Sherri said they looked at similar areas that had not had any development pressure or any land use changes around it.

Mark said the next step is to take the findings and use them as a starting point for developing goals and objectives.

In order to do that they will have a number of neighborhood meetings and there will be one in this area, probably in Carbondale or Redstone. The idea is to bring together the public and giving them a similar presentation and ask them to help brainstorm on how they want to respond to the issues raised by the State of the Watershed report. That process will yield a laundry list of potential actions, which they will then analyze for the feasibility study. It will allow them to prioritize. Once this is in place they will come back to the Board and other local governments and talk about the recommendations for your particular jurisdiction. They expect the process to take another year or so the Ruedi Water and Power Authority will be overseeing this process. The actual plan is where we go next; it will be a more different process than this. The next process will be much more open, much more public and political input and will yield a much smaller document. They have funding in place; he thanked the Board for their funding.

Chairman Martin said one of the partners he did not see listed was the NRCS; there have been many restoration projects that affect that corridor. That is why he asked about degradation. Mark said they have been in contact with them and have not been left out of the process. Commissioner Houpt stated this was a wonderful document and it is a great basis for starting Phase II. Commissioner McCown asked; do you see the next step going to restoration or the next to regulations that would prohibit further degradation. Mark felt there would probably be a little bit of both.

There are some areas that there are acute problems where restoration is needed to avoid catastrophic losses of habitat. He will try to identify and prioritize those in some realistic way. He thinks it is also safe to assume there will be some regulatory recommendations. It will be important and they will try to make the rules consistent up and down the valley so that one government or jurisdiction is not impacted by the non-regulation of an upstream government or vice-versa. There will be a lot of attention made to make regulations consistent from one jurisdiction to the next. There may be instances where there are not regulations in place where there should be. Nothing that

they are doing has any force of law and they will be brought back to the jurisdiction. Chairman Martin stated he sees many partners in this.

SALUTE TO COMMISSIONER MCCOWN – RETIREMENT TODAY

Chairman Martin addressed Larry and everyone came together for a cake. Larry was presented a beautiful antique ballot box from Garfield County. Chairman Martin presented Larry with a special made exquisite belt buckle with his name engraved and underneath it stated 12 years of dedicated service to the public. John said a gold watch would not do. John also said this is for all the phone calls and all the time he gave to this position as Commissioner.

Marvin wanted to wish Larry well and thanked him for all the support given to him at Road and Bridge.

Mildred stated that Larry has been a real big part of what has happened to the County in these last years and she knows everyone will still be asking for his input; she thanked Larry for his service.

Martin Beeson said Larry's time here has far exceeded his own and as he has said before you have served with integrity and conviction and that is what is needed in every political office. It does not matter what your political persuasion is or your viewpoints; you have done your job well.

Commissioner Houpt said the wonderful thing about this Country is democracy; the ability for everyone to have the opportunity to use a ballot box whether it is this type or electronic voting. Larry has brought a perspective to the Commission that she thinks has been very important to this County and invaluable to the process. We have not always agreed but we have had good discussions and had opportunities to negotiate what they both would agree were good decisions. She appreciates his commitment, the time and knowledge that Larry brought to this Commission. She feels that because he served for 12 years it is a better County because of him and thanked him for his ser

Marian Clayton said Larry has proofed the minutes for the Clerk's Office and she has asked Mike Samson to do the same. I really appreciate all that effort, Larry.

Commissioner McCown proceeded to cut the cake and the people present enjoyed the fellowship.

CONSIDER A REQUEST FOR AN AMENDED FINAL PLAT FOR BLUE CREEK SUBDIVISION, LOT 23 – THIS APPLICATION SEEKS TO AMEND THE BUILDING ENVELOPE – BLUE CREEK SUBDIVISION IS LOCATED ON THE WEST SIDE OF COUNTY ROAD 100 JUST NORTH OF THE ROARING FORK RIVER – APPLICANTS; JOHN CHARTERS AND AMY GRIFFITH – KATHY EASTLEY

Planner Kathy Eastley submitted the following exhibits: Exhibit A - Garfield County Zoning Regulations of 1978 as amended; Exhibit B Garfield County Comprehensive Plan of 2000-; Exhibit C – Application and Exhibit D – Staff Memorandum. Chairman Martin entered Exhibits A – D into the record. Kathy Eastley explained that the owners of Lot 23, Blue Creek Subdivision have requested an amendment to the building envelope in order to locate an accessory structure. There would not be any increase in the size of the buildable area but simply a shift of area from the east side of the envelope to the west side. No other change is requested in this application. 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. In addition, the regulations require that the following:

The Board shall not approve an amended plat unless the applicant has satisfied the following criteria:

- A. All Garfield County zoning requirements will be met;
- B. All lots created will have legal access to a public right-of-way and any necessary access easements have been obtained or are in the process of being obtained;
- C. Provision has been made for an adequate source of water in terms of the legal and physical quality, quantity and dependability, and a suitable type of sewage disposal to serve each proposed lot;
- D. All state and local environmental health and safety requirements have been met or are in the process of being met;
- E. Provision has been made for any required road or storm drainage improvements;
- F. Fire protection has been approved by the appropriate fire district;
- G. Any necessary drainage, irrigation or utility easements have been obtained or are in the process of being obtained; and
- H. School fees, taxes and special assessments have been paid.

STAFF RECOMMENDATION

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 and authorize the chairman to sign the plat.

Commissioner McCown – I make a motion we approve the final amended plat and the Chair be authorized to sign.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER FIVE (5) AMENDED FINAL PLATS FOR LOTS 12 AND 13 OF BLOCK 5, LOTS 11 AND 14 OF BLOCK 5, LOTS 10 AND 15 OF BLOCK 5, LOTS 9 AND 16 OF BLOCK 5 AND LOTS 8 AND 17 OF BLOCK 5 OF THE TRAVELERS HIGHLAND SUBDIVISION – APPLICANT; PARACHUTE COMMERCIAL LLC – SCOTT HALL

Terry Kirk and Karl Hanlon, Attorney were present.

Planner Scott Hall submitted the following exhibits: Exhibit A - Garfield County Zoning Regulations of 1978 as amended; Exhibit B - Garfield County Subdivision Regulations of 1984 as amended; Exhibit C; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; Exhibit F – E-mail from Robert Knight, the Town of Parachute dated December 31, 2008. Chairman Martin entered Exhibits A – F into the record. Scott Hall explained the description of the proposal saying the Applicant owns ten adjacent 5,000 sq. ft. lots (Lots 10 & 15, 11 & 14, 8 & 17, 9 & 16 and 12 & 13 of Block 5) in the Travelers Highlands Subdivision located just south of I-70 on State Highway 6 & 24 approximately 3 miles west of Parachute. The Applicant requests approval to eliminate the line that presently separates the ten lots so that the property becomes five 10,000 sq. ft. property parcels.

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 the five amended plats 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 Final Plat of Block 5 Travelers Highlands Subdivision, Lots 12 & 13, Lots 11 & 14, Lots 10 & 15, Lots 9 & 16 and Lots 8 & 17, Town of Parachute, 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 will require a plat note explaining 1) the purpose of the plat and 2) stating the condition that the plat is combining all of the ten (10) lots into five (5) separate parcels. 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.
 Commissioner McCown – I make motion we approve the amended plats for Lots 10, 15, 11, 14, 8, 17, 9, 16, 12 and 13 of Block 5 of the final plat for the Travelers Highlands Subdivision with the three recommendations of staff.
 Commissioner Houpt – Second.
 In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A NATURAL GAS COMPRESSOR PLANT IN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT; ENCANA USA, INC. – DUSTY DUNBAR

Dusty Dunbar explained the description of the proposal saying, the Special Use Permit (SUP) application is for “Processing and Material Handling of Natural Resource” for the installation of a natural gas compressor station on 7.2 acres of 45,00-acre property owned by EnCana Oil & Gas (USA) Inc. The site is shown on the map, and is near the intersection of roads 401 and 402 near the Rio Blanco County line. The Story Gulch Compressor Station would consist of fourteen (14) natural gas driven compressors; fourteen (14) air coolers; an outdoor electrical substation; two (2) power distribution centers; a generator building; two (2) power distribution centers; a generator building; launcher/receivers; four (4) slug catchers; vessels for separation and liquids storage; regenerator contactors; blow down stack; eight (8) 1200-barrel liquids storage tanks/vapor recovery units; and three buildings for pumps, fuel gas and control/maintenance. The installation of the engines is proposed to be incremental, with two (2) compressors slated for 2009. Gas field development will be the impetus for the number of compressor units installed each season. The NG-driven compressors are proposed to be installed outdoors as temporary units and replaced with electric-driven units that would be enclosed in a building. The electric power is to be provided by a new 230,000-volt power line proposed to be constructed from EnCana’s Middle Fork Compressor Station. The substations and power distribution center will house electrical transformers necessary to regulate and distribute the power, and outdoor equipment will step-down the power to lower, usable voltages for the compressors.

STAFF RECOMMENDATION

Staff finds that because this proposed use is sited in a remote site; because it is in an area where considerable industrial activity is underway; because and the nearest residence is 8 miles away, therefore, it is appropriate to recommend that the Board direct Staff to schedule a public hearing before the Board, and not refer the matter to the Planning Commission.

Commissioner McCown – I make a motion this is scheduled before the Board of County Commissioners.

Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REQUEST TO POSTPONE THE PUBLIC HEARING PRESENTLY SCHEDULED FOR JANUARY 19 – APPLICANTS; SUNLIGHT, INC. AND SUNLIGHT MOUNTAIN DEVELOPMENT, LLC – FRED JARMAN

Tom Jankovsky representing the applicant was present. Fred received a letter from Balcomb and Green. Larry has asked to have the review of this application postponed because of contractual agreements between sellers and buyers. They have been to the planning commission and had a recommendation of denial to the Board. Fred wanted to make two points; the county does not have a postponement mechanism. Either you cancel the application or you move forward by way of a continuance. They have suggested you continue this until sometime in May when they are ready to come back. Fred understands if they come back with a different application, then it constitutes a new application. If it is submitted to the County, it would be under the new regulations and then it has to go to the Planning Commission before it comes to the Board again. Staff’s recommendation for the Board not to put a date certain out there and let them come to you when they are ready.

Deborah Quinn stated if in fact they want to do a placeholder for their existing application then a continuance might be the proper way to do that. Continuing to a date certain would be the way to preserve that existing application. If they know for sure it is going to change; there is no need to continue the hearing, as they would have to start over. Tom stated they do not plan to change the application and would like a continuance. They do not have a specific day in mind.

Commissioner McCown – I make motion we continue this to May 18, 2009 1:15 p.m. Commissioner Houpt – Second. Fred asked Commissioner McCown; is it your impression that they will re-do the noticing? Commissioner McCown stated yes; that is what was stated in the letter.

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

CONSIDER A REQUEST FOR EXEMPTION FROM THE SUBDIVISION REGULATIONS ON A PARCEL OF LAND LOCATED 14 MILES SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 342 (100 FEET NORTH OF THE MESA COUNTY LINE) – THE APPLICATION SEEKS TO EXEMPT A 12.53-ACRE PARCEL WHICH IS SEPARATED BY THE COUNTY ROAD FROM THE REMAINDER PARCEL OF 242.12 ACRES – APPLICANT; PATRICIA PERRYMAN – KATHY EASTLEY

Jack Pretti was present representing Patricia Perryman. Deborah Quinn 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 Kathy Eastley 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; Exhibit G – Staff memorandum; Exhibit H – Staff Presentation; Exhibit I – Letter from Jake Mall, Road and Bridge dated December 1, 2008 and Exhibit J – Memo from Steve Anthony, Vegetation Manager, dated December 18, 2008. Chairman Martin entered Exhibits A – J into

the record. Planner Kathy Eastley explained the proposal saying the Applicant is requesting approval for an Exemption from the Definition of Subdivision Regulations which, if approved will create one parcel 12.53 acre parcel and a remainder parcel of 242.62 acres. The Exemption Regulations allow for Board discretion regarding demonstration of “prevention of joint use” of a parcel when said parcel is split, as in this case, by the County Road. If shown that the road prevents joint use of the properties, then the ‘separated’ parcel would not count toward the maximum allowance of four parcels per the exemption regulations. The applicant is seeking to create one parcel by way of this application, however would like to retain the right of four parcels that may be created via an exemption in the future.

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 2455-101-00-007, 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 submit an exemption plat within 180 days of approval of the Exemption from Subdivision Regulations compliant with State Statute and County Regulations. No transfer of the property or issuance of building permits may occur until such time as the Board of County Commissioners approves and signs the exemption plat, and the plat is recorded with the County Clerk and Recorder.
3. The exemption plat shall include description of a right-of-way easement over the existing County Road encompassing an area 30 feet from the centerline, along the length of the 12.53-acre parcel.
4. The applicant shall provide a map and inventory of County listed noxious weeds on the 12.53-acre parcel and provide a weed management plan to address any inventoried noxious weeds. This plan shall be reviewed and determined sufficient by Garfield County Vegetation Management prior to the exemption plat being signed by the Board of County Commissioners.
5. 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 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.*
 - 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) *Addresses are to be posted where the driveway intersects the County road. Letters are to be a minimum of 4 inches in height, ½ inch in width and contrast with background color.*
 - h) *Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.*
 - i) *Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and*
 - j) *“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).”*
6. Prior to the signing of the plat the Applicant shall provide the following information regarding provision of water:
 - a. A four (4) hour pump test be performed on Ziegler East and West wells;
 - b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level for both wells;
 - c. 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;
 - d. 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;
 - 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 shall be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates for both wells;
7. The property is located in the RE-2 School District. As such, the Applicant shall be required to pay \$200 for Parcel 2. This fee shall be paid at the time of final plat.

Deborah wanted to clarify the right-of-way issue; Jake's Exhibit I does request a 30-foot right of way from the centerline along the length of the subdivided property; but that is contingent if the 60-foot easement does not exist along CR 342. If that 60-foot easement does not exist already, we need a 60 foot, 30 feet on either side of the centerline, not just one side. Jack stated that has been approved by the owner. He stated he has conversed with the owners and all conditions are acceptable.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. Motion carried.

Commissioner McCown – I make a motion we approve the exemption from subdivision; because of the road split, with the conditions listed from staff through number 7 and correcting the request from Road and Bridge to include 30 foot both sides of the centerline on the property that is to be divided. Commissioner Houpt – Second.

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

CONSIDER A CONDITIONAL USE PERMIT FOR A WAREHOUSE/STORAGE FACILITY – APPLICANT; OXY USA WPT, LP – DAVID PESNICHAK

Tim Dobransky, Cordilleran Compliance Services, Inc., and Daniel Padilla were present. Deborah Quinn 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 Kathy Eastley 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; Exhibit F - Staff memorandum; Exhibit G – Memo from Jake Mall, Garfield County Road and Bridge Department dated November 10, 2008; Exhibit H – Memo from Steve Anthony, Garfield County Vegetation Management Department dated December 3, 2008; Exhibit I – E-mail from Jim Rada, Garfield County Public Health Department dated November 14, 2008; Exhibit J – E-mail from Albert Romero, Colorado Division of Wildlife dated December 2, 2008 and Exhibit K – Staff Power point Presentation. Chairman Martin entered Exhibits A – K into the record.

David Pesnichak explained the background. The Building and Planning Department received a Conditional Use Permit (CUP) application for a “Warehouse Facilities / Storage Area” on an approximately 10,300-acre property owned by Oxy USA WTP LP. The site is located approximately 13.5 miles northeast of the Town of DeBeque. More specifically, the Applicant requests approval from the Board for a warehouse and storage area (2.5 acres) approximately two (2) miles past the end of County Road 213. Site disturbance is to be limited to 2.5 acres with site development consisting of material and equipment storage and a 100 x 60-foot warehouse building (Quonset-hut style). Total construction time is expected to be two to three weeks. As no permanent personnel are to be stationed at this facility, no utilities are to be provided onsite aside from a portable toilet, portable power generator for occasional lighting and bottled water for personnel utilizing the site. The proposed facility is not anticipated to be viewable from any public right-of-way or, following a review of nearby address points, from any existing residences in the area.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Conditional Use Permit allowing a “Warehouse / Storage Facility” with the following conditions of approval:

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 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 chemical and fuel storage will be enclosed in a fenced area at least eight (8) feet in height.
 - 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 lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

3. The total area to be used for the Warehouse / Storage Area shall not exceed 2.5 acres and shall occur within the area identified by the Applicant in the Conditional Use Permit.
4. The Applicant shall abide by all regulations enforced by the Garfield County Road and Bridge Department.
5. In order to control dust, the Applicant shall periodically treat the driveway and storage area with an approved dust suppressant.
6. The Applicant shall construct an eight (8) foot tall fence containing all areas, which store chemicals or fuels.
7. All vehicles associated with this Conditional Use Permit must be licensed and in compliance with State and Federal requirements.
8. The Applicant shall construct and install a spill containment system at 110% of the total storage capacity for all liquid chemicals and fuels onsite.
9. The Applicant shall submit a weed inventory of the site and a weed management plan based on the inventory. This documentation shall be reviewed and approved by the Garfield County Vegetation Management Department prior to the issuance of the Conditional Use Permit.
10. The Applicant shall provide a reclamation security in the amount of \$10,000 to be held by Garfield County. The applicant has quantified the surface area to be disturbed as 2.5 acres on private land. The security of \$10,000 is based on the long-term rate of \$4000/acre x 2.5 acres.
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 security release consideration. The applicant shall provide the Vegetation Management Department with copies of the original tags from each seed bag. We do ask that the applicant specify which seed mixture they plan on using.

Daniel stated with regards to item 6; the 8 foot fence around the chemical areas and fuels, they will be doing. Number 8; they have a contractor on stand-by to complete the SPCC plan; item 9 he brought the weed inventory and asked to hand it to David Pesnichak to give to Steve Anthony. He is waiting to see if they treated the infestation on thistle, this is not in the report. Item 10; the re-veg was signed this afternoon and they should have the bond by tomorrow.

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 motion we approve the Conditional Use Permit for a warehouse and storage facility with the 10 conditions of staff. Commissioner Houpt – Second.

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

Before the close of the meeting, Chairman Martin stated once again that it has been a pleasure for the last 12 years to serve with you Larry. Chairman Martin said he will miss his motions and the discussions they had and it has been an honor.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JANUARY 12, 2009 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 12, 2009 with Chairman John Martin and Commissioner Tresie Houpt present. Commissioner Larry McCown was absent. Also present were County Manager Ed Green, 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

DISCUSSION OF THE 2009 COMPENSATION PLAN – KATHERINE ROSS

Katherine Ross and Lori Goodwin were present. A power point presentation was given. Katherine presented the detailed report on the 2009 Compensation Plan explaining this would determine the pay structure movement recommendations, determine adjustments, determine performance merit increases recommendation, determine the cost to the County and implement the new pay plan as of February 2009. A 2.5% increase in the pay structure projected for the Western Slope was recommended. The 2.5% is basically is just on the lowest pay structure. This is moving the pay bands. The second part of this was the problem in hiring the Deputy positions. She explained the Deputy I hiring problem and the new entry adjustment of \$21.60. There is also an adjustment for Deputy II jobs in the Sheriff's department. The third piece is the merit increases, which were projected at 4%. Merit pay depends on performance and she suggested the following be implemented:

Exceptional	3.8 – 4.0 = 6%
Exceptional	3.5 - 3.7 = 5%
Proficient	3.0 – 3.4 = 4%
Proficient	2.5 – 2.9 = 3%
Developing	2.0 – 2.4
Developing	1.5 – 1.9 = 2%
Inconsistent	1.0 – 1.4 = 0%

The average of Proficient is an increase of 4%. This was used for the bell curve. The cost to the County is an increase of \$730,054.03, which equates to a 3.63% increase. Katherine recommended the Board adopt the Compensation Structure for 2009 and the 2009 Compensation Plan as presented. The current payroll is \$20,116,966.74 for 2008 and the 2009 projected is \$20,846,920.77. This is within the overall budget the Human Resources Department was directed to stay within. This will be in the employee's February paycheck.

Discussion:

Commissioner Houpt asked for clarification. Her question was how to keep new hires from going ahead of those hired last year. Katherine explained that performance merit increases is the factor that creates a pay movement. Commissioner Houpt said she is concerned about the economy and does not want to consistently jump the hiring salaries. This has occurred in other counties. Katherine said we do the budget first and that has the perimeters to stay within. The second piece is periodically to do to a salary survey every three years.

Ed said the Mountain States survey is what we are basing our salary structure on for this year 2009. The major impact is for new hires and promotions. Commissioner Houpt – What if you have a larger percentage of people who score exceptional and how does it fit into the pay structure. Ed said he reviewed each one and made sure we have a range equating to 4%. Katherine said this was accomplished on the 31st of December 2008. There is no major change since that evaluation. Lou Vallario said he appreciates the way Katherine worked with him. He did a survey of 5 surrounding counties and with the exception of Silt; the County Sheriff’s Department is the lowest paying. We made those adjustments and it will give us a better hiring capability. Mike Samson, Commissioner elect asked about Mountain States survey. Katherine said this is a combination of private and public sectors and they mainly do Colorado and Wyoming. It is done by regions. Commissioner Houpt – Going back to the 2.5%, you are confident that the new employees are not going to lag behind those who have worked here a year or so. No one will find themselves below the minimum.

Katherine explained that if they are at the first hiring level, they would be advanced to the new hiring minimum. The Human Services Department staff will complete the PAR forms for everyone. At this point, they will go over them again to make sure no one will slip through the cracks. Lori clarified that this was before the performance raise. There is a possibility that a new hire less than 6 months will not get a raise but no one will be below the minimum unless they have been advanced to a hiring position and the department head wants to keep them at the level they have proven themselves. A motion was made by Commissioner Houpt to approve the Garfield County Compensation Plan and Pay Structure as presented. . Commissioner Chairman Martin who stepped down as Chair seconded motion.

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

Don had a question on format such as a Resolution. This new Compensation Plan applies to all the elected officials and requested permission to prepare the Resolution and bring it back on the consent agenda for signature. The Board agreed.

APPROVAL OF THE 2009 EMPLOYEE LANDFILL COUPON PROGRAM – KATHERINE ROSS

Katherine Ross, Marvin Stephens and Kraig Kuberry were present. Katherine Ross submitted the employee benefit regarding landfill coupons. This will entitle employees to dump two pick-up truck sized loads of trash free of charge during a 12-month period. An example of the coupon was included in the Board’s packet of information. There are two landfill coupons: one is for employees and the other is a free dump day for the public. This is in effect from March 1, 2009 through February 29, 2010. Commissioner Houpt asked to add to the “No hazardous waste” and include the ‘No recyclable products” as well so we can encourage people to recycle”. It is important for the Commissioners to encourage recycling. Marvin thought we could get some recycling containers at the Landfill. He could make a list of products that are recycling.

A motion was made by Commissioner Houpt to approve the Landfill coupons for staff and the public as presented.

Motion seconded by Commissioner Chairman Martin who stepped down as Chair.

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

APPROVAL OF THE 2009 EARTH DAY PROGRAM – MARVIN STEPHENS

Marvin Stephens, Katherine Ross and Kraig Kuberry were present. Marvin stated this everyday program worked a lot better than one single day as it created a backlog of folks trying to use their coupon on the same day. Commissioner Houpt wants to emphasis the recycling program next year on the public free dump day coupons. Marvin stated the grand total cost was \$60,927.00. A complete breakdown of the loads from 2008 was submitted as well as a sample free dump coupon. The requirement is to present identification that you are a Garfield County resident with a restriction of no more than 5 tires per household. The coupon is good through December 31, 2009.

A motion was made by Commissioner Houpt to authorize the Earth Day everyday for Garfield County that includes a coupon for all County residents for a free truckload of disposal at the Landfill. Motion seconded by Chairman Martin who stepped down as Chair. This allows the public to use their coupon any day during the year.

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

CONTRACT FOR FOOD SERVICES FOR COMMUNITY CORRECTIONS – RODNEY HOLLANDSWORTH

Rodney Hollandsworth submitted the purchase of services agreement to provide food services through the Department of Corrections serviced by the Rifle Correctional Facility. The amount of the contract is for a not to exceed amount of \$197,000 for 2009. Ed said this has been a very cost effective program and we are very satisfied. Don brought the attention on the fact of liability; it is not part of this agreement, therefore he is given this responsibility to the Board.

A motion was made by Commissioner Houpt that we approve the purchase of services agreement between Garfield County and Colorado Division of Correctional Industries for food service in an amount not to exceed \$197,000 and that the typographical adjustments be made in the contract in Exhibit A. Motion seconded by Commissioner Chairman Martin who stepped down as Chair.

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

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don said he had a few items he would like to discuss with the Board in executive session: Provide an update on current litigation involved in Vezzoso and Gilstrap, Cassie is present for that as well as the building and planning staff; talk to you about the potential for a hearing on the Dos Hermanos facility and where we are with that; I need to make inquiry of the Board concerning the letter in your packet from Mr. Guttman; and Debbie needs to provide you with legal advice concerning a planning hearing this afternoon.

NEW DATE FOR THE ORGANIZATIONAL MEETING

Commissioner Houpt stated she has an Oil and Gas Commission hearing on Tuesday and will not be able to attend the swearing in for Mike Samson. Along with this swearing in there is an organizational meeting scheduled and she has spoken the Chairman and would like to have the organizational meeting on Wednesday so the three of them can be together for that process. Could we change that from Tuesday to Wednesday? Chairman Martin – The organizational meeting is usually just to determine the Chairman; we will hand out our list of committees and we need to formally establish those. That list could be acted upon on the 19th of January. We could have this organizational meeting just before the meeting with the City of Rifle on Wednesday since it is a continued meeting. The Commissioners agreed and it will be held at 5:30 p.m. at Rifle City Hall.

Don – As far as the appointments to Boards and Commissions, this will be handled on the 19th of January.

Chairman Martin – We have a new approach and that will be the reports on these committees and to make sure that is done during Commission time. This way we will have a more informed decision. If we need legal advice or direction of the Board on a certain position that can be handled as well. He also talked to Debbie Quinn about items coming up and felt we could do a better job on correspondence and cut down on Executive Session information through that correspondence once a month. Commissioner Houpt would like to have more discussion on this issue as she was not sure what changes were anticipated. Chairman Martin said that is on information and responsibilities and goes along with the protocol of being on a committee.

A motion was made by Commissioner Houpt to go into Executive Session. Motion seconded by Commissioner Chairman Martin who stepped down as Chair. In favor: McCown – absent Martin – aye Houpt – aye

A motion was made by Commissioner Houpt to come out of Executive Session. Motion seconded by Chairman Martin who stepped down as Chair. In favor: Martin – aye Houpt – aye McCown – absent

Don added one more item that he would like to give advice regarding the contract for the South Bridge that is on the agenda for 10:15 a.m. The Board agreed to add this item.

Action Taken:

CORRESPONDENCE TO DA GUTTMAN, PC

Don said we received correspondence from an attorney entitled DA Guttman, PC requesting that the Board consider taking some type of unspecified action to assist some employees he's representing who did not receive payment on a project on which they worked. This was not a County project; it was a private project and he did not believe the County had any involvement in this project. Don asked that the Board to authorize him to send a letter to Mr. Guttman indicating that the Board's has reviewed his correspondence but believes his request falls beyond anything this Board can do to assist him. Commissioner Houpt – So moved; Chairman Martin – Second.

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

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Grants - Sales Tax Recovery Distribution for December \$64,387.27 – Georgia Chamberlain
- f. Authorize the Chairman to sign letter to Alpine Bank requesting cancellation of Letter of Credit Number 4150768701 for Big R Enterprises, LLC. – Georgia Chamberlain
- g. Authorize the Chairman to sign the Resolution of Approval for a Conditional Use Permit for a Warehouse and Storage Facility located northwest of the Town of DeBeque. Applicant is Oxy USA WTP LP – David Pesnichak
- h. Authorize the Chairman to sign a Resolution approving an Exemption from Subdivision for the Perryman Parcel located 12 miles south of the Town of Silt on CR 342. Applicant is Patricia Perryman.

A motion was made by Commissioner Houpt to adopt the Consent Agenda. Motion seconded by Chairman Martin who stepped down as Chair. In favor: McCown – absent Martin – aye Houpt – aye

COMMISSIONER REPORT:

Commissioner Houpt - Last Thursday we had an I-70 Coalition Board meeting where an annual update was given and we adopted the work plan for 2009. Tresi said she would submit a copy of the work plan to Mike and John so they are aware of how we are moving forward; we are still working with the Rocky Mountain Trail Authority on the feasibility plan for transit. We have the grant for land use planning around transit that we received from CDOT this year that is being completed. There are many transportation issues coming up during the legislative session. This was the year that the administration and the legislature promised to find money for transportation. I am not sure where that money will be found. We all know that typically severance tax funds are a pot that people look at because there are no other monies at this time. This is going to be quite a debate. She thinks it is going to be important for us as a Commission to figure out how we feel about those allocations of monies. She said it would be especially since several of the Bills being introduced are for the funds that go to DOLA. This pot of money would then typically go to a grant program for impacted counties. In addition, she had a CCI board meeting where we adopted the various minutes and fund allocations for last year. We are going to move forward looking at membership but CCI did not increase any fees this year. We were able to welcome all of the new County Commissioners who were in Denver for training. She thanked Mike for being there. This is a very valuable association and gives a great opportunity to figure out number one issues. It shows that as Garfield County, we are not all that unique. Counties can work together and can create opportunity for solutions on a statewide basis. We also had a legislative reception where Governor Ritter came and Mayor Hickenlooper; probably 50% of the legislators were present as well. It gave a good opportunity to talk to our senator and representatives about what is coming up in our area and what is critical to us. Tomorrow, I have an Oil and Gas Conservation Commission hearing and will not be able to be present for the Swearing in Ceremony for Mike Samson. She extended congratulation. On Wednesday evening, we have a meeting with Rifle at 6:00 p.m. but we will be meeting for our organizational meeting at 5:30 p.m. Then, I have an I-70 Board meeting on Thursday. This is where we will get a more thorough update on the planning grant project that is being finalized. CCI Steering Committee meetings will be held in Denver on Friday.

Chairman Martin said he has a different twist on the legislative meeting; it is \$600 to \$900 million dollars the State is going to be looking for since they have a short fall and that is coming from the counties. We have to be very vigilant on the re-appropriation of County funds back to the State and be on top of that every day because that is exactly what the agenda is. Some of the legislation that I have seen is also requiring us to do certain things with the money we do receive, which we have not had to do before and there is very limited use of the severance tax money or it goes back to the State. There are numerous types of things that are coming up; it is going to cut our revenue streams or at least an attempt to do such. So, we have to be on top of this. I don't see a friendly atmosphere in reference to that particular issue on money going to the State; or, for that matter, money staying here where it needs to be used and also where it is being raised to take care of the issues. So, I see many battles in reference to that as well as many mandates coming down on the counties to pick up the cost of doing State business. We have to stand fast. That is also one of the issues that we had in reference to our policy on reporting back on the committees we serve on and getting decisions so that we as a Board can make informed decisions. We need to take a stand in order to put a unified voice forward on issues that come out. I hope that we can get that done. I hope that we will have a new face as a Board; we will have more involvement all the way around and a more informed board as well as staff members in accomplishing the goals that we want to in 2009. It will involve us putting our nose to the grindstone to accomplish things that is what we are after.

COMMUNITY SERVICES BLOCK GRANT PROPOSAL FOR SENIOR PROGRAM: TRANSPORTATION

Lynn Renick and Judy Martin explained a need to do a proper public notice. A request was made to have this rescheduled for next week on January 19, 2009.

PRESENTATION REGARDING THE SOUTH BRIDGE PROJECT – CRAIG GASKILL

Tom Newland from Glenwood Springs and Craig Gaskill, Environmental Assessment evaluator were present.

Craig Gaskill presented a power point summary of the process for selection of a preferred alternative, alternative evaluation and asked for discussion with the Board. The selection process has been ongoing for a long period of time and the public and agency developed the purpose and need; project goals, and alternatives.

Purpose and Need: The purpose of the South Bridge project is to provide a critical second route between SH 82 and the western side of the Roaring Fork River in the southern Glenwood Springs area. This new route would improve emergency evacuation, emergency service access, and local land use access. This second route would respond to the congressional earmark for Glenwood Springs South Bridge, Public Law 109-59, 109th Congress.

Project Needs: Emergency evacuation needs include an increased local capacity to support both emergency vehicle ingress and evacuation egress; improved redundancy to reduce emergency service provider travel times and reduce the likelihood of a catastrophic occurrence where residents and visitors could be stranded if the existing primary access route is cut off. General transportation access needs include reasonable access options to limit temporary closures due to natural hazards and accidents.

Project Goals: Minimize environmental impacts to scenic, aesthetic, historic, and natural resources; provide a project that is in harmony with the community; provide a practical and financially realistic alternative; minimize private property impacts; safety accommodations of area roadways; provide an alternative that is consistent with local plans, regional plans, and current studies; and provide a design that encourages multi-modal travel and does not preclude future multi-modal alternatives in the study area.

Craig explained the alternative screening process to arrive at the choices for the two preferred alternatives. This is available on-line on the City of Glenwood Springs website. These alternatives are being presented the Garfield County Commissioners and will be presented to the Glenwood Springs City Council to determine the best alternative. The alternatives screened at the Level 3 included 3a and 3b as well as Alternative #5, #8b, and #16. Tom gave a Power Point presentation showing the alternatives selected. A joint meeting will be held in February and in early March on a recommendation on which way to go. The cost analysis will be given to the Commissioners before the February meeting. Tom stated as we consider the alternatives we should consider traffic calming on Midland Avenue so it does not encourage that by-pass traffic but allows emergency access to occur. There were a number of recommendations for traffic calming and for some cross sections in the packet. It is keeping with the narrow two-lane road with pedestrian and bicycle facilities on the side. Commissioner Houpt expressed concern that none of the citizen's alternatives were included in the alternatives presented to the Board today. Chairman Martin – Sometimes the plan defeats the purpose of the mass evacuation etc. Calming devices and trails and a few other things could get in the way of emergency evacuation. Do we stay within the scope of the earmark or not. Putting the narrow bumpers and the islands in, etcetera is that really what you are doing on an emergency by-pass. This is a discussion we need to have with the City Council, which we have not had. The earmark provides for this second access as in Public Law, 109-59, 109th Congress. Tom responded that the recommendations have the same concerns; you need to provide a safe facility and meet all these needs. Commissioner Houpt commented that we are not just building it for today and we need to be realistic about what the needs will be tomorrow on that route. Tom said the forecast did look 20 years into the future; all the analysis was done on 2035 and does incorporate the Sunlight Development. The two-lane road does accommodate that but it is a lot of traffic. A good discussion will occur in February.

FA NON-REIMBURSABLE AGREEMENT – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren submitted the FA non-reimbursable agreement to find an alternate location for the federal VOR that is at the Airport right now. We have a VOR but it is not owned by the Airport. This is owned by the FAA and they just have land on the Airport where this facility is located. This facility will be in the middle of the new runway so we have to find a place to relocate it. As such, we are paying the \$37,950 to have them evaluate alternative locations. We are recommending that they take this off the Airport at this time. The FAA is looking at a couple of sites off the Airport. This money was already paid to the FAA in 2008 without the reimbursable agreement. The FAA is saying they need the money to get started on the survey and once they get started on the survey, they need the contract. Brian explained the purpose of the VOR. It is called a high altitude VOR. You can see the aircraft flying overhead at 35,000 feet. It marks what is called a highway up there. The aircraft going east to west will actually fly through the VOR route and they will be at an 'odd' thousand feet going eastbound and an 'even' thousand going westbound. You can have traffic on the same freeway, just at different altitudes. Carolyn said she has some issues and whether the Board likes it or not you are subject to a 26.5% administrative cost on top of the \$37,950. When the Board signs this agreement, you will agree to that amount. Brian added that this is reimbursable through our administrative piece so we will get 95% of this back. It is called a non-reimbursable agreement because we are talking about two different FAA departments. This is Facilities and the Facilities Department will not give us any of this money back, but the Airport District office as shown in our AIP is there in order to upgrade the Airport. They will give us money back. This applies to the entire cost if we can justify it. There is a hearing process, a submittal and we present the cost, and why it is required. The Facilities Department of the FAA is not going to give us any money back. Carolyn said the second thing is that Article 3 says the agreement is estimated to last 12 months and will become effective on the last signature below. The money is already gone and the Board is memorializing something that has already done in 2008. Brian added; this is the first agreement with the Facilities Department; it is a different arm of the FAA.

Commissioner Houpt made a motion that we approve the Non Federal Reimbursable Agreement between the Department of Transportation Federal Aviation Administration and Garfield County Regional Airport in an amount of \$37,950 plus potentially administrative costs of their secured site. Motion seconded by Commissioner Chairman Martin who stepped down as Chair.

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

PRESENTATION FROM ROCKY MOUNTAIN POWER REGARDING THE GATEWAY SOUTH PROJECT – FRED JARMAN

Fred Jarman, Director of Building and Planning, Matt Graham, Political and Community Affairs, Wyoming Manager and Rod Fisher, Director presented. This is about keeping the power on and serving customers via the Energy Gateway South Transmission Project. Rod Fisher explained the entire project saying it is a regulated power company. The last major investment was done in the late 1970' and early 1980's. Therefore there is a need to plan for growth. This is not

tied to a specific project. It is just starting and he wanted to give an update of how this might impact Garfield County. They may be back within 2 to 3 years to obtain permits. This is one of several projects underway in Oregon, Idaho, Wyoming, California, Nevada, Colorado, Arizona and New Mexico. This project will start at Aeolus and travel through Northwest Colorado. As a regularly power company they are required to provide energy for their customers now and into the future. In the near future, they will be out of transmission capacity. Wind power is planned for Wyoming. The customer demand has increased 26% and they are planning for additional users. This links Aeolus to Mona Annex down to Sigrid, which is a large complex just outside of Richfield, Utah. Then it travels down to Red Butte north of Saint George and to the Vegas area. The project is approximately 750 miles long. The structure types will be steel lattice and self-supporting so there are no guyed wires associated with those in order to minimize the impact on the ground. The structure heights will be anywhere from 160 to 190 feet and the spans between the structures will be anywhere from 800 to 1300 feet. Our right-of-way width will be 300 to 350 feet and access roads will be a minimum of 14 feet. Some examples were displayed for the typical types of structures that this project may employ. The project will be crossing a portion of 4 states including some BLM and Forest Service land. This is in the early stages. The approach to site the route is parallel to other linear facilities. The route is in agency designed utility corridors, e.g. the Forest Service and BLM. It will also include a route into new areas. The EIS has been done on public lands and will be presented by BLM. This project is basically designed as a double circuit system. A 350 right-of-way is needed for the towers. The existing transmission lines were shown on a map. They are looking to have a major portion of this in by 2015 – 2016. BLM will be making some pre-tour scoping meetings across the states. They will come back to update the Commissioners as the project moves forward. They will have a good idea of the proposed right of way and private landowners involved. At this point, some wide corridors will be evaluated but thus far, they have no answers yet. They will be doing a variety of general construction activities such as surveying, upgrading or construction of access roads, clearing and grading, excavation and installation of the foundations, assembling and erecting towers, stringing conductors, and then cleanup and reclamation. They would like to get feedback on specific groups within the County and any experience that this Board could share to avoid some common pitfalls. They encourage input on how best to do business in Garfield County. Commissioner Houpt said it is difficult not knowing where they plan traveling through Garfield County. It makes a big difference since we are a very long County. Rod said they should know what corridors they would be looking at probably within about 7 months and they could come back and give the Board an update. Since there's a great deal of energy development in the County and landowners are already experiencing impacts, it is important to keep that in mind as you are looking at what area you want to move through. She suggested they be prepared to provide what kind of benefits ultimately we could see by having this kind of high voltage line going through our area. The Governor is bringing forward an energy program and she did not know if this could be part of the grid. When you enter into a state where you do not supply any resources, it is a bid intrusive. We certainly can do our part but recognize that we are doing our part right now and we are going to need resources as well. She asked for a better understanding of why they were moving through Colorado. Perhaps you can give us a better understanding of that as time moves forward.

Chairman Martin suggested by utilizing the Western Governors Association and their project they just completed in reference to their energy corridors. They have their established corridors and they selected several new ones, which blend in with what you have presented. Madelyn West out of the Denver office will have all of that updated information. It takes care of the 15 western United States including where they accept and need to have power and the infrastructure upgraded, etc. Also, the more alternative energy that is being produced in Colorado is going to require a receptacle as well as backup. This is what you supply so, the more wind and solar power we get that goes on the grid will need backup and that is exactly what you said. This is one of the infrastructure needs that no one thinks about under alternative energy powers. It will be an uphill battle and in western Garfield County there is a lot of BLM land going across Prairie Canyon and down into Grand Junction.

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR A COMMUNICATION FACILITY LOCATED IN THE RESOURCE LANDS ZONE DISTRICT OPERATED BY MARATHON OIL COMPANY. APPLICANT IS OXY USA WTP LP – DAVID PESNICHAK

David Pesnichak and Debbie Quinn were present. David said this is a referral of a SUP to construct a one, seventy (70') tall communication tower to support oil and gas operations in the area. The site will be on a 10,303.37-acre parcel, which is already used by the applicant for resource extraction operations. The tower is proposed to be located on a 400 square foot concrete pad and will have a self-contained electrical supply. This facility is proposed to be unmanned with no exterior lighting. Staff recommends that the Board direct staff to schedule a public hearing directly before the Board of County Commissioners. Access is from CR 213 or 215.

A motion was made by Commissioner Houpt to schedule this in front of the County Commissioners as recommended by staff. Motion seconded by Chairman Martin who stepped down as Chair.

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

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A CONTROL FACILITY FOR THE CONN CREEK NATURAL GAS COMPRESSOR STATIONS, OFF CR 213 NORTH OF DEBEQUE. APPLICANT IS OXY USA WTP LP – DUSTY DUNBAR

Dusty Dunbar, Debbie Quinn and Daniel Padilla from Oxy USA were present. Dusty presented the referral for a SUP for industrial support facilities located 1.25 miles from its intersection with CR 204 and approximately 13 miles north of DeBeque on a 1.84-acre site, which consists of 10,303.37 acres. The proposal is to construct a 24'W x 60' office building to be placed on an 83' x 135' pad that accommodates the building, parking and septic system with two accesses to Oxy's private road. The facility will have 2 – 4 staffers and 4 – 12 visitors per day. No overnight stays are anticipated, excepting emergencies. Staff finds that because this proposed use is sited adjacent to an existing compressor station and its proposed companion is located in a remote site. It is appropriate to recommend the Board direct staff to schedule a public hearing before the Board and not refer the matter to the Planning Commission. Dusty said this is located in an isolated area that has many industrial things that they are actually concentrating these things together to provide for easier management. The nearest located residence is about 5 miles away toward DeBeque. Conn Creek II is scheduled to come before the Board on the 17th of February as might this if the Board so chooses. Daniel Padilla said we need the control room to operate Conn Creek II; however, the control room was designed to operate Conn Creek I, Conn Creek II and the central water handling facility. This project has other fingers that it goes out to and touches and we will manage all of the facilities.

Commissioner Houpt made a motion that we schedule this application in from the Board of County Commissioners as recommended by staff. Motion seconded by Chairman Martin who stepped down as Chair.

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

DISCUSSION TO AMEND THE 2008 BUILDING CODE TO INCLUDE CARBON MONOXIDE ALARMS IN RESIDENCES – ANDY SCHWALLER

Debbie Quinn, Andy Schwaller, Fred Jarman and Ken Smith, Code Enforcer were present. The public notification was submitted and reviewed; it was deemed adequate and published in the Citizen Telegram. The Board was advised they could proceed with the public hearing. Andy submitted the memorandum to the Board saying there is a valley wide movement to amend the building code to include carbon monoxide alarms to be installed in residential homes following the tragic accident of last Thanksgiving in Aspen. Therefore, the proposed change is to amend the building code to include sections related to carbon monoxide alarms. Chairman Martin swore in the speakers. Andy said the recent loss of the family prompted the regulations of these installs of carbon dioxide meters. Commissioner Houpt suggested that Andy add an educational piece to this. Andy said the realtors would be the enforcers. Chairman Martin questioned the law enforcement powers the realtors would have in the implementation of the monitors.

A motion was made by Commissioner Houpt to close the public hearing. Motion was seconded by Chairman Martin who stepped down as Chair. Motion carried.

A motion was made by Commissioner Houpt to approve the amendment to the Building Code of 2008 to include the proposed language on the installation of carbon monoxide alarms in residences in Sections 313.3 or 313.1 or 313.2. Motion seconded by Chairman Martin saying he would for discussion. My position is that I see it as new construction and I agree that should be part of the inspection process. I do not see it in existing housing. That is the responsibility of the ones that are living there now. If they are doing work in their home and they really do need something done besides just putting a roof on and then we are saying you need a carbon monoxide monitor because you are putting a siding on or doing something similar. If there is truly a need that deals with the natural gas or the ventilation of the house, then it needs to be there. So, if we have again, ventilation, heating systems, furnaces, or whatever I would say then they would need one but not with any building permit. Commissioner Houpt – I think there are other current situations where anytime an upgrade is made to your dwelling there are certain things that you have to upgrade. This is not the only situation where this would happen. Andy commented that this proposal is actually saying any building permit in a house. Commissioner Houpt said she knows that but we have other situations. You do that with a fire alarm; you cannot do one without ignoring the other. My motion stands on this. I think it is very important to follow the staff's lead and I appreciate the fact that you did not include retro fitting of everything. You are trying to figure out where the work situation is limited. Andy – It is limited only to houses where there is a source of CO. If a house has electric heat throughout you do not have to have; however if it has a gas water heater, then this does apply. Chairman Martin – A little furnace boiler that heats your driveway so it can melt the snow was one of those too. I still read it as any building permit on an existing house and I think that goes too far. If I want to replace the windows and put storm windows in, then I have to get an alarm system or CO detector. I do not think I need to do that. Andy said if it requires a building permit is the way this is written. Chairman Martin stopped Andy saying that is the way he is reading it and thinks it goes too far. So I would say in the regulation that if it had anything to do with the heating system or anything in combustible gas or something like that, then I would say in that building permit it would need one. If you are just replacing the furnace and that is part of the inspection then a CO detector should go along with it as well. Andy said the advantage of when a building permit does come up, it gives the department the legal ability to inspect. It also gives us a chance to do a plan review. Chairman Martin stated he could appreciate that but it still reaches too far. Commissioner Houpt – I'm amazed only because I think as we go through our Building Code you'll see that this is not the only situation where we can call up other requirements if there are upgrades being done on a home; this is one of those things that escapes people's minds and it's a very important one. If you use your example of weather proofing and your ceiling leaks in your house, that might be an even stronger argument for requiring an alarm in that situation. I maintain my motion. Chairman Martin – I'll give you another example if you want to put in a septic system or a cistern. You need a building permit to do such and it has nothing to do with this. The CO detector will go off with methane from the sewer. I have seen this from personal experience. Andy said a septic permit is a little different and it is under a separate set of rules and regulations. Chairman Martin stated it is still a building permit process and certain parts of it would apply. Andy further stated that he did not dream this up; it is actually showing up in the 2009 IRC. The experts put these items together based on committee, fire and building input, so it is their educated best guess on a good way to go. Commissioner Houpt said if we update our Building Code and adopt the 2009 Code this would be in that wording anyway.

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

Chairman Martin said we'll need to revisit this issue when we have three Commissioners, so let's see if we can re-do it and revisit with a 3-party Board. Commissioner Houpt – Either re-do it or bring it back as presented since it was a split vote.

CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT. APPLICATION ARE: JAMES AND MARIA GORNICK – FRED JARMAN

Fred Jarman, Debbie Quinn, Ed Olszewski and Melody Massih of the law firm Olszewski, Massih & Maurer, P.C., James and Maria Gornick 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. Planner Fred Jarman 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 – Email from County Project Engineer dated 11-25-08 Exhibit G – Supplemental application submitted by the applicant. Chairman Martin entered Exhibits A – G into the record. This matter was brought to the County in the form of a zoning violation complaint where the owner was cited by the County in July and August, 2008 for an existing illegal dwelling unit on the property. Since that time, the owner has finally retained counsel to assist him with this issue and is seeking to remedy the illegal unit by getting a permit from Garfield County. The Applicant requests the Board grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) for a property located on a 7-acre property, 2 miles west of New Castle on County Road 214 in Peach Valley. The unit is located on the upper floor of a stand-alone garage on the northeast corner of the property. The property owner has an approved well permit and water contract for a single-family dwelling, and accessory dwelling unit, and associated irrigation of the property. While this satisfies the County's requirements for legal water, no evidence was submitted that demonstrates adequate physical supply. [The County typically requires that all dwellings units have a water supply equal to or greater than 350 gallons per day.] No pump test was supplied that could demonstrate this. Staff suggests should the Board approve the request and that a well pump test be completed to the satisfaction of the County Staff based on the 350-gpd standard. On water, the well permit is for construction of a well; the lot previously was served by a shared well for three lots in the Smilack Exemption. Does this Gornick well exist already? Is the well shown on the existing conditions map the shared well or

the Gornick well? Dusty explained a discrepancy between the irrigation provided per the permit (1 acre limit) and the application which indicates the WDWCD contract provides irrigation of not more than 1.5 acres (I assume this is based on the application to lease, which requests 65,000 sq. ft. for irrigation). Regarding wastewater, the main house and bandit unit use an ISDS system that was approved by Garfield County in November 2002. This system includes a 1250 gallon tank and leach field adequate to handle four bedrooms. The additional dwelling unit (containing one additional bedroom) was not figured into this permit approval. The County Staff project engineer reviewed the calculations for this system and found the existing 500 sq ft leach field is adequate for five bedrooms but the existing 1250-gallon septic tank is adequate for only 4 bedrooms. As a result, a replacement tank is needed at 1,500 gallons to accommodate five bedrooms. Again, should the Board approve this SUP request, staff recommends that the tank be replaced with a larger 1,500 gallon tank. In summary, the utilities could be adequate to serve the additional unit if an adequate well pump test occurs and a replacement septic tank is installed. The access to the property is a driveway directly off County Road 214 (Peach Valley Road.) Staff finds the addition of an accessory dwelling unit will not produce enough traffic to adversely affect traffic or turning movements on CR 214. Due to the large size of the property, (almost double the minimum acreage required) and the fact that there will be no adverse visual change to the property with the conversion of the upper floor of an existing garage to a dwelling unit, staff finds this standard to be met. The property contains 7 acres which almost doubles the minimum required for an ADU and the area proposed for the location of the ADU and main dwelling are located inside an area that does not contain slopes steeper than 40%. All the standards required have been met in this application. The property owner has an approved well permit and water contract for a single-family dwelling, and accessory dwelling unit, and associated irrigation of the property. There is a legal source of water. Regarding wastewater, the main house and bandit unit use an ISDS system that was approved by Garfield County in November 2002. This system includes a 1250 gallon tank and leach field adequate to handle four bedrooms. The additional dwelling unit (containing one additional bedroom) was not figured into this permit approval. The County staff project engineer reviewed the calculations for this system and found the existing 500 sq ft leach field is adequate for five bedrooms but the existing 1250-gallon septic tank is adequate for only 4 bedrooms. As a result, a replacement tank is needed at 1,500 gallons to accommodate five bedrooms. Again, should the Board approve this SUP request, staff recommends that the tank be replaced with a larger 1,500 gallon tank. The Applicant understands that only leasehold interests are allowed in the unit. It is unknown if the owner acquired any building permits to convert the upper floor of the garage to a dwelling unit and if that construction meets any of the required building code. As this standard requires, all construction (septic system and ADU structure) shall require the appropriate building permits and inspections to be conducted by the County Building and Planning Department. This shall be considered a condition of any approval by the Board of County Commissioners. Staff recommends no approval for this unit should occur until the proper building permits and ISDS permits have been obtained.

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 unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary and all exterior lighting shall be directed inward and downward, towards the structure.
3. The Applicant shall obtain the appropriate ISDS permit from Garfield County as part of the building permit process for the ADU. This system shall comply with the regulations and standards required by the Colorado Department of Public Health and Environment which shall require a replaced tank at 1500 gallons.
4. No approval for this unit should occur until the proper building permits and ISDS permits have been obtained.
5. The Applicant shall conduct a well pump test to demonstrate that the well can physically produce 700 gallons of water per day to accommodate both the main house and the ADU.
6. The Applicant shall meet with the County Building Department to determine what building permits are needed for the construction of the unit.

Change in Condition No. 3 has been satisfied. No. 4 likewise and in No. 5 staff will be looking for a 4-hour pump test; No. 6 – we will have a walk through to make sure the building code has been followed.

Debbie Quinn asked about water quality on the well. Fred said it is not a requirement on a well but only on a community water supply. Chairman Martin had a problem with the 4-hour pump test. It is a regulation. He believes we need to be careful by requiring this.

A motion was made by Commissioner Houpt to close the public hearing. Motion was seconded by Chairman Martin who stepped down as Chair. In favor: McCown – absent Martin – aye Houpt – aye

Commissioner Houpt made a motion to approve the Special Use Permit request for an Accessory Dwelling Unit for a property located at 6134 County Road 214, approximately 2 miles west of New Castle with the conditions as proposed by staff eliminating 3 and 4 as they have been satisfied. Chairman Martin stepped down as Chair to second the motion.

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

RECESS until 5:30 pm on January 14, 2009.

Attest:

Chairman of the Board

**JANUARY 13, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

Swearing of Elected Officials: Commissioner Mike Samson, Commissioner John Martin, District Attorney Martin Beeson was held on January 19, 2009. Commissioner Larry McCown vacated his office previously at the January 5, 2009 meeting.

Attest:

Chairman of the Board

JANUARY 14, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

A continued meeting of the Board of County Commissioners began at 5:30 p.m. on Wednesday, January 14, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, and Jean Alberico, Clerk & Recorder

ORGANIZATIONAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS

Chairman Martin announced this was a continued from January 12, 2009. Chairman Martin welcomed Mike Samson to his first official meeting. This is to establish a Chair and Vice Chair for the Board.

Mike stated at this time he wanted to nominate John Martin as the Chair and Tresi Houpt as the Vice Chair.

Commissioner Houpt – Second for discussion. Commissioner Houpt said that for the past 4 years she has expressed her concerns about Garfield County always having the same leadership. If you look around the state, most commissions rotate their Chair on an annual basis. They do that because everyone is elected on an equal basis and she thinks these commissions work pretty successfully because no one stands above others. You get a year to run the meetings and establish the agenda and move the commission forward during that year and the next year someone fills that position and the next year someone fills the position. She would ask that this commission take a good long look at that. She recognizes that this is Mike's first meeting and he has not had an opportunity to think about that and John, she does not know if he has ever considered that because he has been the Chair for so long. But she thinks it would be very healthy. It takes the partisanship out of this local board. Many of us believe this is unfortunate that these are partisanship positions because we deal with local issues and it allows everyone to work on an equal plane as a Commissioner. She would hope they would look at that into the future.

Chairman Martin said we would call for the question, all in favor.

In Favor: Samson – Aye Martin – Aye. Commissioner Houpt – Abstained. She did not want to vote against Chairman Martin being Chair, and she does not think Mike has had many opportunities to become familiar with how various commissions work. Chairman Martin said he could give an example of a Commissioner who has been the Chair for 32 years and vice chair for 28 years in the same county. Otero County; they have never changed in 32 years. The reason being, it works. There are other counties that he has seen also that handle for 4, 8, or 12 years. It is a pecking order; it is what it is, it functions well. Under the circumstances it does not mean anyone is more powerful than the other. Commissioner Houpt said that was a good way to look at it and as this Board progresses, she thinks that all decisions need to be brought to this Board during our meetings, and then the Chair, signs off on documents; but the decisions are made by this commission and she has no problem with that. Chairman Martin said there was one other issue and that is the Chair speaks for the Board on the major decisions and the majority, and that is one of the reasons he thinks you have seen it stay that way, because the majority has not always gone your way. Commissioner Houpt said the majority has not always gone your way either John. She thinks that all three have a responsibility to speak when they are speaking for the Board to speak to the majority. We make decisions as a body and we only make one decision. Those decisions that are made in Commissioner meetings are views that can be brought forward and none of us have the authority by law to tweak those positions and claim that those are county positions. Commissioner Samson stated he needed a point of clarification. When people ask for an official position of the Board and there will be situations like this that Tresi and I vote against you. Will they come to you as the Chairman or will they come to us to speak? He would assume they would come to him and Tresi and say the majority vote was 2 to 1. Commissioner Houpt stated they could come to anyone of us. Chairman Martin said they can but the Board Chairman speaks for the Board on the majority. Commissioner Samson asked, even if you voted against the measure and we voted for it, they would ask you for your opinion. Commissioner Houpt said she does not think the Board Chairman is the only one who does that. Chairman Martin said they are asking for the Boards opinion; that is what you are getting clouded in. That is what the Chairman is supposed to do, carry the Board when he signs the resolutions voting for them or against them etc. He functions as that information and that signature as the majority. It does not matter if he voted for it or against it. Commissioner Samson asked if the newspaper where to ask; they would come to us because we voted for and you were against. Commissioner Houpt said they could go to any one of us. By carrying it forward she believes that Chairman Martin was referring to his signature. Commissioner Samson stated, for the record I do not want to be the Chairman or the Vice-Chairman. I have a lot to learn. Chairman Martin stated it was convenience for the administration; the legal staff, the Clerk and Recorder, the Assessor etc. since he lives here he could be here five days a week.

DISCUSSION: ACCESS WORK SESSION

Don stated the only other business is the workshop and there would be no record maintained tonight. Jean said we were prepared to take notes. Don said if any action, we need to keep a record. Chairman Martin said they would address it is a work session and Jean or Kathi do not need to stay. Commissioner Samson said for his information this is called a work session and we have to let the public know we are in a work session. When there is a work session, the only ones who really need to be there are the three Commissioners and Don stated yes.

Commissioner Samson stated, so when we are invited to a work session it is a public meeting and anyone can be there. And if it needs to be advertised so the press can be there; we are not trying to hide anything. Jean stated the meeting was continued for this organizational meeting not the work session. Don stated it is still part of a public meeting. Commissioner Houpt asked if it was okay to be in public meeting without any recording. Don stated yes; you do not have to maintain a record as long as no action is taken. Jean asked even if all three are together. Don said they have done this before. The difficulty when you don't keep a record and then during the work session they take action; if no record is being taken then you have to faithfully follow and take no action. Earlier today, Don had not anticipated coming here for the access meeting. But since action will be taken in the future, he felt he needed to have a better understanding. One valuable thing, if you decide to make a record, down the road for informational purposes, we will have a record. Ed talked about the best way to proceed. The NECI Advisory Board was to do 90-day procurement with CLEER, an emergency procurement so that the initiative can be sustained while we are going out for an RFP to place a permanent agreement for this in place to run it. Don stated a couple of things on that, this is legal advice and he does not mind giving it in a public record. Commissioner Samson said he needed to ask what they were talking about and Ed explained about the initiative and the Board is trying to make that happen. They are going full-bore with this agreement to help homeowners. They want to keep the momentum going; but do it right.

So what they decided is under the emergency procurement rules we go with the 90-day procurement that does not exceed \$100,000.00. At the same time, they go out with an RFP for continuation of this for the next couple of years. Commissioner Samson asked if there was a board that would have to officially be formed. Ed stated there already is, there are nine people on the board, and he explained who those nine were. Don stated there were a couple of legal issues the board will have to make a finding about the contract and it will have to come before this Board. The \$100,000.00 is a statewide limitation. What we will do in the 90-day emergency contract is we will still shift the responsibilities to CLEER to make sure they are in compliance. Ed assured they were. Don said on the next step, the RFP, if it meets the requirements then they will be okay. That requires public advertising, which will happen; it also requires three proposals of bids and if we only get two, it will be a sole source contract. They talked a little bit about the financial aspects of it. There will be funding from at least three sources that needs to come in on this; they will establish a separate fund for the grants. They might even talk about having someone in administration as the contact point. It will probably be Ed who takes on that position. Ed said the other big issue they wanted to get moving on was the IGA's with the individual cities. What CLEER concluded was they need to customize each one as relates to whether they want to hold the money and distribute it themselves or give to us.

Commissioner Houpt asked, weren't there two components there? It could be the attachment; but one is for Garfield County, Glenwood Springs and Rifle. They have specific projects and we would maintain our in-kind and cash donation ourselves and pay for that. But the other matching money, where there is no project attached would go into the NECI budget. Don asked if all the municipalities in the County were participating and Ed said yes. Are they aware they need to get their attorneys in contact with us? Ed said yes. Tresi said Carolyn would contact them.

Chairman Martin asked; how are they legally able to hold the money? Commissioner Houpt said it is not; it is the County. Chairman Martin – That board has no authority to do anything. Commissioner Samson asked, is CLEER a legal entity? Is that the problem? Commissioner Houpt said it is just an advisory board. Don said that was another issue they talked about; they need to bring finality to the DOLA contract so they can get funded. Lisa told them they should be receiving the scope of work at the next meeting or the second meeting in February.

Commissioner Houpt said she knew on the emergency contract; Matt wanted them to come up with their scope of services for the next three months. She believes they will do that the first Monday in February.

Chairman Martin said it is up to this Board, according to Ms. Dahlgren, to come up with the scope. One other issue on the emergency contract, that comes out of our general fund. It is not reimbursable and does not apply to in-kind services in the grant, according to Jack Kirtland. So, we have to understand we are now spending money above and beyond. Ed said unless Carbondale wants to transfer. Commissioner Houpt said Carbondale already sucked up last month. Don said one other item; John mentioned the funding on the contract. The other thing the County has to realize is the projects themselves will be reimbursable. The County will initially have to transfer money from the general fund to this NECI fund to pay the initial request and then get reimbursed. Chairman Martin said if the participants use that money and do not qualify, we would not be reimbursed. We need to have a technical advisory team as well to look at projects to make sure they qualify under the scope of services.

ADJOURNMENT

Attest:

Chairman of the Board

JANUARY 19, 2009
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 19, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

Steven Bershenyi wanted to give his heart felt congratulations to Mr. Samson and he looks forward to great things happening with Commissioner Samson; best of luck.

COUNTY MANAGER UPDATE – ED GREEN

2008 HIGHWAY USERS TAX FUND REPORT – ROB HYKYS AND MARVIN STEPHENS

The 2008 HUTF Annual Report is the eighth to be generated by Garfield County GIS. Current road changes and seasonal improvements are logged and recorded throughout the year utilizing our GPS and GIS systems. Rob included in his report road surface improvements, road segments added, road segments dropped, and splits. He also provided final mileage statistics and totals from 2001 through 2008; lastly, he provided a Garfield County road inventory report. Rob stated this was the 8th report on the status of the County roads. In previous years, a shorter report was provided. The HUTF report is used for the purposes of recovering taxes collected by the State. This is the means they have come up with for fairly distributing those funds every year to the 300 some odd municipalities and counties. Rob said this is used to produce all of our maps; it is not a map he will be asking approval for today. This is just the County road inventory document. CDOT requests your approval because it does involve the distribution of State taxes. Rob went over his report and summarized all the changes they put in this year. The biggest contributions to road improvements were surface improvements collected by Jake Mall. The other significant changes involve annexations, or in the case of Silt, de-annexations of incorporated areas. Silt de-annexed the former Still Water Subdivision. All those roads come back into our road inventory. Rifle annexed the last piece of White River Avenue, which was inside the City limits. The Town of Parachute annexed some lands northwest of town on County Road 215, Parachute Creek. In that process, we also inherited a few segments of County Road 215.

Commissioner Houpt stated it is a very comprehensive report and she appreciates how easy it is to understand. I make a motion we approve the Garfield County Road Inventory Report as presented by staff. Marvin said they needed to make one correction; on County Road 309, he has it as chip seal and it should be asphalt. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

REPLACEMENT FOR TWO SHERIFF VEHICLES – MATT HUTCHISON, TIM ARNETT, MARVIN STEVENS AND LOU VALLARIO

The vehicle replacement committee met January 8, 2009 and decided they would not trade the Sheriffs vehicles. Instead there will a public auction after all the safety equipment is removed. The replacement vehicles are a 2006 Ford Free Star Van and a 1997 Ford Taurus. The recommended award: procure from Glenwood Springs Ford one Ford Escape for \$20,607.00 and one 2009 Toyota Sienna for \$22,880.00. Commissioner Houpt asked if the SUV was a hybrid. Matt stated it is not; they have gone up in price this year. Commissioner Houpt voiced her concern regarding previous discussions about hybrid vehicles elaborating on performance and better going over the passes. Tim stated they are coming back with ten more. The next time around they will submit the bids for hybrids adding that the price difference was \$13,000.00 for each vehicle. Commissioner Houpt asked if the price of the hybrid would possibly go down if we purchased several of them at one time. Tim stated he hoped that would happen. Ed said the problem with hybrids is the manufacturer does not make any money on them and they produce a limited number for cosmetics.

Commissioner Houpt – I make a motion we approve the request for two replacement vehicles for the sheriff's department including a 2009 Ford Escape and a 2009 Toyota Sienna 7 passenger van.

Commissioner Samson – Second for discussion. Commissioner Houpt stated this is an amount not-to-exceed \$43,487.00. Commissioner Samson asked on the mileage; is there a standard we use after a vehicle has reached so much in the way of mileage. Marvin said they are redoing our motor pool policy and they will add more miles to it. When it is completed, he will review and bring it to the attorney. He stated it is 100,000 miles now and they want to go to 150,000 miles. Matt stated the contract includes three years or 100,000 miles. Marvin said they would go to 5 years or 150,000 miles. Lou said he would like to keep the 2006 Free Star.

In favor: Houpt – aye Samson – aye Martin – aye

DISCUSSION OF COLORADO STATE UNIVERSITY EXTENSION OFFICE BUDGET – DALE HANCOCK AND CAROLYN DAHLGREN

Dale stated this is a situation that came to a head in the summer of 2007. He explained the problem and the general manner of addressing it. A new Extension Director has been hired since we originally reached an agreement so, in the foreseeable future he would like the opportunity to see if they can run a better operation. Dale requested the Board to allow CSU to remain in our AP system and shelf the IGA with Colorado State University pertaining to the finance department unless circumstances change and deteriorate again and then we can bring it back to the Board. Carolyn highlighted the other side saying the extension folks are State employees and the question is whether we should be paying their bills for them in-house. Or, as a matter of policy when we have entities that are separate entities; should they be doing their own work and not be spending your finance department's time and energy doing their accounts payable.

It took a while to negotiate the four times a month payment and she was surprised to see the 26.5% override that the university says it has to have in order to do all of that accounting internally. The statute, as you all know sets this up as a cooperative arrangement between the County and the university system. She thinks it can be done either way; she does not know what the best way is. Commissioner Houpt said they had spent a number of meetings talking about this relationship; it had really broken down and it was not her sense from the discussions they had with staff that it was necessarily people but structure, and they came up with a policy. The Board discussed this at length finally deciding to give the new director time to operate the office efficiently and if need be, reinstate the agreement with CSU and pay the 26.5% for handling the financial structure by the University of Colorado. Dale explained another thing they discovered, in the history of the CSU operation saying they were annually leaving \$100,000.00 on the table, so they have more than generously appropriated funds to deliver their services. During the budget session, it was reviewed and CSU has been receiving a percentage of our sales tax revenue to operate their office without respect to the realities of the requirements. This year we made the decision to have it reflect the actual amount of expenditures. In response to Commissioner Samson's question regarding how other counties provide extension services, Dale said it was not consistent. CSU has been in existence since 1864. Commissioner Houpt said it is more than just saving the 26%; it is putting the burden back on County staff to make sure that everything is in line. That has been problematic in the past and she does not know how the finance department feels about that or what kind of actual cost might be incurred by the counties. Some counties are regionalized, Mesa, Delta, Montrose and the Three Rivers extension district. Theresa Wagenman explained the problems occurring for the finance department to the extent of taking away the VISA purchasing cards.

Commissioner Houpt said they spent a great deal of time constructing a new partnership method, and it would appear to her that it would make more sense to follow that; see how it works. If that does not work, then review it again and see if we want to go back to the old structure; but the old structure did not work. If you look at your time, Dales' time, attorney time, finance department time, Ed's time; on just re-negotiating this new structure it was a lot of time, effort and money that went into it and she thinks it makes sense to see if it works well. Dale said if we do that he will need to come back and request a supplemental appropriation to the tune of 26 ½%, which is not in the current expenditure budget.

Commissioner Houpt asked when did they give us the 26.5% number, and Dale replied 2007. Commissioner Houpt stated we should have allocated that in our budget and Dale stated the Board made a decision not to. Commissioner Houpt said she did not think it made sense to change it since they went through months of reorganizing this partnership. Carolyn asked if there was any way to compare the 26 1/2% going out to what it cost us internally. Ed said we just had to incorporate the 26% and move on. Commissioner Houpt thinks this is what we should do to maintain a good relationship and make sure it is continued as a viable program. Carolyn asked if they wanted the MOU on their consent agenda. The MOU was also approved in concept, and then the state drafted the MOU and sent it to us. The MOU has not come back to us formally for signature.

Commissioner Houpt - I make a motion we move forward with the structure that was established through negotiation with CSU for the extension office with the quarterly payments. Commissioner Samson – Second. Will this be revisited in this quarter or will this be with us for a year. Commissioner Houpt said she thought they would want to give it at least a year. In favor: Houpt – aye Samson – aye Martin – aye

CDOT PROJECTS - UPDATE

Dale wanted to give an FYI that he has a copy of all the funded CDOT projects that will be occurring in Garfield County in 2009. He attended an overview of the economic stimulus package presented by the director on Friday morning. He will provide the information he received.

APPOINTMENT OF COUNTY'S REPRESENTATIVE FOR COLORADO RIVER DISTRICT

Ed confirmed this was posted in the paper. Two very qualified people have applied for this position, both from various backgrounds – Sam Potter and David Merritt. The Board agreed it was a difficult decision to make regarding this appointment. Commissioner Samson reminded everyone watching television or in the audience to volunteer for

membership on the vacancies available on the various boards within the County. Commissioner Samson put in a nomination for David Merritt for the Colorado River District Conservation Representative for Garfield County. Commissioner Houpt – Second. She thanked both Dave Merritt and Sam Potter for putting their names forward. In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin addressed Dave Merritt, in the audience and stated his first assignment was to attend a meeting tomorrow, January 20, 2009. Dave Merritt said he is looking forward to this and has been involved with the River District as their chief engineer for over a decade. Protecting the west slope water has been extremely important to him. The River District meets on a quarterly basis on the third Tuesday and he looks forward to coming back to give a report on the discussions.

BUDGET TO ACTUAL PERFORMANCE REPORT – ED GREEN

Ed provided the Board with an actual performance report. When the budget is submitted in October, we do not have full information related to revenues and expenses. Between October and March several things happen that boost the fund balance. This is certainly the case this year as well. The projection going into the final budget approval process was \$61.7 million and as you can see, we are already at \$70.36 million. There will be some changes but he expects there will be slight growth above that for the end of year number. That translates into an end of year fund balance projection at roughly \$60 million for 2009. The County will be doing several big projects in 2009. Commissioner Houpt stated we have big projects and there may have to be some adjustments in the coming years because our budget may not be as robust. Chairman Martin said one thing nice about the mock-up; it shows that the overall revenues are at 104% for the year and the expenditures are at 86% for the year. Ed said we under estimate revenues and over estimate costs.

COUNTY ATTORNEY UPDATE – DON DEFORD

DISCUSSION AND APPROVAL OF RESOLUTION ESTABLISHING POLICY FOR PARTICIPATION IN BOARDS AND COMMISSIONS

Don presented a draft to the Board governing participation by the Commissioners in outside organizations including a list of various boards requiring appointment. This draft was prepared from this Boards request last year. It is a draft for discussion purposes; this has been an item of discussion for several years.

Chairman Martin said the whole idea was to make everything a little more fair, equal and also accountable, as well as informational so we could share information and work together as a team. By upgrading the Commissioner reports and establishing a policy for the 22 different committees we are assigned, it will give the public more information on what we are focusing our attention on during the year. Commissioner Houpt agreed that the Commissioner reports need to be given more time; quite often there is not time in the morning to devote to updating everyone on the various committees we serve on. Her concern is memorializing this in this particular resolution. This does not apply to all of the various committees on this list. She gave an example. The way this is written, if you guys decided that you didn't like the way she was conducting business, you could vote me off of that particular committee. Chairman Martin said the whole idea is to be accountable; if there is an issue on policy that the County needs to take, the three Commissioners make that decision and then you take it back. Serving on a committee is a joint effort; it is sharing information and deciding the direction we are going on an issue. If there is a committee that you cannot attend, then someone else needs to attend for you. That is what this resolution brings out.

Commissioner Houpt disagreed believing they have been sharing with each other.

Chairman Martin said no, he thinks that all three Commissioners have failed in this respect.

Commissioner Houpt said this would not initiate communication; what this does it holds people to the fire.

Commissioner Houpt went further describing a situation saying John, when you are doing the Mountain TPR and you have spent a full day creating a list of priorities for the various State projects in our area, and you bring it back to this commission and Mike and I look at you and say this priority list does not work. It takes all of your ability out from under you for being a productive member of that group. You are talking about priorities that each of our communities may have and other counties might have. As a participant, you would have a better understanding of why the priority list was such. Mike and I may not agree with; but that should be something that would not be able to be turned upside down. Chairman Martin disagreed. We will be sharing that information and if someone overlooked something or we have prior commitments that may not be privy to the other two, then we may need to argue those points. Whether you or I agree we must still take the position of the majority of the Board and stand firm that is our priority setting for Garfield County. There have been many subjects that did not have input from all three prior to a decision being made; this is what we need to avoid. Commissioner Houpt liked the idea of participating in a work session that Mike brought up a few weeks ago. A work session will be scheduled for Monday, January 26, 2009 at 8 a.m. where further discussion will occur.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don said he would like to discuss and receive direction concerning property acquisition and contracting issues for the administration building in Glenwood Springs; discuss the Martin litigation; discuss the status of County Road 306 and he will be asking for public action regarding the status of that road; his staff needs to discuss litigation involving Gornick, Savage, Storey and Continental Rifle; and lastly to discuss and receive direction on NECI organizational contracts. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

GORNICK CODE ENFORCEMENT LITIGATION

Don stated he has three items, the first regarding the code enforcement litigation regarding the **Gornick** property. He is asking the Board to authorize his department to dismiss the pending litigation upon the Board's agreement to approve a permit for an accessory dwelling unit on that property. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

SALVAGE ZONING CODE ENFORCEMENT ISSUE

In this case, on a confidential basis they discussed a settlement proposal with the Board of Commissioners under rule 408. It has to remain confidential until final. Don would like the Board to authorize his department to engage in those discussions and achieve that settlement as discussed with the Board. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

COUNTY ROAD 306

Don presented the Board a letter dated January 14, 2009 from Jenna Keller, Attorney for property owners in the vicinity of County Road 306. The letter indicated the property owners would not oppose the issuance of a permit to Nobel Energy for the sole purpose of removing a surface pipeline that was in what the County has claimed as County Road 306

right-of-way. Don is certain that those property owners believe there are conditions on that and he is asking that the Board authorize the Road and Bridge Department to issue a permit to accomplish that removal. He added on the condition that first of all Nobel Energy and its contractors maintain the closed status of that right-of-way to the public using the right-of-way solely for their operation to remove that pipeline. Secondly, they conduct their operations so they cause no further damage either to the right-of way, the road, or adjoining property. Also, that they confine their operations to that right-of-way and that they complete their operations starting within a 15 day time period and as expeditiously as possible. Commissioner Houpt – So moved. Commissioner Samson – Second. Marvin agreed that Don had covered the issue completely.

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

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Sheriff's Office Per Diem Policy – Lisa Dawson and Lou Vallario
- f. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit for an Accessory Dwelling Unit – Applicants; James and Maria Gornick – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a -f; carried.

VETERANS PROGRAM AND REQUEST FOR FUNDING – JOE CARPENTER

Chairman Martin called upon Joe Carpenter to give the update. Joe stated they have about 650 to 700 Veteran contacts per year. In the last several years, as the veteran population is getting older, the bulk of the people he deals with are over the age of 55. They have issues getting to the hospital in Grand Junction. Up until now, they have provided that out of their own pockets. Joe has been getting money from churches to start what they call the Vet Trans. They give people rides to the hospital; take them food if they need it; purchased pellets for their stove and have picked up prescriptions for them. There is more of a need for that than there has been in the past simply because the veteran population is getting older and older. His office also assists veterans with compensation, pension issues, etc. Joe gave an example of a veteran living by himself with a full pension from the VA; he makes about \$900.00 per month. The VA hospital pays anywhere from \$13.00 to \$40.00 for a trip to Grand Junction. If two veterans ride together, they only pay for one. What he would like is to get some help from the County on the Vet Trans portion. Joe is asking for about \$30,000. The Veterans program has a 5013C status. Commissioner Houpt requested a packet of any documentation in order to better inform the Board of the needs. Joe replied they are just getting started with the Vet Trans. She felt they might possibly be eligible for grant funding. Chairman Martin mentioned the non-obligated BOCC funds that we have in an account. He told the rest of the Board that there were three programs with the Vets that would come forward after the first of the year. Joe has one or possibly two of them. Chairman Martin thinks there is plenty of money to allow transportation cost to go forward. Commissioner Houpt asked Joe if they had gone to the Human Service Commission for grant funding. Joe stated no; they are barely getting underway with that portion. Ed said they are not a Human Service organization and Commissioner Houpt stated they are non-profit. Joe stated he would like the Board to keep in mind another group in town called the Wounded Warriors. Chairman Martin felt Joe needed to do that, as it is a program that needs to be up and operational. There is also another program; Operation Vacation and the Board has assisted with this before. Commissioner Houpt wants to get Joe connected with the Human Service Commission and apply for those funds. Joe agreed to put a package together and bring it back. Ed said they have about \$50,000.00 left in that line item; Jane McCallor corrected Ed saying it was about \$75,000.00. Ed's concern is by giving these funds to Joe, it would drawdown the reserve in case of emergencies. Chairman Martin said that was why he was looking at the un-obligated funds through the grant program under the BOCC. Joe will present a budget request for funds under the non-obligated BOCC funds. Commissioner Houpt asked if Joe could include his business plan so they know in the coming years what the resources of funding will be. Joe agreed.

HUMAN SERVICES COMMISSION

BOARD OF HUMAN SERVICES

Kay Vasilakis, Martha Fredendall, Jenny Lindsey, Julie Olson, Heidi Pankow, Sandy Swanson, Susan Ackerman, Cheryl Kane and Jane McCallor were present. Jenny invited the Commissioners to the Humanitarian Services Awards to be held on March 9, 2009 at the Hotel Colorado at 6:00. p.m. An RSVP was requested. Chairman Martin said they would be in Washington D.C. for the NACO meeting. Kay stated they are requesting \$5,000.00 for this year's awards dinner knowing it is more than they have asked in the past. The purpose for the request is to keep the cost of attending to an affordable rate so County residents can attend. Commissioner Houpt acknowledged the Board has supported this annually through the BOCC fund. I make a motion we contribute \$5,000 this year to the Human Service Banquet. Commissioner Samson – Second. Kay asked if the Commissioners knew of any deserving humanitarians in the County and if so please take the time to write a letter of support.

In favor: Houpt – aye Samson – aye Martin – aye

Jenny explained they present monthly this year based on the membership categories of the Human Services Commission. One month it will be on education, one month on behavior health, family services, etc. Heidi stated that every member of the Human Services Commission would now be fully involved with this process. Sandy invited the Commissioners to attend meetings that are held on the second Wednesday of the month. They are alternated between Rifle and Glenwood Springs and a schedule will be provided. Jane wanted to acknowledge this very special Martin L. King day and President Elect Obama is proposing it be seen as a day of service. She thanked the Board of County Commissioners and the Human Service Commission on her behalf for allowing them to serve in this manner. Commissioner Houpt thanked Jane for the time put into the commission and to your various programs. She thinks Garfield County is very fortunate to have such a strong community. Heidi had awards for the commissioners, Girl Scout cookies.

APPROVAL OF EBT/EFT DISBURSEMENTS FOR DECEMBER 2008 – LYNN RENICK

For the month of December 2008, client and provider disbursements for allocated programs totaled \$310,710.32. Client benefits for Food Assistance and LEAP totaled \$237,087.24. Total EFT/EBT disbursements for December equated \$547,797.56. Lynn is requesting Board approval and signature. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS – LYNN RENICK

The department is requesting consideration and approval on the following out-of-home placement contract; provider, Ariel Clinical Services, ID number T619243 in the not-to-exceed amount \$26,664.00.

Commissioner Hought – I make a motion we approve the out-of-home contract with Ariel Clinical Services, ID number T619243 in an amount not-to-exceed \$26,664.00. Commissioner Samson – Second.

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

CONSIDERATION AND APPROVAL OF REVISED NOTICE OF GRANT AGREEMENT FOR CAREGIVER AND SENIOR EQUIPMENT AND SERVICES PROGRAMS WITH THE AREA AGENCY ON AGING – LYNN RENICK

The department received an increase from \$104,220.00 to \$112,720.00 for the provision of Caregiver and Senior Equipment/Services for the State fiscal year period ending June 30, 2009. These services are provided in Garfield, Rio Blanco, Moffat and Routt Counties. The department has received a revised notice of grant award from the Area Agency on Aging of Northwest Colorado to reflect this increase. Lynn is asking the Board's approval and signature on the revised grant award notice. Commissioner Samson – So moved.

Commissioner Hought – Second. In favor: Hought – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF REVISED CONTRACT FOR ADOLESCENT DAY TREATMENT SERVICES WITH MOUNTAIN BOARD OF COOPERATIVE EDUCATION

The department is requesting the Board's consideration for approval and signature on a revised contract with Mountain BOCES for Adolescent Day Treatment services. For the revised contract, the not-to-exceed amount is \$43,333.32 for the term December 1, 2008 through May 31, 2009. Contract payment is based on a set amount, \$1,083.00 per month, per youth enrolled in and attending the program, rather than payment of 1/10th of the contract. Commissioner Hought – I make a motion we approve the revised contract with Mountain BOCES for Adolescent Day Treatment for a period of time from December 1, 2008 through May 31, 2009 in the not-to-exceed amount of \$43,333.32. Commissioner Samson – Second. In favor: Hought – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF 2009 CONTRACT WITH INDEPENDENT CONTRACTOR FOR CASE MANAGEMENT SERVICES – LYNN RENICK

The department is requesting the Board's consideration for approval and signature on a renewal contract with independent contractor, Jennifer O'Hearon Cole, for the continuation of case management services, specifically on identified child welfare conflict of interest matters. The not-to-exceed amount for this 12-month contract is \$20,000.00 based on a calendar year. Commissioner Hought – So moved. Commissioner Samson – Second.

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

Program Up-Dates

- The first Senior Programs Advisory Board meeting was held on Friday, January 16, 2009. A public hearing regarding the Community Services Block Grant proposal for monies to assist with senior transportation services is to be held after the Board of Human Services.
- The department's Child Care Quality and Licensing Program are sponsoring a statewide presentation by Bruce Perry, M.D., a nationally recognized expert in child development and trauma. The presentation will be held on February 20 and 21 at Glenwood Springs High School. Funding for this special event is through Child Care TANF reserves. They will also be offering free carbon monoxide detectors to all of the daycare homes and centers.
- An Agency letter was received on January 12, 2009 informing Collaborative Management Program counties of the incentives dollar amount earned based on the number of outcomes met and number of individuals served during State fiscal year 08; Garfield earned \$117,210.00. In 2008, a number of agencies worked together to provide assessment services to families with identified at-risk youth and families in RE-2 middle schools through a program called the FACE Team (Family and Community Engagement). The Community Evaluation Team and the FACE Team have now merged into the FACET program (Family and Community Engagement Team) covering all three school district. With the merger of CET, the department is working with the Interagency Oversight Group and Youthzone to become the fiscal agent for this broader program.
- Statewide, numbers of individuals and families applying for financial assistance continue to increase due to the economic downturn. The department continues to monitor workloads and is in the process of working with a temporary agency in order to handle the increased volume.

Lynn reported on all the cuts they will be seeing from the State due to the economy.

CONSIDERATION AND APPROVAL OF 2009 CONTRACT AND LEASE AGREEMENT WITH CHILDHHELP, INC. – LYNN RENICK – LISA AND SUSAN ACKERMAN

The department is requesting the Board's consideration and approval on the 2009 renewal contract and lease with Childhelp, Inc. for the continued management of the River Bridge Child Advocacy Center Program. The terms of the contract for cost of services from Childhelp and the rent of the facility space continue to be offset at \$32,000.00 per year. Lynn has also provided the Board with the 2008 annual progress report.

Commissioner Hought – I make a motion we approve the contract between the Board of County Commissioners and Childhelp, for 2009 in an amount not to exceed \$32,000.00.

Commissioner Samson – Second. In favor: Hought – aye Samson – aye Martin - aye

Commissioner Hought – I make a motion we approve the lease between the Board of County Commissioners and Childhelp for 2009 as presented. Commissioner Samson – Second.

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

PROGRAM PRESENTATION AND FIRST YEAR REPORT BY SUSAN ACKERMAN, PROGRAM DIRECTOR, AT CHILDHHELP RIVER BRIDGE CHILD ADVOCACY CENTER

Susan Ackerman brought a brochure and a business plan on how the program started and how it all evolved. She introduced Leah Donahue, family advocate. They are the only two technical employees of Childhelp. Susan introduced Melissa English, President of the chapter, who volunteers and does fund raising. They just celebrated their full year anniversary in December and had an open house. The statistics in the annual report represent a full year of operation. They are pleased with the number of children and families they were able to serve. They work as a multi-disciplinary team with the DA's office, law enforcement, Department of Human Services, the mental health

community, the medical community and at their meetings they have great attendance and a good representation of all the different disciplines they work with to provide the response to child abuse and neglect cases. They have only seen sexual abuse cases this year. In 2009, they hope to move into witnesses of domestic violence and some physical abuse cases; but the first year they have focused on utilizing all their resources to serve every outcry of child sexual abuse. They provided some services to Eagle County cases and a few for Pitkin County. They have opened their services to them as a courtesy at this point. Their goal is to serve as many kids as they can. Part of that work is getting out to the community making them aware. She feels they will see an increase in disclosures if they can get out there and make sure all the mandatory reporters are actually making reports. They received a grant from the National Children's Alliance. Commissioner Houpt wanted to thank them for doing such a wonderful job and it has been a needed service in this area.

BOARD OF HEALTH – MARY MEISNER

2008 ACCOMPLISHMENTS AND HIGHLIGHTS

- a. Air Quality Monitoring Program – Established Paul Reaser as Air Quality Program lead and implemented a modified air quality monitoring plan for 2008. They established two contracts with CDPHE, APCD in the total amount of approximately \$208,000.00. Developed a new website application linked to Rifle; initiated enhanced VOC data management and interpretation functions with our air quality contractor and developed an initiated use of a new, mobile, total VOC monitoring device designed as a tool for screen VOC issues related to citizen concerns.
 - b. Air Quality Program Management – Established Garfield County Public Health, Environmental Health Program as a local point of contact for citizen concerns about air quality through public presentation by staff to at least five community groups; worked with CDPHE APCD to develop and post a West Slope Air Quality Inspector Position which they plan to locate at the Rifle Public Health Office with our Environmental Health Program staff, the position is to be in place in early 2009; Jim Rada, Paul Reaser, and Carrie Godes worked in collaboration CMC, EAB, CDHE to develop and present two more Smart Citizen Series on Air Quality forums at CMC in April and May 2008; Jim Rada participated with the COGCC rulemaking process early in 2008 to provide input and information to CDPHE and COGCC staff regarding air quality issues and impacts associated with oil and gas development that resulted in specific rules for the Piceance Basin regarding VOC emission controls; Jim Rada, in collaboration with CDPHE and EPA Region 8 successfully initiated implementation of a Supplemental Environmental Project that will target retrofitting all diesel-powered school buses in Garfield and Rio Blanco Counties with equipment designed to reduce particulate and VOC emissions both interior and exterior to the buses, and the Garfield County Air Quality Technical Workgroup reconvened and decided on a quarterly meeting schedule for the future.
 - c. Regional Geographic Initiative Grant – Completed Project Activity 1 of the grant; short-term, targeted air monitoring at four oil and gas drilling and four oil and gas completion sites, and completed project activity 2 of the grant; publication of a Garfield County air quality emission inventory.
 - d. CARE Grant – Jim Rada and Carrie Godes joined to develop an initial approach to carrying out the CARE grant project. Activities accomplished in 2008 targeted community outreach to heighten public awareness of public health and environmental health issues in Garfield County as well as to gauge citizen perceptions about environmental issues and seek out possible stakeholders as we move toward initiation of a community environmental health assessment. As of December 10, 2008, they will have conducted a brief introductory public environmental health/CARE project presentation to ten community service organizations with a total attendance of approximately 250 people; they initiated development of a community e-mail list and partnered with Clean Energy Environment for the Region (CLEER) to distribute an electronic newsletter that introduces recipients to the CARE Program as well as environmental health issues they are working on at GCPH, and they are also working on a regular environmental health oriented ads for regular circulation through community media and by other means as appropriate.
 - e. Human Health Risk Assessment – Working with DEPHE DCEED, completed screen-level risk assessment and ATSDR Health Consultation of the 2005-07 Ambient Air Quality Study data, and Saccomanno Research Institute and Mesa State College completed Community Health Risk analysis of Oil and Gas Impacts. Saccomanno Research Institute released an executive summary and gave two community presentations of the report in June.
 - f. Water Quality – Jim Rada worked extensively in support of the Building and Planning Department to develop local regulatory requirements for potable water and wastewater management at permitted temporary housing facilities; Jim Rada collaborated with the Building and Planning Department and the County Attorney's office on development and passage of a Board of Health Resolution modifying the local ISDS Regulations and establishing a new ISDS Reuse Permit and permit fee; Environmental Health staff collaborated with a variety of individuals from the oil and gas industry, wastewater treatment manufacturing industry, private engineering consultants and local government to establish and implement a local ISDS Reuse permitting program operated out of the Public Health Office; Jim Rada and Carrie Godes worked in collaboration with CMC, and EnCana to develop and present two additional Smart Citizen Series on Water Quality and Quantity forums at CMC in April and May, 2008; Ruel Zevin worked to expand the EH website to include the ISDS program and Jim Rada participated on a work group that was awarded \$300,000.00 DOLA grant in April for the development of a USGS Water Quality Data Repository and Water Resource Assessment.
 - g. Citizens complaint responses during 2008: 87 as of December 9, 2008
- 2008 WIC Program Highlights – Brenda Sandoval was hired as the new WIC Educator. During this presentation, they gave all the accomplishments and highlights of Brenda's accomplishments.
 - Emergency Preparedness Program Hi-Lites 2008 – Installed MHz base state in Public Health; presented Pandemic Flu presentation to the community groups and participated in a state wide Pandemic Flu campaign; conducted quarterly HAN tests; attended HAZ Mat and BNICE training; attended NW all-

hazards conference in Grand Junction; staff continues to complete ICS training to 400 level; continue work with LEPC/Safety committee; started an ESF8 function group for planning with health care and pre-hospital; conducted full scale Vex and Vax exercise; evaluated table top exercise for Pitkin County Community Health; conducted Quarantine & Isolation exercise with LEPC/Safety group; provided ICS class and Q & I training for elected officials; met with Human Services leads to brainstorm emergency preparedness for their department and met with County Safety Committee regarding emergency preparedness and next steps.

- Rifle Office Hi-Lites 2008 – Mentored 5 nursing students from various colleges and universities; provided space to Colorado Department of Public Health and Environment to perform STD testing; provided space to Mountain Family Health to perform Cardiac health screenings; provide space to Battlement Mesa Clinic to perform Head Start Well Child exams; participated in 9 health fairs in Rifle, New Castle and Battlement Mesa; Rifle office performed 30 Head Start Well Child exams; Battlement Mesa satellite clinic is ongoing; participate in Sr. Wellness programs and planning; perform blood pressure checks at sr. luncheons; participated in Child Safety Health Fairs to perform car seat checks in Rifle and Glenwood and continue to provide car seat checks in the Rifle office.
- 2008 HCP Highlights – Three neurology clinics, saw 26 clients; blood pressures at two senior sites (Silt added this year) every month; Parachute immunization clinic twice monthly growing; TB surveillance, no active cases this year, continue treating latent TB infection and CRCSN surveillance (Colorado Responds to Children with Special Needs) 24 contacts.
- 2009 Immunization Program Highlights – for 2008 they gave 9,050 childhood vaccinations to kids 2 months through 18 years of ages and 5,500 adult vaccinations; 145 travel consultations were done in Glenwood Springs alone, Rifle did 30, which is double from 2007; the immunization team meets every other month to keep them updated on changes in the vaccine world; they made 12 trips up the mountain (Piceance Basin) since January, 2008; continue to work with Garfield County School Districts keeping kids up to date on immunizations; between both offices they have given nearly 4,500 flu shots; their office participated in the Vex and Vax flu exercise held on election day and 600 shots were given county wide; completed site visits at the 6 VFC providers and are seeing an increase in their rates of children up to date by 2 years of age and Dr. Brayden from the Children’s Hospital came and did 2 presentations in Garfield County this summer, one in Glenwood and one in Rifle.
- 2008 Glenwood Springs Office Highlights – the prenatal program transitioned from a partnership with Mountain Family Health Center to one with Valley Views Hospital’s “A woman’s Place” and began seeing those clients at their office again; mentoring of nursing students; provided office space for HIV/STD testing and counseling once a month, about 50 clients free of charge; provided office space for Mtn. Family’s cardiac/diabetic screenings once a month and followed up on all reported communicable diseases and continued their work with multiple community task forces and collaborations, e.g. Suicide Prevention, Human Services Commission, Child Health, Early Childhood Connections, Transitional Housing, Nurse Family Partnership, Headstart, School-based Health Clinic planning group.
- 2008 Special Projects Highlights
 - a. Suicide Prevention Coalition
 - b. FACET (Family and Community Engagement Team)
 - c. Oral Health
 - d. Prescription Drug Discount Card
 - e. Reach Out and Read
- Prenatal Program Hi-Lites 2008 – Enrolled 664 expectant women for prenatal care; enrollment and education of gestational diabetic mothers increased 1% from 2007; Barb Kelly joined the staff in April; all staff attended the annual meeting on Pre Natal Plus; Silvia Chang joined the staff in September part-time; Susie Lockhart represented the department on the newly formed Teen Pregnancy Coalition; Michelle Deshaies joined the staff in November and the Pre Natal Team is making the transition to an electronic calendar.
- Tobacco Prevention Project 2008 Highlights – Raised community awareness of tobacco related issues; youth events presented to approximately 100 high school students about tobacco; participation with CMC on their Substance Abuse Task Force and activities to raise awareness about the campus Smoke-Free policy; participation on the Latino Statewide Tobacco Prevention and Education Network and work with local daycare providers to share secondhand smoke message and medical providers to provide intervention to clients about tobacco use and second hand smoke exposure.
- **2009 Annual Public Health Plan**

Topics discussed for goals in 2009 included suicide prevention, immunization, prenatal care and the annual community air quality plan. Mary asked them to look over the submittal and get back to her with any questions or comments.

Commissioner Samson asked, what is the biggest concern you have?

Mary said it was meeting all of the public health needs in our ever-changing dynamic community. She feels they need to be very vigilant in our communicable disease program. They are seeing some shifts and they need to really pay attention to this area.

Commissioner Samson asked if they are seeing a big jump in that in the past few months; Mary stated the jump occurred in the last year. Commissioner Houpt asked if there are some efforts to re-design education programs in the schools and Mary stated exactly. Chairman Martin said that came through the health risk analysis with Dr. Koontz.

Carolyn - On the dental health program, she knows we have received \$10,000.00. Are you expecting that to be ongoing? Mary stated this is a pilot grant and she would love to be able to take to other school districts. They started with a small school district, which is RE16 and she feels they have to prove success with that program and hopes there is a possibility to grow that as well.

Carolyn stated she thought that Mr. Martin signed the MOU with the foundation and she is asking that the signature be ratified; because she does not believe the document came to all three Commissioners. Commissioner Houpt asked Carolyn to put this on the consent agenda.

DISCUSSION OF THE 1ST SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 1ST AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN AND LISA DAWSON

Don stated the notice of this hearing was published January 15, 2009 in the Citizen Telegram, which gives adequate advisement of today's action. Lisa Dawson explained Theresa's role in the finance department saying she manages the budget for Garfield County. Theresa stated there is no contingency transfer request so we are here to seek approval for the first supplement to the 2009 budget.

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing, motion carried.

Commissioner Houpt – I make motion we approve the resolution concerned with the first amendment to the 2009 budget and the first amended appropriation of funds as presented.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

COMMUNITY SERVICES BLOCK GRANT PROPOSAL FOR SENIOR PROGRAM – TRANSPORTATION – LYNN RENICK, JUDY MARTIN AND CAROLYN DAHLGREN

Carolyn stated the notice was published in the Citizens Telegram on January 15, 2009 and Ms. Martin has informed me that the grant application no longer requires a specific number of days of noticing. It has been properly published. Chairman Martin swore in the speakers.

Judy Martin talked about the Traveler and serving seniors, taking them to meal sites, doctor appointments, employment and shopping. Through the grant application, they are stating they would serve 400 seniors with 100 being transported to each of those services. They will keep records of those through the driver's logs and permit that information back to the Block Grant Organization.

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing, motion carried.

Commissioner Houpt – I make a motion we approve the Community Service Block Grant for 2009, for the Senior Program Self Sufficiency Grant in an amount of \$49, 800.00.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

MARTIN LUTHER KING DAY

Commissioner Houpt wanted to recognize Martin Luther King Day. Today is a time to recognize not only Martin Luther King but also those who sacrificed their lives or worked hard during their lifetime to create equality in this country. She thinks it is most poignant that it comes the day before the inauguration of President Elect Barack Obama, who not only is a statesman, intelligent and an articulate leader; but our first African American President in this country. Chairman Martin said it is a nice day to recognize and many other folks should be recognized as well; unfortunately, we cannot recognize the great people who have been in this nation. Every day we should celebrate great things that happen in the United States as well as the bad things and devote a time for reflection. The employees committee has chosen the different holidays; maybe we should request they review that and recognize this one in the future. Commissioner Houpt said even if we work on this day it is great to recognize the value and work that Martin Luther King and others have done in this country.

COMMISSIONER REPORTS

Commissioner Samson wanted to read what he calls the Garfield County Forum. One of the main points of his campaign was to foster better relations between the County and different communities. In order to do that, he has come up with a proposal. He proposes they form the Garfield County Forum a committee to be comprised of one representative from Carbondale, Glenwood Springs, New Castle, Silt, Rifle, Parachute, Battlement Mesa and the County. Each entity would independently decide their representative. His hope is to meet once per quarter starting February 2009. Each entity could also request a special meeting to discuss items needing immediate attention or collaboration. The purpose of this forum is to coordinate among all parties on all issues of mutual interest. I hope that doing this would foster better communication and understanding between all. The first meeting could be hosted in Glenwood Springs as the County seat, and rotate to the various entities. The host entity is responsible for chairing the meeting, choosing the facility and compiling the agenda. He does not know what protocol we need to go through for this and what he submitted is a rough draft. He believes the Board would need to instruct the staff to bring this to fruition. Further, he feels we need to pick a date or maybe draft a letter to go to the various entities inviting them to participate in this and get their input. Commissioner Houpt said she had a couple suggestions. In order to create continuity in a group, you may want to consider meeting monthly. Simply because if your goal is to get a sense of each community and what their concerns are then it gives you an opportunity to meet in all those communities during the year. Then as a group if you decide monthly is too often, you can cut back. It gives you a lot of momentum to be able to meet more often. She thinks it is a good idea and she is assuming Mike wants to take the lead on this. Commissioner Samson said that maybe the first meeting should be an organizational meeting. Chairman Martin thinks they will know more after next Mondays meeting once the different boards and commissions will be assigned. Commissioner Samson addressed Ed about a chart that gives all meetings and times. Commissioner Houpt said they could also share this regionally. Maybe we supplement your forum with putting more effort into meeting as a commission with the various communities. Commissioner Samson does not have any problem with all three of the Commissioners attending these meeting. Commissioner Houpt stated the only concern is we are asking the communities to identify one person, so if each community is represented by only one person, then we should have just Commissioner. Chairman Martin said they would refine it and talk about it on Monday.

COMPLETION OF A CONTRACT - AVIATION

Chairman Martin stated to Ms. Dahlgren that he had a completion of a contract in reference to aviation. It is from the Airports Program Specialists for \$145,000.00. The Conservation Boards, Southside, Bookcliff and Mt. Sopris are having their annual AG Day on January 28, 2009 from 9:30 a.m. to 2:30 p.m. at the New Castle Community Center. The day is coming up on February 10, 2009; worked out well last year and asked the commissioners to attend. He also has the requirements for the Colorado Employee Residents Report, that is Judy Jordan, and this is a formal request to get that done.

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR “EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF A NATURAL RESOURCE” FOR A GRAVEL PIT LOCATED 5 MILES SOUTHWEST OF PARACHUTE ON THE WEST SIDE OF COUNTY ROAD 300 AT HIGHWAY 6 – APPLICANTS; RTZ INDUSTRIAL LLC AS OPERATOR ON BEHALF OF SPECIALTY RESTAURANT CORPORATION AND STOCKTON RESTAURANT CORPORATION COMPANY – KATHY EASTLEY

Tim Thulson and Tony Zancanella were present. Kathy received an application requesting approval of a Special Use Permit (SUP) for “Extraction, Storage, Processing and Material Handling of Natural Resources” for a gravel extraction operation south of Parachute on the west side of CR 300 at Highway 6. The existing Una Gravel Pit is located on the east side of CR 300. The subject property encompasses approximately 1,200 acres lying between CR 300 southwest extending into Mesa County and primarily located between I-70 and the Colorado River. The property owners, and therefore applicants, have leased a 130.588-acre area to RTZ Industrial, LLC who plans on mining a 40.7-acre area of the site. The expected time period for this permit is ten years with approximately 150,000 tons extracted and processed per year. The applicant has applied for a permit as required by the State of Colorado Division of Reclamation and Mine Safety (DRMS). An application has also been included in the submittal for a State Highway Access Permit from the Colorado Department of Transportation for the intersection of CR 300 and Highway 6.

STAFF RECOMMENDATION

Staff finds that due to 1) the nature of potential impacts to surrounding properties and 2) the industrial nature of the proposal and 3) the impacts to County Road 300 and the intersection of Highway 6, Staff recommends the Board refer this application for a Planning Commission hearing. Tim stated he had nothing to add; had no objections and agreed it should be referred to P&Z.

Commissioner Houpt – I make a motion we refer this special use permit request for extraction, storage and material handling of natural resource from applicant RTZ Industrial LLC to the planning commission.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Directions to Building and Planning Staff : Chairman Martin - Since they also have a special use permit as well as a special district on this particular intersection that is affected and additionally Mr. McCown had made a motion at the first meeting that we join forces on an intersection in reference to 300 Road and 6 & 24. Therefore, he would like to see if they could explore those possibilities, which would include meeting with Mr. Roussin from CDOT to see if this could come under the County review process on this intersection. If so, maybe this could become part of that improvement district. This would ease the burden on just one special use permit on that intersection. County Road 300 where it intersects with 6 & 24 is a real issue in reference to access. This may alleviate some of that issue.

Other people who use this particular intersection are also having to do a design etc. He thinks that design needs to fall upon the County instead of an individual(s). Debbie asked for clarification on the staff direction.

Chairman Martin stated; to see if they could sit down with Mr. Roussin from CDOT to see what the requirements would be to make this a County project on this road no matter if this is approved or not. But, to go ahead and do the improvements on County Road 300. Commissioner Houpt said they had talked about future developments, as they came along, joining that district and pay into it. She stated they have not talked about the County doing that.

Chairman Martin said no; part of the motion regarding the Strong subdivision we recently heard was that CDOT, the County and the users of this intersection involved in the new development would be partners in this design.

Commissioner Houpt said she would like to see that motion. Debbie said that one required the applicant to get a CDOT permit and if you are changing that condition of approval then we need a process for that.

Chairman Martin said he is just asking what the possibilities are; I did not change the approval process. If we did, we would have to bring them back. What he is saying is they need to sit down with them; because, the development seems to be happening and we said that we would be partners. Commissioner Houpt said she would really love to see those minutes; because she thinks what they did talk about was having the current and future developers work with CDOT. The County, as applications come through on that, she would hate to commit the County to doing that project because that was not what was on the table or agreed to. Debbie said she does recall Commissioner McCown discussing the possibility that the County might be a player in that; but it was not her understanding that the County would take the lead on any of that. Chairman Martin said in that motion it was not; you are correct, he is trying to get it to be that way. Debbie said she thought they would need to have a process to change that recommendation of approval. Chairman Martin said and to do that we have to have a conversation with CDOT and see what the possibilities are. Debbie clarified that the direction for the present time is just to look at the possibilities.

Chairman Martin - That is correct and to see if we can't make this a County project instead of just the burden on one because of the development that is taking place in the entire area. Commissioner Houpt said, again just to figure out what the options are because we had a pretty extensive discussion on that; but she would like to see those minutes in relation to this. Tim said he could add something; he has met with Mr. Strong and Mr. Hicks and where we are right now, he believes they have exchanged engineering information and what the goal was; we do not know how we are going to do it yet but one design to accommodate all sides. Chairman Martin said if there is any kind of development south across the bridge; that needs to be done. Also west of that intersection, he sees the new building on Mr.

Hick's property. You are looking at more and more use of that intersection; we are just trying to accommodate CDOT as well and work with everyone to get that done.

REQUEST BOARD OF COUNTY COMMISSIONERS APPROVAL TO HIRE AN OUTSIDE CONSULTANT TO REVIEW WATER ISSUES RELATED TO PUD/PRELIMINARY PLAN/COMPREHENSIVE PLAN AMENDMENT APPLICATIONS FOR H LAZY F MOBILE HOME PARK – KATHY EASTLEY

Kathy Eastley stated the request quoting Section 4.12.05 of the Zoning Resolution provides the following: The County Commissioners acknowledge and find that, from time to time, the County may be required to obtain independent or outside legal and technical counsel and/or opinions concerning PUD or TPUD proposals. The County Commissioners shall have the authority to retain these experts or expertise at the sole cost of the PUD or TPUD applicant(s). After referral, the Board may retain assistance if requested by the Planning Commission, or to address any unforeseen technical or legal issue, not previously foreseen. At such time of retention of outside expertise, the PUD or TPUD applicant shall be advised of the nature of the outside expert review and a payment schedule shall be established. Staff is requesting the Board approve the request for outside expertise regarding legal and physical provision of water and wastewater within the H Lazy F Mobile Home Park. The Planning Department is currently reviewing applications related to PUD, Preliminary Plan for Subdivision, and a Comprehensive Plan Amendment to allow for the creation of 96 lots within an existing Mobile Home Park (approved via Special Use Permit, Resolution No. 80-101). The centralized water and wastewater facilities, existing since the inception of the Mobile Home Park in the 1980's, will, upon approval of the applications, be transferred to a Homeowner's Association or other responsible entity for ownership, maintenance and operation. Because of the age of the existing facilities and the complexity surrounding the legal issues related to water and a whole host of engineering issues that

may extend beyond the County’s current ability to review, Staff requests the ability to hire outside expertise in those areas. Note this is at the cost of the applicant and not Garfield County. They are requesting an amount not-to-exceed in the amount of \$10,000.00.

Commissioner Samson – I move we approve the request for outside expertise regarding legal and physical provision of water and wastewater within the H Lazy F Mobile Home Park. Commissioner Houpt – Second.

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

CONSIDER A REQUEST FOR A PLANNED UNIT DEVELOPMENT/SKETCH PLAN APPLICATION FOR THE REDEVELOPMENT OF SKI SUNLIGHT – APPLICANT; SUNLIGHT MOUNTAIN DEVELOPMENT, LLC & SUNLIGHT, INC. – FRED JARMAN

Fred noted that on 1/5/09, the BOCC agreed to postpone this hearing date to May 18, 2009 and also required the applicant to re-notice for said date.

Fred stated, as you all know there is a pending land-use application in the hands of the County right now for the development of Sunlight. That project has gone to the planning commission and was on its way to the Board for your hearing. The 5th of January, two weeks ago the representation of that ownership group asked for a postponement. You granted that until May 18, 2009; also, for the record, it was asked what was going to be coming back and the representative of the Ski Sunlight Mountain ownership, Tom Jankovsky indicated he would bring back the same application to the Board. Fred stated he expects that may or may not happen depending on what happens with the change in ownership. The developer, in this case the group from Florida, is out of the contract. The reason we are here is because a notice was sent out for a presentation today.

Commissioner Samson asked a point of clarification, if the applicant stays totally within the bounds of what they proposed with you then it could proceed. If that changes at all or significantly, help me there. Commissioner Samson is finding it hard to believe that a new owner would not want to tweak this a little bit. In that case, will that new applicant have to start from scratch? Fred stated that is correct. If they change, they need to start over. Part of the reason is that right now they have noticed Garfield County and the residents that this is the exact plan we are going to work on. They have also taken a certain plan through the planning commission. Commissioner Houpt asked if he needs to have the same motion they already made. Debbie said the sole purpose of putting this on the agenda today was in the event that any members of the public did show up, we could tell them it has been postponed and will be re-noticed for that date in May. The motion has already been done.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**FEBRUARY 2, 2009
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 2, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

2008 OIL & GAS REPORT – JUDY JORDAN

Judy Jordan provided the Board an update on the 2008 oil and gas development in Garfield County. It listed the number of complaints for the 4th quarter of 2008; the COGCC approved APD’s for October – December; APD’s reviewed by GarCO Oil and Gas - October – December 2008 and the 2008 drilling rigs running as of December 5, 2008. Judy also did a visual of the drilling permits by County with Garfield County coming in at 36.0% and Weld at 29.0%. The remaining affected counties: Mesa 6.0%; Rio Blanco 6.0%; LaPlata 4.0%; Yuma 7.0% and Las Animas 4.0%. All others were 8.0%. One thing Judy pointed out was that the drilling rigs are down by about half. OXY has pulled out completely. The permits are still coming in at the same rate as before.

At the time, there was quite a bit of interest in oil shale but there are many nerves about the lower level of gas, so this had an effect. A major loss on a pad in November and it shut down the runway at the Airport. Antero took care of this very quickly. A few homeowners were concerned about the discharge and reported a film on their property. Antero is doing some sampling to test what this film might be. The COGCC has completed their rules but the regulations still need to be approved by the legislature.

Fred Jarman will be attending the Energy Advisory Board giving a review of the new Building and Planning Land Use Code. Folks from the EAB will be forthcoming to suggest amendments to the original Resolution.

Rulison held a meeting to go over the sampling that was done over the last year including some sampling at the blast site. They did not find anything of concern. The focus is on the drilling that is closer to the blast site.

Chairman Martin noted it has been over a year since they promised to bring forth a report. Judy has not heard anything regarding the results being reported to the nearby landowners. Rulison has been a thorny subject for a while concerned if there is radiation coming from the blast site and particularly concerned about the drilling close to that site. DOE was to hold the meetings providing an update. DOE will participate if COGCC will also be involved. Commissioner Houpt will check into the delay in getting these updates. The rules COGCC passed included plans for drilling. Their plans would enable the County the ability to have previous knowledge of where they intend to drill, which would be very helpful. Williams, Nobel and Chevron have been actively involved in the dialogue with the County. Chairman Martin wants to continue to stress the County needs to be involved in the process with the COGCC. Judy agreed we need to keep pressing to be at the table.

CONSIDERATION AND APPROVAL OF LEASE WITH COMMUNITY HEALTH INITIATIVES, INC. FOR STORM KING CASE MANAGEMENT SERVICES – LYNN RENICK

Lynn Renick submitted the lease for the Community Health Initiatives for the term January 1, 2009 through June 30, 2009 with a payment of rent in the sum of \$1.00 for the entire lease. This is office space at the Henry Building. This will give them a start-up to have direct services for case management in the Rifle area.

Commissioner Houpt made a motion to approve the lease between BOCC and CHI for the next 6-months.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

DISCUSS IGA WITH BATTLEMENT MESA AND GARFIELD COUNTY FOR STREET SWEEPING SERVICES – MATT ANDERSON

Matt Anderson and Marvin Stevens presented the recommended Board approval for signature of the IGA for the street sweeping services contingent upon Battlement Mesa's agreement of the proposed changes and their signature. The proposal includes no less than 3 times per year for street sweeping on collector roads. Don said this is not an IGA but an agreement. The format has to change. This will be brought back once it has been changed. Don wants this in a professional format. Carolyn said the notice person is Mr. Welshman.

AIR FAIR SCHEDULE APPROVAL – BRIAN CONDIE

Brian Condie submitted the Air Fair information saying this year's proposed show. The show will include the Army Golden Knights Parachute Team featuring 19 jumpers lighting up the night sky with cold burning pyrotechnics strapped to each jumper; wing walking and a pirate show from Franklin's Flying Circus; the amazing Tin Sticks acrobatic show including the semi jet truck Shockwave with pyrotechnics; and a night time acrobatics acts with lights and pyrotechnics. This will be along with several static displays and planned fly-bys of military aircraft. Brian included the cost estimate for the 2009 Air Show at \$197,169.00. Color photos of the US Army Golden Knights and Pirated Skies were included in his proposal. Brian explained the events especially the pyrotechnics. The wall of fire will be featured again this year although it will be different. This Air Show started 5 years ago and after this year's show Brian will conduct a complete evaluation to see if this should be continued. Friday, August 13 and Saturday, August 14 will be dates for the 2009 Air Show. Commissioner Houpt requested an official approval by the fire district.

AIRPORT RUNWAY PROJECT – We will not be able to complete as much of the runway as previous planned. The instrument approach is the delay. The FAA wants to complete the project in 2010 and next year we will not have an Air Show due to the runway being shut down.

Commissioner Houpt made a motion to approve the performers listed and with the condition that the fire district approves the pyrotechnics. Commissioner Samson – Second. Carolyn requested Brian work with Matt on the performer's contracts. In favor: Houpt – aye Samson – aye Martin - aye

SHANE EVANS HANGER – CONVERT TO LLC (NOTICED PUBLIC HEARING) – MICHAEL SAWYER & SHANE EVANS

Carolyn Dahlgren, Michael Sawyer, Mark Gould, Gerald Burk and Shane Evans were present.

Carolyn Dahlgren determined noticing and stated it was adequate and advised the Board they were entitled to continue.

Chairman Martin swore in the speakers. Michael Sawyer of Leavenworth & Karp, P.C. submitted the application for assignment of lease executed by all members of Tree Top Flyers, LLC, a Colorado limited liability company. The intent of the Tree Top Flyers is to assume all of the rights and obligations under the lease agreement. Michael explained that all three managers have pilot licenses and individual aircraft. The managers are Mark Gould, Gerald Burk and Shane Evans. The existing lease is in the sole name of Shane Evans. He formed this LLC after the lease was assigned. All improvements at the site have been completed and the insurance is in place. The lease is primarily for private use however, the applicant has an agreement to house overflow aircraft with Atlantic Aviation. Mr. Evans was the sole owner but has since formed an LLC with three long-standing members of the Garfield County community. Under the assignment, it states that this private hangar will not be assigned by Evans without written consent of the BOCC. The consent of the BOCC shall not be unreasonably withheld. The improvement at the lease site have been completed and reviewed by the Airport Director and accepted. The current lease contemplates no changes, it does however provide for private hangar aircraft storage, storage of planes pursuant to sublease agreements or contracts with other entities. There are no commercial operations anticipated in the hangar. The operating agreement will be amended to agree with the changes. Brian reviewed the financial statements saying they are in order as well as in compliance with the Airport rules and regulations. He recommended approval of the assignment of lease. Michael will submit the amendment to the Articles of Corporation within 45 days.

Commissioner Houpt made a motion to close the public hearing; Commissioner Samson – Second. Motion carried.

Commissioner Samson made a motion to approve the assignment of lease to convert to the LLC to Tree Top Flyers, LLC and that includes Brian's proposed changes. Commissioner Houpt – Second.

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

ED'S EXECUTIVE SESSION ITEMS– Ed stated he had received a letter from Ari Zavaras regarding the potential closure of the Rifle Correctional Facility in Rifle. Ed has spoken with John Hier, County Manager of the City of Rifle regarding the concerns with this possible closure. Ed suggested the Board join with the City in sending a letter to the Colorado Department of Corrections requesting reconsideration this closure. It will have tremendous impact on the citizens of Garfield County and to the City of Rifle. There is the potential loss of homes and jobs for those employed at the facility as well as a loss of community service provided by the inmates.

Commissioner Samson so moved to send the letter. Commissioner Houpt – Second.

In favor: Houpt – aye; Martin – aye Samson - aye

FOOD SERVICE CONTRACT WITH THE DEPARTMENT OF CORRECTIONS FOR OUR FACILITY

Ed commented we have a contract for food services with the facility and if they do indeed close it we will be scrambling to find food service for our Community Corrections Facility. Ed has discussed this with John Heir in reference to the senior food service. Dale stated that he had talked to Rodney Hollandsworth the director of our correctional facility and suggested he reopen the conversation with Grand Valley Hospital regarding the food service. There has been a change financially in the food service that might entice the hospital to reconsider. The second alternative is for us to cost out a commercial kitchen and add a cook so we can provide our own food service. Dale requested to be involved in the executive session when the letter to the CDOC is being discussed to reconsider the sustainment of the Rifle Correctional Facility.

CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT WITH VALUE LEASE, INC. – JOHN GORMAN

John Gorman and Don DeFord were present. John provided the Board with the purchase of services agreement with John Zimmerman of Value Lease, Inc. to perform reappraisal of commercial property in order that the taxpayers have the

estimates of value of their property. The included services are shown in Exhibit A. The compensation amount to be expended is a not-to-exceed ninety two thousand two hundred dollars (\$92,200.00).

Commissioner Houpt made a motion to approve the purchase of services agreement with Visual Lease for a not-to-exceed amount of \$92,200.00. Commissioner Samson seconded.

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

CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT WITH VISUAL LEASE SERVICES – JOHN GORMAN

John Gorman and Don DeFord were present. John presented the purchase of services agreement with Visual Lease Services to provide the oil and gas equipment audit which is broken down into three tasks: Task 1 – Physical inspections; Task 2 – Valuation of locally assessed taxable oil and gas equipment; and Task 3 – Provide GIS data for the Garfield County’s GIS mapping system. Chairman Martin stated there were three House Bills before the legislature regarding personal property taking away 26%; this is a significant amount. If the legislature proceed and pass these three Bills, it would actually do away with business personal property tax, period. Some of the folks in the Assessor’s office will be out of a job if those pass. It looks like a strong preference by the state. This is 26% of our actual revenue coming in. When John asked how the County would make up the loss revenue, they said to bond and take care of your issues by borrowing some money.

John Gorman requested the entire amount unspent from 2008 be included in the budget for 2009. Commissioner Houpt made a motion to approve the not to exceed \$100,000.00. Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

Don added that some confidential information would be discussed in Executive session.

CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT - NATURAL GAS AUDIT WITH MARTINDALE CONSULTANTS, INC. – JOHN GORMAN

John Gorman and Don DeFord were present. John provided the services agreement with Martindale Consultants, Inc. to identify the anticipated total audit work during 2009 regarding revenue. This will include Williams, EnCana and Petroleum Development Corporation that were stated in the 2008 contract. Royalty owners were feeling they were not receiving appropriate revenues. In 2008, Martindale began auditing the companies and now they will start auditing the other companies. John stated the personal property and royalty payment audits have taken longer than he expected. He explained the process in detail. Commissioner Samson questioned the \$440,000.00 of which \$190,000.00 is for the remaining 2008 services. John Gorman explained this was money not spent in 2008. The carryover of \$190,000.00 is what is needed for 2009. \$250,000.00 for 2009 is the request. Don – Technically the entire \$440,000.00 should be included in the budget for 2009.

Commissioner Houpt made a motion to approve the contract with Martindale Consultants, Inc. for 2009 in the amount of not-to-exceed \$440,000.00. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION/APPROVAL OF RESOLUTION ESTABLISHING A TREASURER’S FEE PAYMENT, COLLECTION AND REIMBURSEMENT POLICY – GEORGIA CHAMBERLAIN

Don DeFord - The policy was previously presented to the Board; however, some corrections were necessary prior to the approval of the Commissioners. Don explained that the changes have been made according to the input from the Board. The State Legislature is not going to support this and they are not willing to enter into or support the bill. This is law but it has not been followed. This County has joined other counties and there is no uniform policy, but this is the least painful way to address the Treasurer’s fees.

Commissioner Houpt made a motion to approve the Resolution establishing a Treasurer’s Fee Payment, collection and reimbursement policy as presented. Commissioner Chairman Martin – Second.

In favor: Houpt – aye Samson – aye Martin – aye

INTERIM APPOINTMENT OF COMMISSIONERS ON VARIOUS BOARDS – JOHN MARTIN

The following committees were decided by the full Board as follows:

AGNC – Mike NACO – All CCI – All NW Oil and Gas Forum – Mike
Community Corrections Board – John Senior Programs – John Council of Aging – John Club 20 – All
Colorado River District – John Ruedi Water & Power Authority – Tresi Rocky Mountain Rail Authority –
Tresi and Mike as alternate 1177 Water Round Table – All QQ Board – John
Human Services Commission – Tresi Communication Board – Mike NRCS –Conservation District – All
New Energy Communities Initiative – All – Ed point person Rural Resort – Tresi I-70 Coalition – Tresi
RAC-BLM – Larry Forest Service RAC – All Intermountain Trans Coalition - All

Don stated if more than two of the Commissioners attend these meetings it does constitute an official Board of County Commissioner meeting. He wanted them to be aware of that saying not that you cannot do it, but just be aware.

Commissioner Houpt - That has been brought up as an issue with CCI in the past and they notice their meetings now.

Commissioner Houpt questioned the word “interim” in the agenda item. Chairman Martin - We did this in a Work session and to make the official appointment we needed to do this in a public meeting. What we did was go ahead and have that Work session. It was broadcast on the radio as well and was recorded. The public listened to that discussion. We also noted the committees we wanted to sit on and selected those. Where it says ALL it means that we all have equal participation. If there is an issue at any of the meetings, we will bring it back and make a Board decision to go forward or not. Commissioner Houpt said she would also like to have it noted on the Colorado Water District that Dave Merritt is our representative and with the Water Roundtable Louis Meyer is on that as well. They have both been appointed by the Commission.

Commissioner Samson questioned Don DeFord; when all three of us are at a meeting, or even two of us, how does that work. As an example, we are at a national meeting or a state meeting and CCI comes to my mind. We have all attended the meetings together so what does this exactly mean? Don - It means that under the Open Meetings Act it is a meeting of the Board if you are going to discuss County business. You can do that and if you are going to take action as it affects the County, then it means you have to keep an official record of the meeting. But, if two of you attend the same meeting at the same time and just discuss public business, then you need to post that meeting and its location so you’re in compliance with the Open Meetings Act. The public is aware of the meeting and can attend if they so desire. It is also a good idea to coordinate with the Clerk’s office in the event that a record does have to be maintained. Chairman Martin – It also means that we need to include the third Commissioner in reference to that discussion so that they will have equal opportunity to be involved. That was some of the ideas behind the policy so we do not get ourselves in a pickle. It is only a suggestion. We will review that policy individually and bring that back in 60-days of the Work session and see if we

can come up with some resolution. This is not to suppress or muffle anybody's voice but just to protect us so that we follow the rules and regulations. Commissioner Hought – For your benefit, Mike, the best policy is to make sure that you do not do County business at these meetings. Commissioner Samson – There are times when we do vote on various Bills before the House and the Senate at these CCI meetings. Commissioner Hought – We are voting as individuals. We are not establishing formal positions for the County at those meetings. Chairman Martin – There is also another approach and we have put it aside at CCI and NACO; one individual Commissioner is assigned to each steering committee so they do not have that problem. However, I think that limits the participation and knowledge on those steering committees. I encourage everyone to participate equally but that creates the problem that Mr. DeFord is talking about. Commissioner Hought – Well, NACO will only let one person join one steering committee so that makes it much easier. Chairman Martin – But you can still sit in and participate in a limited venture. Again, if these committees, and the assignment of these committees are acceptable I would like to go ahead and make sure that we move ahead with them so the staff will know how to direct the different communication. They also need to know as far as putting the timetables together and schedules so we can move forward. Are there any boards or commissions that an individual does not want to be on or feels that they want to be on some others? Commissioner Hought – No, this is consistent with what we talked about, so I'll make a motion that we adopt the appointments to boards and commissioners for Commissioners as presented in the document that should be dated, and also add Dave Merritt to the Colorado Water River District and Louis Meyer to the 1177 Water Roundtable. Commissioner Samson – Second.

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

CONSIDERATION/APPROVAL OF ORDER TO SHOW CAUSE – COLOREXAS, INC. D/B/A DOS HERMANOS

Don DeFord and Jean Alberico were present. The Order to Show Cause and Notice of Hearing was submitted in the Board's packet. The Board of County Commissioners sit as the local liquor licensing authority and Colorex, Inc., dba as Dos Hermanos in Glenwood Springs has violated the statutes of the rules and regulations of the State of Colorado governing its hotel and restaurant license. It is alleged that the licensed premises have been operating in a manner that has adversely affected the public health, welfare and safety of the neighborhood. These allegations include approximately 40 or more service calls by the Garfield County Sheriff's Department for fights and other disturbances as evidenced in Exhibit A. A public hearing has been set for Tuesday, February 17 at 3:00 pm at the Commissioners Chambers located in the County Administration Building, 108 8th Street, Glenwood Springs. Karl Hanlon will be representing Jean Alberico Clerk and Recorder and Don DeFord will represent the Board of County Commissioners. Commissioner Samson moved that we set a meeting date of February 17 at 3:00 pm. Commissioner Hought – Second.

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

COUNTY PROCEDURES FOR MIKE SAMSON

Chairman Martin brought up a new subject, the review of County procedures and rules for Mike Samson. The entire Board may want to participate in a workshop. Don prefers to do this in executive session as it is a legal discussion and he needs to provide guidance to the Board in their decisions. Don would like to involve his legal staff. A date was set for March 17, 2009 at 8:00 am in Don's Conference Room.

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 Conditional use Permit for a Warehouse/Storage Facility located approximately 17.5 miles north of the Town of DeBeque. Applicant is Oxy USA WTP LP. – David Pesnichak
- f. Authorize the Chairman to sign the Conditional Use Permit for a Home Occupation on Lot 15, Mountain shadows subdivision located at 0040 Apple Drive. Applicant is Jose Castillo – Kathy Eastley
- g. Authorize the Chairman to sign the Resolutions of Approval for a Zone District Amendment and a Preliminary Plan for the Strong Subdivision PUD located southwest of Parachute at 70 CR 300. Applicants are George and Leslie Strong – Kathy Eastley
- h. Ratification of Chairman's signature on 1) WCAHEC \$10,000.00 Caring for Colorado Foundation Memorandum of Understand regarding oral health improvement and 2) "Baby & Me Tobacco Free" Rocky Mt. Health Plans Foundation's \$3,250.00 award "Memorandum of Understanding". – Mary Meisner
- i. Authorize the Chairman to sign a Resolution regarding National Forest Reserve Payment – Theresa Wagenman

Commissioner Hought made a motion to approve the consent agenda items removing Item i for discussion.

Commissioner Samson – Second. In favor: Hought – aye Samson – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don asked for an executive session to discuss two litigation issues, Bill Barrett and Elk Creek LLC; John Gorman previously requested to share some confidential information with the Board; John Martin has an issue regarding transportation and realignment; and Carolyn has an update on two litigation issues. Ed previously addressed his issues to discuss in Executive Session. Don also stated he needs to provide advice concerning Valley View Hospital and River Bridge as well as the use of the Fairground Facilities.

Commissioner Samson made a motion to go into an Executive Session. Commissioner Hought – Second.

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

Commissioner Samson made a motion to come out of Executive Session. Commissioner Hought – Second.

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

Action taken:

BILL BARRETT – COMPLIANCE – ACTION DISMISSED

Don requested the Board take action directed at Bill Barrett regarding disposal facilities; Bill Barrett has brought the property into compliance and would like this withdrawn by motion. Commissioner Hought so moved; Commissioner Samson seconded. In favor: Hought – aye Samson – aye Martin - aye

ASSESSOR - ABATEMENTS

CLINTON C. OMANG – ABATEMENT NO. 09-022, SCHEDULE NO. R430082 – LISA WARDER

Lisa Warder submitted the abatement saying the petitioner states that the taxes assessed against the property for 2008 tax year are incorrect as the improvement was only 20% complete as of January 1, 2008. The tax rebate of \$4,710.32 is requested.

Commissioner Houpt – So moved to close the public hearing. Commissioner Samson – Second. Motion carried.

Commissioner Houpt made a motion to approve the abatement No. 09-022, Schedule No. R430082 in the amount of \$4,710.32. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Item i on the Consent Agenda - APPROVAL OF A RESOLUTION REGARDING NATIONAL FOREST RESERVE PAYMENT – THERESA WAGENMAN

Theresa Wagenman submitted a memorandum explaining the State of Colorado has deposited the Forest Service Reserve funds in an amount of \$539,183.02 via ACH into the Treasurer's bank account. This Resolution concerning disbursement of receipts from the National Forest Reserves 2008 and directing the Garfield County Treasurer to make disbursement. Commissioner Houpt favored giving 80% to the school districts. Chairman Martin noted three counties – San Miguel and two others. Lisa Dawson called Eagle and they commit 5%; some of the others she called have increased it to 8%. This will be placed on the agenda for the February 9, 2009 meeting for further discussion. Chairman Martin expressed his opinion about the 80% increase saying first of all he didn't think the school districts could accept this as they are under a limit in the amount of monies they could accept. Secondly, the revenue in this County is diminishing and we should keep our County whole. Commissioner Samson requested additional information to be included in the Board's packet for the next meeting.

PRESENTATION OF NECI ADVISORY BOARD'S RECOMMENDATIONS – MAYOR MICHAEL HASSIG AND MAYOR KEITH LAMBERT

Alice Laird, Heather McGregor, Mayor Hassig and Mayor Lambert were present.

NECI stands for the New Energy Communities Initiative proposed by the Governor. This was announced on June 19, 2008 in Steamboat Springs. There were eleven areas the Governor wanted addressed. A power point presentation was given and they discussed the items listed on the agenda. They are part of the committee the Commissioners appointed.

DOLA Contract: The funds being requested amount to \$1,605,000.00 with the services rendered under the direct supervision of Jim Rada, Environmental Health Manager. The project consists of 6 elements needed to implement the new Garfield New Energy Communities Initiative: residential programs and services; commercial programs and services; greening government; energy efficient transportation and community design; renewable energy and sustainability team and clean energy financing.

- 1) GEO (Governor's Energy Office) contracts – This is the Energy Start New Homes Program and the request for electronic funds transfer for payment of the invoices. Sara Graf, Contract Manager submitted a letter to Bob Prendergast of the County's finance office with respect to these funds in the amount of \$21,000.00 and will be disbursed a) \$10,500.00 in 2009 and b) \$10,500.00 in 2010.
- 2) 90-day procurement, professional services (CLEER) – Alice Laird, Heather McGregor, and Lauren Martindale are members of CLEER. They submitted a budget for tasks proposed in this 90-day proposal that will lay the groundwork for programs and services in the DOLA grant two-year Scope of Services and launch several near-term projects.
- 3) Discussion of IGA's – A request was made for the County to approve the contract between the County and DOLA. According to Carolyn, an IGA will be needed with all the municipalities and entities. Bid process: The solution was to request a 90-day emergency contract so they can continue to work while the contract with CLEER is being implemented for program management; however, no action was requested today. Amendment 54 is a management process and all the projects will require sub-contractors.
- 4) NECI Advisory Board By-Laws - The By-laws of the New Energy Communities Initiative Advisory Board were submitted outlining the membership, term of office, etc.

Alice said the school district in Rifle is very interested. Keith Lambert was originally planning to submit their grant for Rifle but is now participating in the joint effort. Michael gave a preview of how fast the energy initiative was handled saying there was a meeting on December 17 as a workshop for energy savings. Consultants were brought in and the projects were decided. The authorization was discussed at that time in order to begin the process on the 90-day emergency contract with CLEER for program management. Keith Lambert mentioned a number of the advisory board members were present in the audience.

Two requests today:

1) GEO (Governor's Energy Office) contracts – This is the Energy Start New Homes Program and the request for electronic funds transfer for payment of the invoices. Discussion included page 8 and 9 in the scope of services. Page 2 of the scope of services per Carolyn is not the way the County has handled DOLA grants in the past. The BOCC is responsible for the match money and DOLA has advised us we can therefore add the language. We do not have the IGA's in place with the various entities. We need the information on how much in-kind and cash money each will be responsible for adding. Carolyn asked direction by the Board to go ahead with the IGA's laying out the responsibilities and funds. Chairman Martin asked for commitments.

Keith Lambert said it was part of the power point they presented today but the commitment has been made.

Mayor Hassig from Carbondale stated they have already spent the money. Shelly Kaup from Glenwood Springs stated they have made a commitment for their funds. Judy Haywood said Parachute has it in their budget for 2009. Alice Laird provided the list of commitments to the BOCC as presented in the power point. Commissioner Houpt noted that the DOLA contract includes the commitment of all the entities and we can move forward with the IGA's. She feels it is a low risk to the County to assume this responsibility.

Carolyn said she is looking for direction from the Board to create all these IGA's with the various entities. All the details will be specifically addressed in the IGA's. There are still some process issues to be worked out. The IGA's will lay out that process and the advisory committee will discuss these and come back to the Board.

Shelly Kaup asked if it was possible to have a standard boilerplate and then have a scope of services. Carolyn said this is what she is speaking about; a scope of services will be attached to the IGA detailing the projects.

IGA –COUNTY TO APPROVE THE CONTRACT BETWEEN THE COUNTY AND DOLA.

Commissioner Houpt made a motion to approve the DOLA contract as previously stated with the amendment requested by DOLA. Commissioner Samson – Second. Chairman Martin made a correction to the contract saying Mr. Rada's name should be replaced with Mr. Green. Clarification was provided that Jim Rada is the project manager and he reports to Ed Green. Commissioner Houpt stated her motion includes Jim Rada as the project manager. Ed explained he did not want to compromise his position and therefore agreed Jim Rada should be listed as the project manager. Commissioner

Samson stated he was glad that things are going forward and this is a perfect example where the municipalities and the County can work together to benefit the citizens of our County – this is awesome. Commissioner Houpt – Absolutely. Chairman Martin still voiced his concern that Mr. Green should be on top of everything all the way through this process. In favor: Houpt – aye Samson – aye Martin - aye

GEO (GOVERNOR’S ENERGY OFFICE) CONTRACTS - MOTION

Carolyn explained, under the state procurement code, \$25,000.00 or under is by purchase order. It is interesting the way that GEO has done this by asking that an application be signed; did CLEER sign it or just put themselves on the application as the contact person. Carolyn’s concern is that each of those GEO applications for the three different programs requires a commitment of match money. Then, they issue a purchase order i.e. the one in the packet is for Energy Star for \$21,000.00 from the Governors Energy Office. So, this \$21,000.00 is coming from the Governor’s Energy Office to go to all these different IGA’s of different municipalities and other entities who are or are not participating. We, the County, had to commit \$21,000.00 in match money. Carolyn did not know where this \$21,000.00 is coming from. Alice Laird – The Governor’s Energy Office additional program funds were all part of the initial package; the overall communities initiatives is a joint DOLA Governor’s Energy Office Program. So, when we put these in, these are additional funding areas that you can leverage with this grant. A spreadsheet that maps out the different areas that we have put forth to the Advisory Board to finalize but the local match comes from the local cash match. Carolyn confirmed that would be part of each entity in an IGA with the County. Alice stated the GEO funds are from a separate fund. Carolyn is asking for action on the GEO contracts. Alice said these funds have to be expended by June 2009. Chairman Martin – These funds come to Garfield County so we have to do the distribution from the Governor’s office as the receiver, sign the contracts, make sure it goes in place and report back. Carolyn confirmed and added to the degree that they are rebate programs then they will be County warrants going back as rebates to individual citizens. We are the holder of State GEO funds; DOLA and GEO are not merged. Georgia said the finance and treasurer’s offices would work this out. Also, the Treasurer’s fee of 1% will also be refunded by the Board.

Carolyn explained the three programs in front of the Board now. The solar rebates are available to Glenwood Springs residents only; the Insulate Colorado and The Energy Star are available Countywide. Today Carolyn is asking signature authority on all of the GEO contracts so that the County can accept money from GEO and then distribute it in accordance with the IGAs.

Commissioner Houpt so moved; Commissioner Samson - Second.

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

TREASURER’S FEES:

Don DeFord requested clarification regarding how the Treasurer’s fees would be handled. One of the paragraphs of that Resolution addresses the fiscal agreement, which you are considering. It provides that the Board can determine that you will not seek reimbursement of the Treasurer’s fees, the County would be responsible for paying that to the Treasurer if you so determine.

Commissioner Houpt – so moved; Commissioner Samson- second. We lose the 1% percent per Chairman Martin and therefore, he is against this concept.

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

DOLA – SEVERANCE TAX AND STATE TAX

Commissioner Houpt – We did discuss what we would include in our in-kind money. The fees of 1% for the Treasurer’s fees should be absorbed on the \$1 million on the DOLA grant funds and credited to Garfield County so people can see what our contribution will be.

Commissioner Houpt made a motion that with the GEO funds the County also absorbs the Treasurer’s fee for the DOLA monies coming in from NECI. Commissioner Samson – Second, but requested discussion. I was under the impression at the beginning that this was going to be for the \$21,000.00; now, you are saying that will cover the \$1.6 million.

Commissioner Houpt clarified the first motion we voted on was for the \$21,000.00 and that passed; this motion would be for the \$1.6 million. Carolyn said she misunderstood the first motion, she thought it was all the GEO contracts. The \$21,000.00 is just the Energy Star; there will be at least two others. Chairman Martin said he believed it was to do all those contracts. Commissioner Houpt was confused and thought it was just the \$21,000.00. She did not know how much the others are. Alice Laird read them off \$15,000.00 for solar hot water demonstration program; \$45,000.00 for solar rebates total; Energy Star is \$21,000.00; and Insulate Colorado is \$25,000.00. The total is \$506,000.00. Commissioner Houpt – For clarification purposes we will say it was for all of those contracts although it was my mistake because I was only looking at this one. Commissioner Samson clarified we are looking at 1% of the \$506,000.00. Chairman Martin – It has already passed. Now you are talking a new one, which is \$1.6 million that you are going to pay 1% fee on.

Commissioner Houpt – We need to make a policy decision on this so there had to be a motion to figure out whether that was an amount of money that we as a County want to absorb, or if we want all of our partners to absorb that fee with us. \$16,000.00 is the total amount of \$1.6 million. Don – Brief comment on DOLA grant agreements because we did discuss this with Mr. Kirtland. Most DOLA form grant agreements provide that the grant itself cannot be used to pay fees of any kind. We asked Mr. Kirtland to respond to DOLA’s position if we did assess a fee. Don said he did not get a direct response from him as to the basis for that contract provision, but if you do not agree to absorb the fee then we would have to seek that from other partners. Commissioner Houpt has a motion on the table to absorb that fee, if this had been something previously anticipated by our partners they would have found the money and budgeted for it. Commissioner Samson – And because of what we did earlier concerning this little known law of what collecting 1% would mean. Chairman Martin – This came up in a discussion of our larger amount of money and something to do with \$25 million and the 1% fee with Chevron. He added it is not a little known law and it is not always followed. Commissioner Samson seconded the motion.

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

Carolyn asked for clarification. Was that just on GEO? The answer – No, it was GEO and DOLA.

Commissioner Houpt wanted the other entities to know that from now on, we are assessed a Treasurer’s fee of 1% when the Treasurer is involved in money issues. She did not believe the other entities had budgeted for the 1% Treasurer’s fees but now they are aware. Chairman Martin further explained that this is the only way to make certain all departments pay the accessed fee otherwise the Treasurer could lose her wages.

ADVISORY BOARD MEETING – FEBRUARY 11, 2009

Direction was provided regarding the IGA’s for the other entities. This will be addressed at the meeting of the advisory board on February 11 and brought back to the Board of County Commissioners on the 17th of February.

EMERGENCY FUNDS – CLEER

CLEER does not have contact authority and the match money has not been handed down. The County Commissioners have not seen the 90-day extension so this will also be brought back on the 17th of February. Commissioner Houpt asked for a more detailed budget to be included in the Board's packet.

NECI ADVISORY BOARD BY-LAWS

Commissioner Houpt made a motion we approve the By-laws of the New Energy Communities Initiative Advisory Board By-Laws as presented. Commissioner Samson – Second.

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

GRANT PROCESS

Commissioner Samson asked how the various entities who received grants could have done this differently. Keith Lambert – The Governor announced this in June and the applications were due in by September and October, so the turnaround time was short to go forward by itself; but because of the association of agencies it has been more difficult. Commissioner Samson thought we have worked well together in a very short time and complemented each entity. Chairman Martin was also pleased at the manner in which the various entities worked and found common ground. Carolyn – GEO and DOLA are new at this as well. Keith Lambert – New ground is being broken. They will come back on the 17th of February. Keith said he appreciates the role Garfield County played in this endeavor. Matt will work on an RFP with the Advisory Committee. The emergency contract will be in place while this is being worked on. Matt will attend the meeting on February 11th. Discussion continued on the selection of the applicants on the RFT panel. Ed – In the past, it has consisted of all internal staff however; in the past we have added one advisory board member.

Commissioner Houpt would rather have the advisory board doing it with inside members but not splitting the advisory board on the decision. Chairman Martin referenced the Procurement Code requirements. Ed said Matt would be the selection chairman and Jim Rada on the board because he's the project manager, Bob Pendergrass for the financial manager, one representative from the energy committee and Dale Hancock. Chairman Martin clarified the selection process. Michael Hassig would like to work with Matt to prepare the actual scope and expectations of the RFP and agreed with Chairman Martin. Once those are clearly indicated, the evaluation committee should be ready to evaluate the proposals. The board will pick someone to serve on the evaluation committee at the February 11th meeting and then come back to the Board on the 17th.

EXECUTIVE SESSION resumed regarding the land acquisition Ed Green discussed earlier; Carolyn on the proposed IGA; and litigation issues regarding Storey and Continental Rifle.

Commissioner Samson made a motion to go into an Executive Session. Commissioner Houpt – Second.

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

Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt – Second.

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

Action taken –

CONTINENTAL RIFLE

Carolyn stated she needed to know if the settlement money for Continental Rifle is still alive for immediate possession.

Commissioner Houpt made a motion that we move forward on immediate possession with the \$95,000.00.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

BOARDS AND COMMISSIONS APPOINTMENTS – CONCERN REGARDING PARTISANSHIP

Gerald Vanderbeek congratulated Commissioner Samson and wished the Board a very peaceful and Happy New Year. One concern he wanted to express before it gets too far. As we appear to have a new era of openness with a new administration in Washington and with strong interest in crossing party lines and a cooperative spirit throughout politics, I was disturbed and upset. The first meeting in January, it appeared and I do not know what the true intent is, I can only speculate that the appearance of the lack of partisan disturbed me greatly. When I read there was an apparent move to put a gag on a certain Commissioner Houpt with regard to speaking out on issues in a committee that she was appointed to serve on by the Governor; I found that very disturbing and wrong. In my view, Tresie in reality is not an employee of the County, she is not an appointed employee, she has been elected by a contingency and she has to speak for that contingency. I think the 8,000 plus voters that voted for her with an ample majority should be represented in her views because that is why we elected her for her ideas, views and concepts as you two other gentlemen have been elected as well. So, I am strongly urging you to let the Commissioners speak in their capacities according to their views and according to the principals which are in accordance with their constituents. He hopes there will be an open policy and the philosophy of the Bush/Chaney years of secrecy and closed doors are left behind. We need to go into to an era of openness and cooperation to the benefit of our great Garfield community.

Chairman Martin – Responded by saying because; of the miss-quotes and the politics that are being playing behind those statements, the attempt to derail the whole idea of being fair and equal, has been exaggerated greatly. There is no intent whatsoever to gag anyone, in fact we are encouraging them to voice their opinions. The only policy we have follows the republic that we live in and that is the majority rules when there is a decision that has been made, period. That is all the policy allows; it is not to gag anyone. It is not to inhibit anyone and it is not to take away their voting. I read about this constantly and it is such a miss-quote. To continue to beat this dead horse that we're trying to put a gag on any Commissioner is wrong. Commissioner Houpt – I am happy to hear that because I think with just two or three paragraphs from the Resolution we can accomplish that. I think we can move forward with that resolution and we will be talking about the resolution in 60-days. We can delete those paragraphs so there is not that concern and we can all move forward together. Chairman Martin – We all have the same opportunity and we will vote on the resolution policy as a 3-member board. That is one of the things we are trying to do. Tresie, Mike and I sit on a 3-member board and the majority always rules on final decisions. Whether we agree or disagree with the ruling or the position, we still have to accept that it was the majority. I lost twice today in a vote of 2 – 1. The reason being is because in my opinion, we gave away \$106,000.00 in reference to Treasurer's fees but that is because we have a difference of interpretation. It does not mean that I was muffled or gagged, or they were – it was a difference of opinion. We live with the outcome of the vote.

Gerald Vanderbeek – Well, realize that I said the perceived appearance; the appearance wasn't in that direction; but if I could be a catalyst to get a better solution, thank you very much. Commissioner Houpt – It would not apply to the COGCC; it is just for the other committees that we are on as Commissioners.

Chairman Martin – That was the perception that was taken way out of context.

Commissioner Samson corrected the figure was \$16,000.00 for the \$1.6 million for the 1% Treasurer's fee. Chairman Martin – Yes, \$16,000.00 plus the other \$18,000.00 dollars in revenue lost to the County.

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR THE HOOVER EXPRESS NATURAL GAS COMPRESSOR STATION IN THE RESOURCE LANDS ZONE DISTRICT. APPLICANT IS WILLIAMS PRODUCTION RMT – DUSTY DUNBAR

Jimmy Smith, Dusty Dunbar and Debbie Quinn were present. Dusty submitted the referral saying the applicant requests a special use permit for the installation of a natural gas compressor facility with two gas-driven compressors and 1.4 miles of pipeline to gather from an existing low pressure system to the east, compress/dehydrate then discharge into an existing 20” line connecting to the Williams Parachute plant. Staff recommendation: Staff finds that because this use type is unchanged on this parcel, the location is remote and the nearest residence is across I-70 and the Colorado River, and the project proposes to mitigate the noise effects, it is appropriate to recommend the Board direct staff to schedule a public hearing before the Board and not refer the matter to the Planning Commission.

Commissioner Samson made a motion to direct staff to schedule a public hearing before the Board of County Commissioners. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR THE OXY USA WTP LP ENHANCED EVAPORATION FACILITY IN THE RESOURCE LANDS ZONE DISTRICT. APPLICANT IS OCCIDENTAL OIL AND GAS – SCOTT HALL

Scott Hall, Debbie Quinn and Daniel Padilla from OXY were present. Scott explained this was a special use permit application for an enhanced evaporation facility located approximately 8 miles north of DeBeque at the end of County Road 213. The location is just east of the end of County Road 213 between an existing private road and water pipeline routes. The applicant is requesting approval for this three staged enhanced evaporation facility as a water impoundment.

Staff recommendation: The project will result in a centralized E&P surface infrastructure facility that will not have an adverse impact to adjoining properties. Most of the adjacent lands currently are undergoing oil and gas development with the closest occupied residence approximately 3.75 miles southwest of the facility. Therefore, due to the limited nature of the potential impact to the surrounding properties, the remote location and the fact that the site itself will be situated in an area characterized by intense industrial activity from the oil shale exploration/processing activities; staff recommends the Board direct staff to schedule a public hearing for the Board and not refer this to the Planning Commission.

Commissioner Houpt heard that OXY was going to pull out so she had questions about going forward with a permit. Daniel stated this is for current facilities.

Commissioner Houpt made a motion to direct staff to schedule a public hearing before the Board and not refer the matter to the Planning Commission. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR THE NORTH PARACHUTE RANCH THREE (3) LAYDOWN YARDS IN THE RESOURCE LANDS ZONE DISTRICT. APPLICANT IS ENCANNA OIL AND GAS (USA) INC. – SCOTT HALL

Scott Hall and Debbie Quinn were present. Scott explained this is a special use permit for the EnCana’s three North Parachute lay down yards for equipment storage on the EnCana property, 45,000 acres owned by them. It is located at the end of County Road 215 north of Parachute.

Staff recommendation: The project’s purpose is to complete its natural gas production and associated drilling activities in a safe and efficient manner without having an adverse impact to the adjoining properties. The nearest residence is over 1.5 miles to the south of Yard #1 and the other adjacent property owners are involved with the operations of natural gas processing and mineral extraction. There are no anticipated power needs or any plans to construct buildings at any of the three-yard locations by Lay down Yards #1 and #2 that are in operation. This is a zoning violation and in the past EnCana has applied for SUPs for other associated land uses. Our understanding is based upon the fact that this was ongoing when EnCana purchased the property. Therefore, due to the limited nature of the potential impact to the surrounding properties, the remote location and the fact that the site itself will be situated in an area characterized by intense industrial activity from the oil shale exploration/processing activities; staff recommends the Board direct staff to schedule a public hearing for the Board and not refer this to the Planning Commission.

Commissioner Samson made a motion to direct staff to schedule a public hearing before the Board and not refer the matter to the Planning Commission. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER AN AMENDED FINAL PLAT FOR LOT 1 AND SILT HEIGHTS DRIVE RIGHT-OF-WAY OF THE SILT HEIGHTS SUBDIVISION. APPLICANT IS TERRI PATRICK – FRED JARMAN

Fred Jarman, Debbie Quinn, Mike Gamba and Terri Patrick were present. Fred stated the Board of County Commissioners approved the Silt Heights Final Plat on March 17, 2008. During the initial construction process for the entrance of the Silt Heights Drive from County Road 259, the contractor enlarged the actual roadway onto Lot 1 and beyond the scope of the design of the approved right-of-way. This was done to better accommodate the access point from the original approval. However; in order to legally accommodate this relocated road, the applicant filed this amended final plat application to correctly show the newly designed and constructed Silt Heights Drive, which slightly modified the boundary of adjacent Lot 1. As a point of clarification, Fred stated this was under the old Land Use Code. Staff recommendation: Staff recommends that the Board of County Commissioners approve this final amended plat.

Commissioner Samson made a motion to approve the final amended plat for Lot 2 in the Silt Heights right-of-way with the condition represented by staff. Commissioner Houpt – Second.

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

CONSIDER AN AMENDED PLAT FOR LOTS 3 AND 4 OF THE ROCK CREEK SUBDIVISION LOCATED WEST OF THE TOWN OF CARBONDALE. APPLICANT IS MARGARET MCVOY – DAVID PESNICHAK

David Pesnichak, Debbi Quinn and Margaret McVoy, owner of Lot 4 and Ann McCalvin owner of Lot 3 were present. David explained that the application was previously approved by the Board on February 20, 2007; however, the Mylar plat to be signed by the BOCC was not submitted within the required 90 days. The application has been resubmitted for approval. The owners of Lots 3 and 4 of the Rock Creek Subdivision request the Board to approve an amendment to the final plat so that the property line may be relocated between two lot lines. This action will effectively reduce Lot 4 from 5.31 acres to 4.17 acres and increase Lot 3 from 5.28 acres to 6.42 acres. Both lots affected by this amendment will remain in conformity with all zoning and subdivision regulations.

Commissioner Houpt made a motion to approve the amended plat for Lots 3 and 4 of the Rock Creek Subdivision with the two recommendations made by staff.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REQUEST FOR EXEMPTION FROM THE SUBDIVISION REGULATIONS ON A PARCEL OF LAND LOCATED SOUTH OF I-70 IN RULISON AT THE INTERSECTION OF COUNTY ROAD 323 AND COUNTY ROAD 320. THE APPLICATION SEEKS TO EXEMPT A 136.58-ACRE PARCEL TO CREATE TWO NEW PARCELS AND THE REMAINDER PARCEL. APPLICANT IS SAMUEL POTTER. (THIS ITEM IS REQUESTED TO BE CONTINUED TO FEBRUARY 17, 2009 DUE TO DEFICIENCIES IN THE PUBLIC NOTICE) – KATHY EASTLEY

Kathy Eastley, Debbie Quinn, and Barbara Clifton for the applicant were present. The Potter Subdivision Exemption application requires a Public Hearing pursuant to Section 8:31 of the Subdivision Regulations of 1984. Though the applicant placed notice in the newspaper and sent notices to adjacent property owners, the required posting of the property did not occur within the specified time period to meet the February 2, 2009 hearing date. The applicant, at the direction of the Planning Department, re-noticed in the newspaper, to adjacent property owners and posted notice on the property for a Public Hearing date of February 17, 2009. The applicant and staff request a continuance of this application to February 17, 2009 for which it has been properly noticed. No action was needed by the Board.

CONSIDER A SPECIAL USE PERMIT FOR THE CONN CREEK II NATURAL GAS COMPRESSOR STATION IN THE RESOURCE LANDS ZONE DISTRICT. APPLICANT IS OXY USA WTP INC. (THIS ITEM IS REQUESTED TO BE CONTINUED TO FEBRUARY 17, 2009, DUE TO A NOTICING ERROR) – DUSTY DUNBAR

Dusty Dunbar and Debbie Quinn were present. Debbie confirmed that this was properly noticed. Dusty submitted a memorandum asking the Board approve a continuance of this application and posted notice on the property for a Public Hearing on February 17, 2009.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO EXPAND THE SKINNER RIDGE 36-1B NATURAL GAS COMPRESSOR STATION IN THE RESOURCE LANDS ZONE DISTRICT. APPLICANT IS CHEVRON USA, INC. – DUSTY DUNBAR

Dusty Dunbar, Debbie Quinn, Julie Justice and Tim Dobransky from Chevron were present. Debbie reviewed the noticing and determined it was timely, accurate, and advised the Board they could proceed. Chairman Martin swore in the speakers. Dusty entered 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 – Staff Report; Exhibit E - Application; Exhibit F – Staff Power Point Presentation; and Exhibit G – Contract with Hyland Enterprises for Dust Mitigation. Chairman Martin entered Exhibits A – G into the record. The Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for the installation of one additional natural gas compressor on an existing well pad located on a 4,312-acre property owned by Chevron USA, Inc. located beyond the end of CR 211 north of DeBeque. The application is under the old Land Use Code. Dusty provided the power point detailing the expansion of the compressor site. The only residence is leased to a cattle operation and located approximately one mile away from this proposed site. By the time the noise reaches this residence, which is owned by Chevron and currently leased to the cattle operation, it is hardly noticeable.

Staff recommendation: Due to the following conditions: the limited nature of potential impacts to surrounding properties, the remote location of the property such that it is situated at the end of a dead-end County road used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from processing activities, and the proposed expansion is to an existing facility, staff recommends the Board approve the request for a Special Use Permit for an addition of one compressor to be added to the Chevron 36-1B Compressor Station 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 and the Colorado Oil and Gas Conservation Commission (COGCC), Series 800 regulations.
5. 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.
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. .
8. No additional storage area is requested or permitted.
9. 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.
10. All necessary building permits shall be obtained for installation associated with the Compressor prior to the issuance of a Special Use Permit.
11. Proof of compliance with reclamation requirements for the COGCC well pad site that houses the expanded compressor station, including any financial security, shall be submitted prior to the issuance of the permit. In the event that no security is present, a security for the 2.23-acre site shall be put in place at the reclamation rate of \$4000 per acre, the standard reclamation rate by Garfield County Vegetation Management.

Number 11 is in relationship to the paperwork. The applicant and Dusty had conversations on decommission by the COGGC once reclamation is needed. The applicant will speak to this. Applicant, Julie Justice said they have a blanket bond and also the air permit for the compressor. She submitted Exhibit H – Security Detail and Exhibit I – the permit. Chairman Martin entered exhibits H and I into the record. Julie did not have additional comments. She does not see any additional permits being requested for this use. Commissioner Houpt moved to close the public hearing; Commissioner Samson seconded. Motion carried. Commissioner Houpt made a motion to approve a Special Use Permit for the installation of one (1) additional natural gas-driven compressor unit and dehydrator at the Chevron 36-1B Natural Gas Compressor Site situated within a COGCC-approved well pad owned by Chevron USA, Inc. with the conditions provided by staff with the condition including the addition of the lighting as presented on the power point and the deletion of Condition 11. Commissioner Samson seconded. In favor: Houpt – aye Samson – aye Martin – aye

COMMISSIONER REPORTS:

Commissioner Houpt – Last Monday the Board held a work session and adopted the committee representations; Friday in Grand Junction, Congressman Salazar talked about the stimulus package and the US Senate is talking about it today. She has a few concerns on the language in the House where it shows 220,000 population for certain monies and 35,000 for municipalities. There are still concerns that everything has to be shovel ready, which means it is already funded. She would prefer it to be project related.

Commissioner Samson – No board meetings but he did meet with 6 different department heads. He has completed and attended part of the staff meeting at the Airport. This is giving him a feel for what is going on in the County. Meeting Tuesday with a couple of members of the Grand Valley Christian Church who are interested in getting that church declared as a historical site. Questions and concerns will be discussed as to how this Board could possibly help them in getting this accomplished. The church has been in continual operation for 111 years.

Chairman Martin – Met with the Area on Aging on Tuesday; it’s good to see the programs in place and sad about the abuse of the elderly; Ag day in New Castle on Wednesday; met Friday in Grand Junction and after hearing Congressman Salazar speak, I am worried about the stimulus package. I question the \$650,000,000.00 for converter boxes for the TV. There is way too much pork in this Stimulus Bill. Senior wellness day is Monday.

REVIEW OF THE COUNTY BUDGET AND STIMULUS PACKAGE - DISCUSSION

Chairman Martin indicated he had asked Ed Green to put together a summary of the projects we have in our budget for 2009, the legal department is to assist as well and one or two of the elected officials such as the Sheriff and the large users of taxpayer’s dollars. We need a real down to earth understanding on what is happening to the revenue in Garfield County. Also with our new partnerships and getting along with revenue sharing, etc. with our municipalities.

Commissioner Houpt – It would be nice if the industry would be willing to come in and talk to us or meet with us individually. Chairman Martin – He is trying to make headway with the oil and gas folks and we also look at a problem with the stimulus package and what it does to the oil shale trust fund. This was a question put to Mr. Salazar – what happens to those funds this year when the BLM completes their reclamation of the spent shale at Anvil Points. The money was supposed to come from the Department of the Interior through the Department of Energy through Congress back to the affected governments. And, what about that Bill that Allard and Salazar dealt regarding these funds – where is that money and where is that bill. The answer Mr. Salazar gave was, John you know there is no money and we will be spending more in a stimulus package that is probably just a wasted attempt to bring that \$60 million to \$90 million back to the affected area. John said this money is for the energy development that took place, the impacts then, now, and in the future. Congress promised these governments and they need to live up to it. Commissioner Samson asked if we hoped to gain \$10 million for Garfield County. Chairman Martin – Probably \$25 to \$35 million because we would receive a 40% payment plus what it would cost for reclamation. He recommended that the Board keep the pressure on our legislators in Congress and remind them of that commitment. Commissioner Houpt wants to focus on how we can tap into the stimulus package also. What is coming out of DC is not really under our control, so if we can keep in the loop and benefit from that money that would be good. Commissioner Samson – To see the other side of that coin, to get the \$25 million dollars which I think is ours and should be coming to us in the first place, that would be awesome. Commissioner Houpt suggested a call to Udall and Bennet. Chairman Martin said he made that call as of Friday of last week.

ADJOURNMENT

Attest:

Chairman of the Board

**FEBRUARY 9, 2009
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 9, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

NATIONAL FOREST RESERVES (PELT) – THERESA WAGENMAN

Counties who are receiving more than \$350,000.00 under the full payment amount method, not more than 7% shall be allocated to Title III projects. Counties must allocate at least 8% (and not more than 13%) to Title II projects.

The total percentage amounts allocated to Title II and III combined must be no less than 15% and no more than 20%. Theresa is asking the Board if they want the percentage allocations as they were decided back on November 3, 2009, or did they want to revise. The allocations were 10% to schools, 8% to Title II, 7% to Title III and 75% to the Road and Bridge fund. Commissioner Houpt said it looks to her if they gave a larger amount to the school districts; that amount would be made up by PELT and it would be a wash.

Theresa explained that they are not really receiving the PELT payment; it will not be reduced by the amount they allocate to the schools. Commissioner Houpt stated she is talking about the impact on the County budget; it looks like a wash. Theresa stated no; by increasing the percentage to the schools, it will reduce the county’s road and

bridge funds. They had budgeted almost \$400,000.00 in there. Theresa said she did not think the PELT money needed to be allocated to the road and bridge fund. Chairman Martin stated you have to watch out for it is the prior year payment with the Federal Mineral Leasing Act, which is deducted from the PELT payment. You are actually hitting a double whammy on the PELT and transfer of money. You are using your revenue to the Garfield County Road and Bridge. Commissioner Hought said, in the example, if you give 10% to the schools then PELT will be reduced by \$495,000.00. If you give 80% to the schools, it will be reduced by \$110,000.00, which is the same amount. Theresa explained that one thing to keep in mind is they have already put these funds in the budget as revenue for road and bridge. If they change the percentage allocations, they will have to do a budget supplement for those revenues, which they anticipated they would receive. Commissioner Hought - If you look at the two examples, we as Commissioners can decide how to allocate the PELT money that comes in within the perimeters that it is given to the county. But, if she looks at these for the county's whole budget; this is a wash this year because of this year's configuration. She said they have not been able to do it in the past without losing money. She is not seeing where they are losing money this year if they give more money to the schools. Chairman Martin explained that what will happen is you have the overall amount, which is awarded to Garfield County; you will give away the percentage to the school. When the prior year payment comes down, the County will then also see the million plus dollars and taking away from the Federal Mineral Tax, which comes to the County. You will deduct that from your payment of the PELT. The entire formula has changed. Lisa Dawson was in the audience and said they need to do more research. Commissioner Samson asked if there was any need for this to be done immediately. Theresa explained that they have the money in bank; they received approximately \$539,000.00 and it needs to be allocated. Commissioner Samson asked if they could come back next Tuesday after they research. And he wanted to know what the implications were with TABOR and how many school districts were affected. Georgia Chamberlain explained there are 5 school districts and the percent allocated is divided by percentages given to the Treasurer's office by the State, by population. It is pretty straightforward and released to the 5 districts. As far as allocating the money last year, it was not allocated until March. She said yes, we have the money and feels the school districts are fine waiting for that decision. They have not received the numbers from State yet to be able to allocate the school district money.

Chairman Martin said he thought this was Federal money and it would not be subject to TABOR. The other issue, they have a cap for the Federal royalties and monies that come to the school district and felt they needed to talk to the financial officer of the school districts. He does not believe the cap has ever been changed and they were losing money at that time. If we add money to it, will that go above the cap and go straight to the State for their student allocation under the finance act. Commissioner Hought suggested to Theresa that she talk to Ken in Rio Blanco who is a County Commissioner.

REPORT ON NO LOAN FEATURE OF THE COUNTY'S RETIREMENT PLANS – KATHERINE ROSS

The Garfield County Board of County Commissioners is considering whether to lift the 'no loan feature' of the 401 (a) 457-retirement plans. The human resources department has provided an outline of a loan program for their review and Katherine went over this with the Board. Katherine gave the pros and cons for the loan program and stated that the Human Resource Department is recommending the BOCC leave the retirement fund the way it is and not allow loans. Katherine informed the Board that the EPIC committee was asked to find out from employees who would be interested if this became available to them. Out of 459 employees there were 294 who did not provide feedback and 115 who did say no, they would not be interested. 50 employees said they would be interested. The summary indicated that 11% would be interested in the future. Feds are making changes and there are five items they will be looking at. They may consolidate 401 and 457 to make a clear rule. Katherine stated she has had three employees ask her about getting loans and she directed them to the credit union. Katherine is recommending they wait for the Feds to see if they are still considering a loan program. Commissioner Samson asked if we could apply directly with COERA and Katherine stated no it has to come out of our payroll deductions. She explained that an employee would go through HR to be approved or not before it goes to COERA and then they measure that against their rules for approval. Commissioner Hought thought that the problem Jefferson County ran into was that they did not define what it could be used for. She feels with the guidelines set-up it makes it quite different from what was seen in another County's. She has had plans in the past to take loans and the strongest point Katherine made was to wait and see what the Feds regulations will be. She has not been convinced that we should play the good parent and not allow loans; but it might be practical to wait and see where the regulations go.

Commissioner Samson said what impressed him the most is you have an HR director recommending we do not do it and COERA says it is not good. With those things in mind, he does not think it is the time to get involved with this. Chairman Martin said let's wait this year and see how it comes out. If we need to revisit this in the future, we will. Commissioner Hought wants to revisit this issue when the new regulations come out. She stated the reason COERA does not like it is because it takes money out of their system. Katherine said, as financial advisors with a retirement plan they really would not be doing their job if they recommended you use this as a bank account. Katherine's concern from an HR point of view is heavily based on the employees tend to end up having to quit their job because the loan comes out of their paycheck and their take home pay becomes low. Ed stated when he came here 10 years ago the County's contribution was visible. They looked at it and said there was no way an employee could ever retire. Over the years, they have gone up to 6% for employees over 10 years with the intent of helping them build something so they can retire, and he feels this would defeat that purpose. Katherine will continue to monitor this and keep the Board updated.

REFUND OF TREASURER FEE TO THE CITY OF RIFLE – BOB PRENDERGAST AND GEORGIA CHAMBERLAIN

Bob received a letter from Charles Kelty, Finance Director for the City of Rifle asking Garfield County to refund a deposit presently being held for the Rifle Justice Center. The amount asked for is \$524,466.01. In addition, they are asking for the 1% Treasurers Fee in the amount of \$5,000.00 to also be refunded.

Chairman Martin explained this was for the new building. It is a joint project between Garfield County and the City of Rifle on two buildings. Everything was run through the County. Ed explained that every time a payment went through, the City reimbursed the fund and at the end of the project, we still have \$½ million dollars in there that is their money. Commissioner Hought asked how that works with the new policy and who is going to pay the treasurers fee if they do not. Don said in the new policy there is a specific paragraph that provides for this type of reimbursement construction contract and that the treasurer's fee will be collect from the participating entity unless the Board of County Commissioners determines that the County will bear the cost of that fee. Don sees no reason

why you cannot do this now. The point of the treasurer's fee resolution was to assure the treasurer was credited with the collection of this fee. It is important if you elect to reimburse Rifle for their cost that the treasurer's fee line item not receive the debit for this payment. What you are really doing is reimbursing Rifle for their cost, but not literally refunding the treasurer's fee. The fee is already paid and you are simply making a payment to Rifle out of the general fund. Commissioner Hought said this was a partnership and we did the administration of the project and the treasurer did their job. She is having a difficult time understanding why we would reimbursement that to Rifle. Don stated the contract specifically provided that Rifle would pay the Treasurer's fee.

Commissioner Hought said it did say that the Commissioners could review it later and make a decision and now they are asking us to review it. She really appreciates the partnerships with Rifle and feels the County has invested a great deal in in-kind contributions as well as staff time, therefore; she is not compelled to reimburse them for that fee and have the County absorb that. Commissioner Samson feels as though he is caught between a rock and a hard place. He feels if they knew about it and they agreed to it in the first place; he would like to talk to them about it. He is meeting with all the Mayors on Friday. Ed stated its \$5,000.00 and Commissioner Hought yes, she knows but they need to look at the policy and see if they will be waiving or paying that treasurer's fee as a County for everything, or are others going to be contributing as well? Chairman Martin said they started a couple of weeks ago absorbing that and paying that out to the other folks, and now you're going to make the exceptions and choose and not follow a strict policy. Commissioner Hought said they should probably define that better in their policy. Chairman Martin asked if they were requesting to table this and they stated yes until next Tuesday.

2009 COUNTY FAIR MARKETING AWARD – DALE HANCOCK

Dale passed out information to the Board regarding the 2009 County Fair Marketing award showing that three proposals were received in response to this solicitation with the estimated costs are as follows:

1. Eden Talen and Productions \$ 7,500.00
2. L.C. Marketing and Design Co. \$26,500.00
3. Marr-Barr Communications \$29,800.00

All proposals were evaluated and L.C. Marketing and Design was found to have the best understanding of the project with a high confidence rating in past performance and reasonable pricing.

Recommendation: Approval for award of contract to L.C. Marketing and Design for primary marketing services not to exceed \$26,500.00. They are also recommending a separate negotiated contract for a best value approach to the County for the Fair Book production that includes Desk Top Publishing, copywriting, editing, and advertising creation from three proposers not to exceed \$7,500.00. Commissioner Hought asked if there was a company based in Garfield County and Dale stated Marr-Barr is based in Carbondale. Commissioner Hought stated they had not talked about this in a long time but as we see our economy falling, she feels it is important they start looking at working with companies in this County. Addressing Ed Green, she asked if that would be a policy discussion. Ed stated yes, that would have to be a part of the rewrite of the Procurement Policy. Commissioner Samson asked if they usually have something in there that says if it is within the County, you give 10% or something similar. Ed stated no, the State has a provision in their procedures that says if one of the prospective awardees is outside of County, you can imply a rating factor. Commissioner Hought said, legally we can look at a value of having companies that are in Garfield County over others. Ed said that could be an evaluation factor. Don - There is a provision to procurement that allows us to apply a local preference. Generally, we have not done that, we can but we have not. We are allowed to give a preference to a local residents and local resident business companies on contracts we award. That is a general and broad statement. There are State statutes that restrict our ability to do that when we are talking about weighing that factor against others. For instance, there are Federal requirements on minority business enterprises and various other things. The other thing that came up with that when it was first adopted, and one of the hesitations in applying it uniformly, has been that a lot of counties and municipalities view it as a reciprocity situation. If we apply it, then other counties will apply it visa-v contractors in our jurisdiction. Commissioner Hought asked how many Front Range governments would come to Garfield for that service, and Don stated not many. Commissioner Samson – I would move to accept the bid of L.C. Marketing and Design Company for \$26,500.00 for marketing services.

Commissioner Hought – Second; but isn't that if we are putting the Fair Book up for bid? That number if they did not get the contract for the Fair Book; that number will go down?

Dale explained sub-categories and how much it costs to produce a Fair Book. When you send it to a printing company it could range anywhere from \$3,000.00 to as high as \$14,000.00. Then there is the postage cost, shipping cost and a number of other costs associated with that. The \$26,500.00 does include, with L. C. Marketing, the production of the Fair Book; but desktop publishing and a few other parts may be done somewhere else.

Commissioner Hought said she is more concerned about them seriously looking at local companies. That is a discussion we need to bring up for a policy discussion.

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

Dale would like a second motion for a separate not-to-exceed \$7,500.00 to negotiate with all three companies for the production of the Fair Book. Commissioner Samson – So moved. Commissioner Hought – Second.

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

Carolyn stated she is hearing the \$26,500.00 is an amount to exceed figure and that could be more if publishing the Fair Book. Dale – No, as I just explained to Commissioner Hought marketing gets all of it.

Carolyn said the contract to L.C. Marketing would not say in an amount not-to-exceed. Dale said you could if you want to and he feels comfortable with that. Carolyn asked if L. C. Marketing and the others agreed to our standard form of contract. In the past companies have asked for changes to our insurance provisions and such.

Ed said we would talk about modifications to policies in the spring. Don suggested they agenda this as a policy discussion and he would provide Commissioner Hought a copy of the current provisions.

VET-TRANS GRANT REQUEST – JOE CARPENTER

Joe explained they have hundreds of needy veterans in this valley. The total veteran population for Garfield and Pitkin County is about 6,000. That is a little lower than the State average; they average about 11%. Garfield County Veteran Service Office sees about 650 to 700 veteran contacts per year. About 300 of those involve some sort of transportation need. The more serious medical conditions require going to the veteran's medical center in Salt Lake City. 80% of the people we deal with are over the age of 50. The Garfield County Veterans program is a startup non-profit, and he pointed out a proposed budget to the Commissioners through the documentation he provided today. All of their drivers are volunteers ranging in age from 50's to 60's. The drivers do not received money; but

they provide lunches, breakfast and gas for the vehicles. Second, he has been contacted by a man named Stan Rachesky who is trying to get a wounded warriors program going. He has contacted Joe's office and asked that Joe ask the BOCC for funds for this program. Stan proposes to go through the local Rotary Club 501 3C. He is requesting \$7,000.00 to \$10,000.00. He is planning to bring returning veterans from Iraq who were wounded along with their spouse to Glenwood Springs. He wants to provide a voucher program or a credit card program to give them \$200.00 to \$250.00 each for a long weekend for rest and relaxation. Chairman Martin said this is similar to operation vacation, which is geared more to the veteran and his immediate spouse to get reacquainted and overcome issues dealing with injuries. Commissioner Houpt said she wanted to wait on the \$7,000.00 to \$10,000.00 request as it is not tied to anything. Chairman Martin feels there are checks and balances with the County funds that could go through the County Veterans Administration. The program has worked in other places and Stan is trying to bring it to this valley. Carolyn asked if his document indicated who has signature authority. Joe stated no and Carolyn informed him of a standard form contract and she needs to know who has signature authority. Joe said actually it does mention the Board of Vet-Trans has signature authority, all three Barbara Clifton, Mike Powers and myself. Carolyn asked if the money was going to serve Pitkin County as well. Joe said they are not a major player; they contribute to the Garfield/Pitkin County Veterans Service Office. Pitkin County cuts a check to Garfield County every year for a portion of what his office gets. Yes, it will entail some Pitkin County residents but they do not have the population volume of veterans.

Commissioner Houpt asked if this is being proposed as a County program. Because John is recommending we cover the entire budget is there fundraising or is this actually going to be a County funded budget. Chairman Martin replied that the money is out of Joe's pocket or out of the allocations from the Board of County Commissioners; these are the only funds available. We have a contract with Joe to take care of the veterans and administer that program. John thinks the County should put up the funds as well. It is a worthwhile project. Commissioner Houpt said they have numerous projects and she is not saying this is not, and she is not saying she would not support it; but she asked if they were negotiating a contract right now. Don said no, he is trying to actually discourage negotiation of a contract. That should take place before it comes to the Board. He does not know who is working with Joe on this on behalf of the administration. Chairman Martin said they asked Joe at the last meeting to put the numbers together to bring back to the Board so we could consider a grant on the unallocated funds under the Board of County Commissioners discretionary funds to award that grant to Joe.

Commissioner Houpt said the discretionary funds do not typically fund an entire project into the future, so it would be beneficial to you to have a contract with us so that you know what will happen in 2010. Ed asked if he could add this into existing contracts. Chairman Martin said yes and you could put it under the administration of the veterans and have that as a subset so we could continue to allocate those funds through Joe's budget process that he has now. This is an extension of his program. Joe explained to Commissioner Samson what his job is within the County.

Compensation takes 1 to 1 ½ years to come through for our veterans. In the meantime, they can get setup at the VA medical center for their medical needs but they have no income. Commissioner Houpt said because of the structure they need to go through, we cannot just role it in the vet's office budget. It will be a separate entity.

Carolyn said it is two different programs. Vet-Trans is a contract and the other one for Stan to bring wounded veterans and their spouse for R&R is what John is talking about putting into the County budget.

Chairman Martin stated not in the County budget on an annual basis; this is a one-year request. This is to get the two programs started and to get people's interest. Commissioner Houpt said let's talk about Vet-Trans; she doesn't want to mix them together. She thinks it makes sense to have a contract come back to us.

Don said that is why he suggested going through administration so a contract will come back; it has been reviewed through the finance department. Commissioner Houpt stated it is not part of the veterans department; it is a different program. Don said that was hard to understand and Ed said it sounds like it is a separate entity.

Chairman Martin stated it is a separate entity and this is another Catch 22 that the government has also created so we cannot get the programs going. Commissioner Samson asked Ed; are you, as the administrator, saying that we need to have a contract and Ed answered yes. Ed asked the Board if they had any objection taking it out of the discretionary funds. Chairman Martin said no, that is where it should come out. Don said that Stan would need to go through administration also. Joe said he would inform Stan of this discussion.

Executive Session – Ed Green

Ed requested to talk about legal guidance/negotiations on potential reduction of jail debt, legal guidance for County Road 204 and negotiations with RE2 regarding a potential grant.

COUNTY ATTORNEY UPDATE – DON DEFORD

Discussion and Position on State Bill 108

Don informed the Board this is a pending bill and asked that the County take a position. In talking with both Commissioner Martin and Commissioner Houpt there seems to be differing views and the only way to resolve that is through board action. Commissioner Martin opposes this bill feeling it should be brought forth to the citizens as a tax question and that it limits use of our public highways. Commissioner Houpt disagrees stating this is a user fee and she supports this bill. She feels with the economy going in the direction it is, this will be the only way to help support our roadways. Commissioner Houpt stated if we let the roads go, it would cost us much more to rebuild them when the economy is in better shape. She does not know when this bill turned from bipartisan to partisan. Commissioner Martin asked Commissioner Samson if he wanted to take a position on this and he stated no. Commissioner Samson said he has had a few calls from people and hopefully he will get a call back from Russell George. Commissioner Houpt said she was not aware they were asked to take a County position. Chairman Martin - He was told that because they were having a debate, it is a bi-partisan issue. Commissioner Houpt - A report come out on how to achieve new funding for transportation infrastructure in Colorado. The report ranged from fees for towing, tax increases and this particular bill. She said we are dodging the big money here; we are not going to do an income tax increase, which she felt would have been better. But, that's a huge pill for people to swallow right now. They went to the user fee notion and she is surprised because when she went to the Blue Ribbon presentations, the republican legislators were saying yes we need to do some kind of fee structure and we agree. She is not sure why it is suddenly a partisan issue. Chairman Martin said this goes way beyond what they were talking about. It increases numerous fees and fines without going to the people for a vote; it is a taxation issue. It converts all of the roads in the State system to toll roads. It becomes more and more of a taxation issue; we already pay a tax on highways and we continue to add more on without a vote of the people. Commissioner Houpt said they are losing funds daily to maintain our highways. This also directs new money to counties and municipalities. She is not quite sure why

anyone in local government would not be supportive of this. For Garfield County, it has increased new monies. Chairman Martin said this is an 84-page bill with a four page fiscal impact. It is disproportionate on how they distribute the fund; it is not based on any formula he could find. Commissioner Houpt said there is no fiscal amount on this one in terms of increasing the budget. They would reallocate their resources to accomplish this new structure. She knows this is something that is strongly supported by Russ George and anyone in the State who is trying to help move the budget forward for transportation. Chairman Martin said he has no disagreement there. What it amounts to is that the State has priorities and it is not their transportation they need to be cutting. Commissioner Houpt said it is federal money that is being cut and you will never be able to make that up with our State because TABOR has crippled our ability to be able to fund our budget. Chairman Martin said the issue is to tax TABOR and not to continue to tax the people under this kind of fees and expenditures. Commissioner Houpt again stated this is not a tax; this is a user's fee. If you buy a new car, you will pay a new fee. Chairman Martin explained if he has a car, he would have to pay added registration fees. Instead of having a warning for not registering your vehicle on time this would add a \$1,000.00 fine. Commissioner Houpt asked where there is a \$1,000.00 fine mentioned and Chairman Martin said it was a possibility. There are so many things that raise fees and it needs to go to a vote of the people. It needs to be a tax question. Commissioner Houpt said the fines were very small and she wanted Chairman Martin to show her where it was a \$1,000.00. She stated the fines she was seeing.....

Chairman Martin stated he could not support this, as it was too much bureaucracy. Commissioner Houpt explained to Commissioner Samson the history on this. They figured they needed \$1.2 billion dollars just to maintain the infrastructure we have in the State; money is not available right now. Tolling was a big discussion last year and has been replaced by a new commission that is looking at not putting this in place but looking at whether it is appropriate in certain areas to put tolling on an existing road or not. Commissioner Samson asked if it put the possibility, or does it make it that every highway would become a toll road and Commissioner Houpt stated no. Chairman Martin said it would be the decision of the commission that would be put in place and the commission is defined by legislators and the appointment of the governor and the department of transportation, and the answer is yes they could do that if they so choose. Those rules are within this 84-page document. Commissioner Houpt said it is really sad when this type of bill becomes a partisan issue. People are working so hard to find the less impacting solutions to bringing money into Colorado to make our roads safer. We have heard from the clerk's office for years there is a real concern about people not coming in and registering their cars. It increases the local amount of money that we receive for roads and bridges. It keeps us in the loop on all the various discussions. If you read through this it says; bringing local government to the table and that is pretty significant. The I-70 Collation is supporting this bill. They have been working for 5 years to come up with a solution to make I-70 safer. This bill is a start; it does not bring in the revenue level that will create additional projects but it will make our roads safer. She feels their hands are tied with raising taxes because of the economy. Senator Al Wright was talking about supporting the fees and she does not know when this turned into a partisan debate. Chairman Martin stated when big brother starts watching every mile you drive it becomes an issue to me. If you put transponders in my vehicles and send me a bill at the end of the year this goes way beyond what government should be doing; it is in this 84-page document. Commissioner Houpt said they already know that the fuel base tax is not working, that is why we are losing money. These are fee increases of \$23.00, \$9.00, \$2.00 etc. The thought behind this was; how can we generate money that will be significant enough to make a difference without injuring people? She said she would argue for an increase in income tax. Everyone relies on our infrastructure and it would be a smaller amount per person; but actually, the more conservative on the Blue Ribbon Panel wanted to do the fees. They want it to be user based.

Chairman Martin said that is called priority budgeting. If you have priorities and transportation is the largest priority then it gets the largest amount. If it is not and health care is the highest, then health care will get the largest share and the rest will suffer. What we are trying to do is make everything whole by increasing the disposable income or the actual incomes that the taxpayer has to pay into the government. In the recession and the depression we are heading into, we should be doing just the opposite. We should make sure the taxpayer prioritizes his own dollars instead of the Federal government or the State government prioritizing his dollars. We are just adding more and more onto the taxpayers to drive them deeper into a depression. Commissioner Houpt felt another benefit to this bill was that it allows the MBR Commission to apply for grants. They can apply for private grants and we have talked for years about public private partnerships so we can enhance our funding capability and this allows that to occur. Chairman Martin stated it also allows it to go into debut and use that fee to pay off indebtedness that otherwise they would not be able to go into. Commissioner Houpt said it does allow the bonds and actually, that passed favorable a few years ago but no money was put into it. She feels that Mr. George is in a difficult position, he is looking at a budget that is declining and saying okay, fees have not been increased in a long time. We need to put some private projects in place and see if tolling makes sense; it may not. She is not seeing the down side to this. It is good for local government, it is good for C-DOT, it puts a user fee increase in place; but it is not an owner's fee structure. The sad part of this is when the bill configurations were being looked at, it was more non-partisan determination that fees would be less impacting than increasing a tax. She hopes as a County they do not turn this into a partisan debate because she feels they have a lot to lose if they do not get some money moving into the transportation system. In Colorado, education dollars are locked in and there are other programs that will come before transportation. The governor made transportation a priority and they have a \$600 million shortfall. If we are serious about protecting citizens, she does not believe an increase in fees is asking too much. Chairman Martin stated again that it deals with new projects, new safety, mass transit; it deals with a whole bunch of other projects not mentioned in that bill which allows it to happen. This is not just a maintenance bill; this is to move into a whole different way of transportation and also to deal with the green house emissions, which is in here as well. That is to cut the use of the vehicle but yet we continue to generate revenue off them with the fees of just registering. Commissioner Houpt believes that is what they have to do, move into the new transportation era. Chairman Martin again stated they need to ask the citizens.

Commissioner Houpt said they did ask the citizens last year and so the answer is we are going to let our highway system deteriorate. Chairman Martin said no, what it amounts to is to take our priorities and shift it where it needs to be. We will have to live with a different surface and a different means of transportation. We will have to put up with potholes, make it painful enough and then we can make some changes. Commissioner Houpt said if you let our highway infrastructure go to pot it will be so expensive to it get back into place, and the amount of money they are talking about in this bill, is not sufficient enough to start new projects. This is for maintaining the infrastructure.

Chairman Martin said no it is not. Commissioner Houpt feels the public private partnerships concept is the best concept of moving this forward. She does not think this is a bill that can be ignored and she would strongly advocate that they support this. She does not know if they want to take a position as a County; they have never had to in the past but she hopes they support it. Chairman Martin said in reference to the private partnership that is already in existence with the counties; they have the ability to do that. That is something that benefits the County overall and it does open the doorway for other private government contracts and participation in roadways, etc. Commissioner Houpt said you could see how beneficial that is. Chairman Martin said, except you voted against it numerous times and now you are supporting it because the State can. Commissioner Houpt said she voted against that because of the reimbursement issue. Chairman Martin said she could not have it both ways. You have to decide you are going to go one way or the other, he is not in favor of this bill, and he guesses they will decide. Chairman Martin asked if Commissioner Samson wanted to take a position and he said no. Commissioner Samson stated he has two or three calls from people to discuss what you have been talking about and they have not gotten back to him yet.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Grants – Sales Tax Recovery Distribution
- f. Authorize the Chairman to sign a Resolution Approving a Special Use Permit and the Special Use Permit for the Expansion of the 36-1B Compressor Station on a COGCC Approved Well Pad in the Resource Lands Zone District North of DeBeque off County Road 211 – Applicant; Chevron USA, Inc. – Dusty Dunbar
- g. Authorize the Chairman to Sign Five (5) Amended Final Plats for Parcel “A”, Parcel “B”, Parcel “C”, Parcel “D” and Parcel “E” of Block 5, Travelers Highlands Subdivision – Applicant; Parachute Commercial LLC – Scott Hall
- h. Authorize the Chairman to Sign the Special Use Permit for a Camper Park for the Heron’s Nest Camper Park – Applicants; Simon Casas and Genobeva Lopez – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - h; carried.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don would like to provide legal advice on which public action may be requested. Don needs to discuss the application of your land use concerning County Road 204 construction project; an update and legal direction on the status of County Road 317A; discuss and potential public direction concerning the appointment of hearing officers for the Board of Equalization; provide legal advice to Commissioner Samson and Commissioner Houpt concerning the relationship between the County Commissioner and the Sheriff’s office; update on the ACLU litigation, and an update on County Road 306. There are two issues on County Road 306, one for the right-of-way acquisition and one for road reconstruction at different locations. Commissioner Martin reminded Don there was a follow-up e-mail. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

COUNTY ROAD 204

Don stated he had a couple of actions the Board might want to consider for public action. On County Road 204, a question has arisen about an application of our land use code for extracting activities. The Board has now been provided with advice for the construction project and asked if the Board wants to take any action. Commissioner Houpt – I make a motion to require the contractor to apply for a Major Impact Permit to comply with our code. Commissioner Sampson – Second. In favor: Houpt – aye Samson – aye Opposed - Martin - aye

SHERIFF’S OFFICE

Don said he had an item that is for consideration for only Commissioner Houpt and Commissioner Samson. Last Thursday the County, through Commissioner Martin and Commissioner Houpt, received an email correspondence from Jim Williams, as it is titled, concerning certain activities in the Garfield County’s Sheriff’s Department. Don stated the email found its way to his office and he has reviewed it. As a general proposition, under Colorado law, the sheriff is a separate elected official from the Board of County Commissioners and therefore your ability to supervise the day-to-day operations of the Sheriff’s Department and the employees of that department is very limited. Your only role is to oversee the approval of and administration of the budget for the sheriff’s department, and accepting responsibility of payment of extensive costs and damages incurred by that department. The Board has no authority to enter into or override the supervisory activity of the sheriff. With that said, from Don’s perspective, in review of the email there are certain allegations about the activities, in the Sheriff’s Department, that could relate to the fiscal operations of that department and the administration of the budget for that department. Additionally, one of the few areas, which the Board is allowed to act, visa-v the Sheriff, is that there has actually been criminal wrongdoing in that department. The allegations of the email, if supported by evidence, could amount to that type of conduct. Therefore, the question Don has, do you want to refer this to the District Attorney for review by that office to do as that office sees fit? Chairman Martin wanted to state for clarification that he received that particular e-mail but never opened it. He stated that he has no idea what is in the e-mail and he has no intention of opening or knowing what is in the e-mail, because of an existing issue with the Sheriff’s office with a family member. Chairman Martin stated he is not involved in any way with either side. He is trying to stay neutral on this particular e-mail situation or situation within the Sheriff’s office. Chairman Martin excused himself from the meeting so they could make a decision. He wants no information on either side of this issue.

Commissioner Houpt Pro-tem – I make a motion we refer this e-mail to the District Attorney’s Office.

Commissioner Samson – Second. All in Favor: Houpt – aye Samson – aye Abstained - Martin

ABATEMENT FOR BAKERCORP, ABATEMENT NO. 09-023, SCHEDULE NO. P007641 – LISA WARDER

Lisa informed the Board that notification was made by letter to the petitioner. This is personal property and they reported to the assessor’s office that they had been double taxed and Lisa is asking for abatement in the amount of \$70,629.67.

Commissioner Houpt – I make a motion to close public hearing and Commissioner Samson seconded.

All in favor: Houpt – aye Samson – aye Martin – aye

Commissioner Houpt - I make a motion we approve abatement No. 09-023, Schedule No. P007641 in the amount of \$70,629.67 as proposed by the assessor. Commissioner Samson – Second.

All in favor: Houpt – aye Samson – aye Martin – aye

1177 WATER ROUNDTABLE UPDATE – LOUIS MEYER

Louis gave a power point presentation. In 2005, the State passed HB 1177, to become a tool and manage the State's water level. There are about 40 – 50 representatives on the roundtable. Legislature gave two main charges: 1) come up with a consumptive use analysis on how much water our basin is projecting to be used in the future, and 2) what the water supply is. They will be going to visit all the other roundtables to see what their issues are. Water issues in Garfield County: Water really supports what we do from agriculture, growing communities, industry, energy, recreation tourism, fisheries etc. The status-quo is that we have a limited resource. Statewide we will have competing uses for a limited water supply. Climate change may also add a new level of complexity and uncertainty to water planning. If we do not solve our water problems, agriculture as we know it, on the east and west slope, will be reduced significantly. If that in fact happens, the infrastructure we need for agriculture will disappear. The Front Range will continue to grow from Ft. Collins down to Pueblo and will continue to grow on the west slope as well. There will be localized water supply shortages. Some of the issues they are dealing with include population growth, land use, water quality problems, endangered species, invasive tamarisk and Quagga Mussels. Headwaters are already stressed by trying to preserve agriculture and the growing recreational economy. Legislation passed Senate Bill 122, a study underway to determine risk of continued water development and includes other basins feeding greater Colorado basin. The experts, in the field, guess there is about 500,000 acre feet left in the basin to develop. By the year 2030 Colorado populations is expected to grow to about 7.1 million people. This population growth coupled with concerns over severe drought and climate variability raises significant concerns over the water supplies Colorado has available. Garfield County, percentage wise, will be the fastest growing County in the Colorado Basin. Louis went on to describe the Shoshone Power Plant Call and the Cameo Diversion Dam call. Colorado River - Transbasin Diversions are a big issue and will continue to be an issue. He addressed Commissioner Samson as being involved with the City of Rifle and having firsthand knowledge of the water quality problems in Rifle. Most of the citizens in Rifle have concerns about the quality of their drinking water. Conclusions: The upper basin is stressed, the middle basin has rapid energy development, and the lower basin is already seeing salinity problems. Louis continued to show slides showing the total water demands. Louis would really appreciate any feedback from the Board and their perspective on this. Chairman Martin thinks they need to visit some of the roundtables, sit back, and watch. Commissioner Houpt asked if the goal was to come up with recommendations to the State on how to preserve enough water to carry us into the future. Louis said they voted last month to proceed with a grant application. The legislature came up with \$42 million dollars for the roundtables Statewide over a 5-year period. This month they submitted a study request to look at the non-consumptive needs for the entire basin. It was unanimous and they are doing that. They are getting ready to visit the other roundtables and many roundtables are coming to them to let them know what their challenges and issues are. Louis stated that his area has been the recipient of several funds. If there were any water supply issues important to Garfield County, he would like to submit applications because there is State money available. Louis's group meets once a month at the Community Center and he comes to the Board about once a year. Commissioner Samson said he would like Louis to come twice a year and Louis said he would be happy to do that.

UPDATE ON LOVA PARTNERSHIP WITH COUNTY – LARRY DRAGON

- 1. South Canyon**
- 2. Davis Point and Coal Ridge Trail**
- 3. Additional Funding**

Larry wanted to give a brief history for Commissioner Samson's benefit. LOVA began in 1999 and in 2001 LoVa was incorporated as a non-profit. LoVa envisions a multi-surface trail that connects communities, educates all who use it, and provides a continuous, non-motorized recreation and transportation opportunity paralleling the Colorado River through Garfield County from Glenwood to the Mesa County line. This will be a long-term project and is expensive in dealing with South Canyon. Since 2003, Garfield County has been the primary contributor for LoVa's operational support. With this help, by 2005 LoVa had secured two transportation enhancement grants through CDOT and a \$1.2 million grant from GoCo to begin the difficult task of designing and building the trail through South Canyon. The cost ultimately proved too high and they had to forfeit the grant. LoVa was successful in securing a grant from the State Parks Trails program and along with significant funds from the County, Glenwood Springs, and CDOT they completed Phase I of the South Canyon Trail in 2008. The future plans for South Canyon include a second phase beginning at old South Canyon Bridge and running 1/3 mile to the east ending at a natural terminus. Included in this project will be the improvement of parking near the bridge and paths from the trail that provides river access. Larry talked about those possibilities and tacking this project into the stimulus package. They are shovel ready and have to get a new license for use of the right-of-way with CDOT. As another segment of the LoVa Trail, significant efforts have been made to complete a trail from the Town of Silt to the new Coal Ridge High School. The big impediment is Davis Point. LoVa has applied for a planning grant through the State Parks to design a solution to this problem. LoVa requests a total operational contribution for 2009 for \$48,710.00, which includes \$3,710.00 for office rent. Ed stated there was an error; the County gave LoVa \$40,000.00 instead of the amount he was asking for. Commissioner Houpt asked if he needed motion to correct, Ed stated yes. Commissioner Houpt stated so moved. Commissioner Samson – Second.

In favor: Houpt – aye; Martin – aye; Samson – aye

Larry stated that the Board suggested that the money coming to the trail efforts in the County be coordinated with the planning department. Each year they meet with the planning department. They have been advised it comes out to approximately \$200,000.00 and they are requesting \$100,000.00, which would be put into the fund for the South Canyon Trail efforts. Commissioner Houpt said her motion would be to divide the total amount of conservation trust fund monies for 2009 between the Crystal River Trail and the LoVa Trail and they would split those evenly. They have met and agreed with that distribution. Commissioner Martin suggested they request \$100,000.00 if you need more then come back. Larry said the Phase II was discussed and they anticipate that to be approximately \$900,000.00 but they think it will be done for less than that. Along with the \$100,000.00 from that fund in 2009 and \$100,000.00 they anticipate in 2010, they should have enough to do that 1/3 of a mile section along with the

parking. Commissioner Houpt said her problem putting a dollar amount in would be if they receive \$150,000.00, then it would not be divided equally between the two trail groups. Chairman Martin said he was hoping to retain a little bit in the conservation trust fund so if something came up throughout the year they would have a little in the bank.

Lisa Dawson said she thought April or May is when they receive the money. Larry said the actual project would not be done until the spring of 2010. They just need to know how much before they put out the bids. Commissioner Samson – Second. Chairman Martin clarified it would be at 50% and Commission Houpt agreed.

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

Larry stated they submitted the idea of prioritizing this project as part of the stimulus package proposal. He talked with Jeff Nelson about this. This is something that is time sensitive; it is happening quickly and he is not sure when the next TPR meeting is scheduled. Chairman Martin stated if you have an objection, send it to Brian Pettit and he would list the objection and then call a meeting.

Commissioner Houpt asked that as a County we send a request that it be prioritized in the stimulus package.

Chairman Martin said it would be a vote of all the communities; Garfield County could say it would be a priority based upon the other projects. Jeff has not seen anything about a meeting but he has seen lists of projects on the list. Chairman Martin stated they have taken on the planning in reference to Parachute and paid for that. We have taken on the west Parachute interchange issue and funded all of that locally. Commissioner Houpt said from what Jeff said if it is not shovel ready it does not apply to the stimulus packet. Jeff said he did inquire with CDOT and they will not be ready. Commissioner Houpt asked if they had received any direction from the State on how to get our projects in there. Jeff said no they are keeping it pretty quiet. He suggests we might want to look at a recommendation from the BOCC and force the issue. Chairman Martin said the Senate worked on Saturday and cut \$40 billion dollars on State aid; it could be the stimulus package or the projects in place, it was not identified as assisting states.

Commissioner Houpt asked Jeff if the Crystal River trail portion in Garfield County was shovel-ready.

Jeff said he did not know but he did not think so. Commissioner Martin said on the LoVa trail that he had not hear that they had secured their license from CDOT yet. Larry said they needed to talk about that; they are in the process that CDOT initially asked them to begin to get the license agreement to do the section in Phase II and it was suggested to get it back for the whole 2.3 miles; the process has begun. There will be some language issues the Board will have to deal with. Chairman Martin stated the other one was the timing issue on actually how long your license was good for; moving I-70 onto the right-of-way limited the window of opportunity. It will be debated every time you come through with the program. Larry said it should not be that difficult; let's take the same language we had before.

Jeff wanted to let Commissioner Samson know that the license agreement was in place at one time. They are hoping to use the same template and not going through the whole process again. Commissioner Houpt asked if Rifle has moved the roundabout project forward for the stimulus package. Jeff said he just brought up projects that he knew have gone through the process. Jeff suggested that the BOCC look at a couple of projects and say we recommend these be looked at for this stimulus package and that will force that TPR to say; are these ready. Do you agree these can be pushed forward on the list because we had the 20/30 year plan and they were not on the list of priorities? Chairman Martin said the by-pass would also have to be on the list. He is not sure if they will push the access plan ahead of the roundabout. It is up to them to decide. Commissioner Houpt - Are you asking today that we do something this week in terms of agreeing as a commission on a couple of projects to move forward?

Jeff stated yes, he is asking today, or in the near future if possible letters of recommendation could be sent to encourage support for the projects that fit the criteria for this stimulus package in case the money shows up.

Larry said he just did not know about the timing and he was originally planning to present what he had today without that; but they realized this was time sensitive. Chairman Martin said he did not think the money was going to come out immediately. He thinks the stimulus package will be out in 2010; that is when the money would actually hit the ground. Commissioner Houpt said she thinks they will allocate it quickly. She feels they will have to be very aggressive to have this money come to Colorado. Larry asked about the license agreement. Don said he has to see what the State is going to propose. Larry stated that he would get Don a copy of the language used when Casey Peters was still working for the State. It is highlighted as to what the letter should say. Don said what he really needs is someone who is working on the project now. He suggests whoever at CDOT that will be in charge of issuing a license convey the agreement they want us to sign. They have the one the County executed before. Don assumes they would not remake the whole thing, in which case they can make alterations and ship it over. Don wants to know who he is dealing with. Larry said it would be Brian Killian. Don said he wants communication from them. Commissioner Houpt said she would certainly support including this trail project for a stimulus package recommendation. There is at least one other project they need to add to any kind of letter so they do not leave any community out. Direction given by Commissioner Houpt was to Jeff Nelson to complete the research and bring a recommendation back at the earliest date.

EXECUTIVE SESSION:

Don has two items left for executive session and Commissioner Martin and Commissioner Houpt decided to take at the end of the afternoon.

STIMULUS PACKAGE – SENATOR BENNET

Commissioner Houpt informed the Board that Senator Bennet is coming through Colorado next week and he wants to do a town meeting on the stimulus package between 11:30 and 1:00. Commissioner Houpt asked Ed if it was heavy in the morning and Ed stated it would be full. Commissioner Martin said to make it noon to 1:00 p.m.

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A PRODUCED WATER MANAGEMENT SYSTEM ON A COGCC APPROVED WELL PAD SITE SKR 598-35-BV IN THE RESOURCE LANDS ZONE DISTRICT, NEAR THE CONFLUENCE OF TOM & CLEAR CREEKS OFF COUNTY ROADS 211, NORTH OF DEBEQUE – APPLICANT; CHEVRON USA, INC. – DUSTY DUNBAR

The Applicant proposes to install a temporary produced water management system (TPWMP) to transfer produced water into a COGCC-approved disposal well for approximately 12 months, after which time a permanent management facility is anticipated to be constructed.

STAFF RECOMMENDATION

Staff finds that

- a. because this use is related to activity currently underway under previous permits in the Resource Lands zone district, and
- b. because the activity of the ‘neighborhood’ is primarily industrial in nature and significantly distanced from the nearest residence (5 miles)

It is appropriate to recommend that the Board direct Staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commission.

Commissioner Samson – I make a motion that staff be directed to schedule a public hearing for the special use permit application for Chevron USA temporary produced water treatment system, north of the end of County Road 211 before the BOCC and not refer the matter to the planning commission.

Commissioner Houpt – Second with comments - This is turning into a fairly sizeable facility. She is requesting staff to think about what should and should not be referred. Just keep this in mind when looking at these referrals.

Dusty thinks in regard to the placement of this in a zone district and in relationship to the comprehensive plan, once you have permitted these things already you have made a commitment to that kind of permission. As we add things the permitting processing needs to be more stringent about managing this expanding use and that is the decision that comes before you. She hears what Commissioner Houpt is saying about the referrals; but also she hears what is being said about this use as it is close to areas that are sensitive and they need to be carefully seen to.

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

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A PRODUCED WATER MANAGEMENT SYSTEM ON AND BETWEEN MULTIPLE COGCC APPROVED WELL PAD SITES IN THE RESOURCE LANDS ZONE DISTRICT ON NORTH PARACHUTE RANCH PROPERTY, 8.5 MILES NORTH OF PARACHUTE OFF COUNTY ROAD 215 – APPLICANT; ENCANA OIL & GAS USA, INC. – DUSTY DUNBAR

Chris Putnam from EnCana was present. The Applicant proposes to install a system of pumps, pits and pipelines to transfer produced water between 28 COGCC-approved well pads. The produced water will be recycled for use in drilling and completion operations. Pumps will move the produced water from pits through pipelines to the necessary location. Periodically water will be sent to the Middle Fork Water Storage Facility (permitted in 2005) for treatment and storage before returning to use. It is estimated that this system that recycles the produced water will reduce the demand for fresh water by 30,000 to 60,000 barrels per day. It is anticipated that the transfer of the water through this proposed system will reduce the truck activity on the EnCana site by 120,000 trips per year. Other benefits include a reduction in truck traffic on Country Road 215, and vehicle-caused wildlife deaths in the area.

The Applicant estimates the pits will be used for 2-3 years and then reclaimed.

STAFF RECOMMENDATION

Staff finds that

- because this use is related to activity currently underway under previous permits in the Resource Lands zone district, and
- IV. because the activity of the ‘neighborhood’ is primarily industrial in nature and significantly distanced from the nearest residence (3 miles)

It is appropriate to recommend that the Board direct Staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commission.

Commissioner Houpt – I make a motion we have this special use permit application for EnCana’s water treatment system on the north Parachute Ranch Property presented before the BOCC and not referred to the planning commission. Commissioner Samson – Second.

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

DISCUSSION TO AMEND THE 2008 GARFIELD COUNTY BUILDING CODE TO REQUIRE CARBON MONOXIDE ALARMS IN RESIDENCES (CANCELLED PENDING FUTURE NOTICING) – ANDY SCHWALLER

Commissioner Martin stated that Andy advised that he is waiting for the outcome of the State Bill, which is addressing this particular issue. We can then bring it back and conform to the State Statute.

Executive Session:

Don stated he had two items left from this morning and Mr. Green has two other items for executive session. Don stated he needed to discuss with the Board the question of appointing hearing officers for the County Board of Equalization and subsequently receive public direction on that issue. He needed to provide the Board with an update on the ACLU litigation verses Garfield County Sheriff; Ed needs to talk to the Board concerning negotiations with the RE2 School District, and Ed needs to talk to the Board about negotiations with the City of Rifle on the extension of Taughenbaugh Boulevard.

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into Executive Session.

In favor: Houpt – aye Samson – aye Martin – aye A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of executive session. In favor: Houpt – aye Samson – aye Martin - aye

Action Taken:

CERTIFICATES OF PARTICIPATION:

Don - One action relates to the retirement of certificates of purchase on communications from George K. Baum; Don asked Ed to provide the specifics for the record. Ed stated that Alan Matlosz of George K. Baum identified four sets of maturities; Ed provided a letter dated February 4, 2009 identifying those. Ed said his recommendation would be to pursue the maturity, dated December 1, 2023 as far as the liquidation date, which would eliminate \$390,000.00 in debt. He stated they would be buying it at a price less than 90%. Commissioner Houpt – So moved.

Commissioner Samson – Second. Chairman Martin said he would just like to say; if it becomes even a better deal, bring it back and let us know. In favor: Houpt – aye Samson – aye Martin – aye

COUNTY ROAD 204:

Don stated he is concerned with an earlier motion from the Board, which occurred this morning by a two to one vote. The Board required ACC Contractors to obtain a major use permit for resource extraction; but it did not fully express the decision of the Board. If the board wants to amplify, correct, or alter that you are still in the same meeting in which that motion was made and you can reconsider that if you do so by motion.

Commissioner Samson – I move that we reconsider the motion. Commissioner Houpt – Second.

Chairman Martin stated being the odd man out on that particular one, he did not have a vote, or at least an opinion to ask for reconsideration; it has to be the majority.

In favor: Houpt – aye Samson – aye Martin – aye
Commissioner Houpt said her motion was that ACC be required to go through the major impact review for their natural mineral resource extraction for County Road 204 and she made a very simple motion just having them comply; but she will amend that to state that as soon as they have, what is deemed by staff is a complete application, and agree to conform to any special conditions that staff has in relation to that application, they may continue work on that particular project. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

COMMISSIONER REPORTS

Commissioner Samson – AG&C met last Thursday, Rifle City Council Chambers. Everyone one was in attendance and Mayor Lambert said he thought it was the first time he had seen all the city representatives there. Craig Meis, Mesa County, was the only one not at the meeting. We discussed bills and in particular HB 1024 recommended by the legislative audit requiring certain local entities to submit financial audit reports to the State auditor on the same schedule as other local governments. They supported that and it passed the house. HB 1038 an exempt portion of production of primary commercial oil shale facilities was killed. HB 1040 required the State auditor to prepare an annual report on all legislation passed by the general assembly that created unfunded State mandates on local governments; they supported. HB 1051 was introduced by our State representative Randy Baumgartner. This bill was killed; but it was a good idea but it was not written well. It was set for a 10-year period required to Federal mining mineral lease revenues that are currently distributed to local governments by the executive director of the Department of Local Affairs. HB 1148, he thought was excellent for Garfield County permits the Department of Revenue to provide for the Department of Local Affairs information about severance tax, taxpayers, to be used by DOLA in conjunction with the employee residence reports. They supported this and it looks like it could pass. This one affects us; but reduces HB 1161. It reduces the time for oil and gas operators and owners to submit written documentation supporting evaluation to the County Assessor. He thinks it will be from 45 days to 30 days, which will be helpful. His next meeting is March 12, 2009 at 10:00 am at Rifle City Hall and he stated he will be attending. Commissioner Houpt asked if he will be back from DC by then and in all probability, he would not. Mike asked if we could send someone and Chairman Martin passed this meeting to Ed Green.
Commissioner Houpt – I-70 Coalition has been supporting Senate Bill 108. She had gone to the Blue Ribbon Panel presentations and she never heard her representative or senators concerned about it. She was a little surprised when it became a partisan discussion and it never occurred to her that they would not support it. She is looking forward to everyone having the opportunity to talk to Russ George. She stated that the I-70 Coalition has been supporting the bill. Commissioner Houpt explained to Commissioner Samson what the I-70 Coalition was concerning the fees that are being proposed to trucking companies, rental cars, new cars, and motor vehicle registrations.
Chairman Martin still believes it is a real concern on what you are doing to businesses, individuals and how you are raising money. This goes back again to the fact that you need to make cuts. We know that and it is going to hurt. He feels it is better to take the cuts and take the consequences or attack TABOR. He suggested removing the provisions of TABOR that are limiting the ability to spend the money that you can collect right now.
Commissioner Houpt stated she is just asking that Chairman Martin follow-up on that and talk to Russ.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**FEBRUARY 17, 2009
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 17, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

DISCUSSION OF NATIONAL FOREST RESERVE PAYMENT – THERESA WAGENMAN

Theresa Wagenman submitted the request made by the Board on February 9, 2009 as to the BLM PILT payment. She submitted a detailed report of the questions asked by the Board and the payment to Garfield County in the amount of \$539,183.02. Per the request previously of Commissioner Houpt to award 80% of this fund to the school districts, Theresa submitted the breakdown as follows showing the percentage allocation as decided back on November 3, 2008 compared to the proposed percentage allocation.

Percentage allocation - 11-03-08 -		*Title II – Already distributed to the US Treasury	
Title III	8%	\$	43,134.64
Schools	10%	\$	53,918.30
Road & Bridge Fund	82%	\$	442,130.08
Newly proposed allocations: - 02/02/09 –		*Title II – Already distributed to the US Treasury	
Title III	8%	\$	42,134.64
Schools	80%	\$	431,346.42
Road & Bridge	12%	\$	64,701.96

*Not included in the County’s allocation to Title III, Schools and Road & Bridge Fund per Memo from Eric Bergman with the Department of Local Affairs on 10/31/08. Percentage allocations above are solely based on the actual amount received.

Theresa’s recommendation is to stay with the original budgeted amount decided by the Board on 11-03-08. Additional research was submitted showing how other counties are allocating the PILT fund.

Chairman Martin noted the decline in the revenues in the County. Commissioner Houpt – No one could even begin to guess what the future holds and therefore, it is a good year to do this. This money does not fall into the school district equation. She does not believe it is a significant risk to give this amount to the school district. Chairman Martin – We

will have to decide whether to take funds out of the general fund to supply funds to the Road and Bridge if we give more to the school districts. Commissioner Houpt still believes this is a good year to increase the funds.

Commissioner Houpt made a motion that we allocated 80% of the National Forest Reserve payment to the school district, 12% to Road and Bridge and 8% to Title III.. Commissioner Samson – Second; but noting we are exercising faith in the federal government to come though. Chairman Martin – This reduces the amount of money going to the road and bridge. In favor: Houpt – aye Samson – aye Martin - aye

UPDATE ON 4H EXTENSION OFFICE – BILL EKSTROM

Bill Ekstrom was present. Commissioner Samson requested Bill to come today due to the problems with submittal of bills to the finance department in the past. Bill submitted a Garfield County Status Report detailing the major program effort to verify existing issues and to find solutions for the 4-H program. The goal of the Extension staff is to increase the number of youths participating; the number of volunteer/leaders; and increase the number of unbiased educational programs. He explained how they planned to accomplish these goals; however, the major hurdle is to hire a second 4-H agent to provide the necessary time and labor for the organization of programs. A second hurdle is to locate additional funding sources for the establishment of a cost reduction program. Ed – If we get the bills promptly, it should not have an effect. The problem has been not getting the information so we could accomplish payment in a timely fashion. Ed said the other issue is that we still do not have an agreement from CSU on the 26% approach. Don – From Ed’s statement, we will be undertaking a new agreement with CSU negotiated under Dale who will bring it to our office and we can put this into the structure of an IGA and bring it back to the Board. Bill handed out a report on the activities of the 4H program. Bill added that he is split as the director of Extension between Rio Blanco and Garfield County but they have advertised for a new position to assist him. He started last July and a lot of miscommunication was noted. Some of the 4H leaders want to become leaders once again, which indicates a feeling of trust. An Extension Advisory Committee has been formed and they offer advice and criticism. Education in the livestock area is one of his goals. Another is to have livestock property where kids can leave their animals while in the program. This would be for low-income kids, Spanish speaking backgrounds, as well as the after school programs. He feels these are big areas where we can do these things. A non-appropriated fund would help us accomplish those things. Bill wants to have Blue Ribbon kids – that is his main goal. He asked for the support of the Board in hiring this new position and appointing an advisory board. Regarding a separate checking account, Bill has collected two payments consisting of \$140,000 and \$100,000 in donations for Extension and 4H. Three kids were sent to the State and he has already collected \$1,600.00 for the kids. He is looking for additional donations. Parents have difficulty in paying \$100.00 for their child to attend these events. In order to do all these good things, he needs a pass-through account. He needs permission from the County to open an account. This is to honor the kids and build a good program. We are down to 200 kids and previously we have been at 600 kids. Carolyn suggested a meeting with Lisa Dawson in finance. She said there are funds that have been set up to within Garfield County’s budget system to address the kinds of issues Bill is talking about that won’t hamper him in either fund-raising or in his ability to get money quickly. Secondly, the BOCC did appoint an Advisory Committee late last year. The BOCC was waiting on By-laws to come back for the advisory committee so the BOCC could approve it. The Extension program already has an advisory committee established by Resolution. Lisa and Bob can give Bill a lot of information on the various funds they have set up. Bill asked about the monies they bring in and Chairman Martin answered saying those are unallocated funds but they are in that account. Lisa can explain what happens and how it flows. However, the funds are not absorbed by the County and done away with at the end of the year if that is what you are worried about. Ed said the auditors requested the County rid these types of accounts; it is a control issue. We also had to pull your purchasing cards because we could not get any documentation on the cards. Ed feels confident that this can be worked out where Bill will have a rapid response and regain the VISA cards. Commissioner Houpt is confident that Bill has demonstrated the importance of being able to have access to these funds. Bill asked if the Board had any other things he needs to be doing. Chairman Martin answered; better communication and learn from each other but first meet with Lisa and Bob in Finance. The contract with CSU is the next step then we can move things along using the timelines. Commissioner Samson wants the 4H program to prosper and would like Bill to come back to the Board every quarter to give an update.

REFUND OF TREASURER FEE TO THE CITY OF RIFLE – BOB PENDERGRAST

This is a continued discussion from the February 9, 2009 meeting. Commissioner Samson met with the City of Rifle and they would like the refund of the Treasurer’s fee. Don – We have a policy in place that charges the Treasurer’s fee and this contract gave the Board the authority to waive the fee. The taxpayers are going to pay for it. This is a case-by-case call by the Board. Ed said this was a joint process between the City of Rifle and the County. Commissioner Houpt could make an agreement based on the 1% fee and she would be fine with making a motion to waive the Treasurer’s fee with Rifle. Commissioner Samson seconded.

In favor: Houpt – aye; Martin – aye; Samson - aye

PRESENTATION OF CRITICAL ISSUES FOR FINANCE AND PURCHASING – LISA DAWSON AND MATT ANDERSON

Matt Anderson and Lisa Dawson submitted the report. Finance submitted a detailed request change to the purchasing thresholds, requisition and purchase order system as well as a flow chart for easy determination of the process. Chairman Martin thanked Lisa and Matt for their work on this issue. Ed said this is a precursor on reevaluating our budget evaluation.

- Issue #1 - Budget supplement and wage expense reporting to the Board of County Commissioners, which would include quarterly budget supplement and wage reports, which has previously been done for a period of time.

Don – The Board has gone from a few supplements to a number of supplements. The budget process was not as formalized in the past as it is today and over a period of time we came to a line-by-line budget but we moved away from that several years ago. Now there is a contingency fund as it relates to personnel costs. He recommended we review this regularly. Chairman Martin noted the monthly financial report reveals whether or not departments are going over their budget. Lisa would like to do quarterly budget supplements but if something comes up they could do a monthly supplement. Don and Lisa have basically discussed this and wondered if the Board wants a Resolution to this affect. Lisa said one of the goals this year in finance is to update their procedures. The Board agreed.

- Issue #2 – Electronic proof of publication – Colorado Mountain News Media (CMNM), owners of the Citizen Telegram and the Post Independent, allow account holders to view and print their published ads on line. It also provides for tear sheets showing the date of publication. The proposal is to present electronic proof to the BOCC for AP publishable, public notices for supplements in the budget, payroll publishable, and other public hearing items. The benefits will save time and be more efficient.

This is an improvement and requested approval of the Board. Don discussed this with Lisa and reviewed the statutes. It is a matter of evidence and he did not see any problem with this procedure. Carolyn said that sometimes this could be a case-by-case basis where we may need the published notice.

- Issue #3 – Establish an Agency fund, which can be used for various custodial actions such as Jail Inmate Fund, Section 125 Plan Fund, Treasurer's Sales Tax Distribution, Treasurer's General Trust & Agency. Presently this is accomplished by Resolution for each new custodial action. The auditors have suggested we establish one agency fund; it would not interfere with the BOCC's review process but merely establish a place to put funds once the action is approved. The benefits would save time for the County Attorney and Finance Department.

The Board agreed.

- Issue #4 – Review of Revenue Projects for 2009 and 2010 and Large Dollar Expenditures. Two thirds of the County's revenue source is from property taxes supported by the Oil and Gas Industry. This is expected to be solid since these revenues are based on 2007 residential values. In 2010, there is the possibility of a slight decrease based on the 2008 Oil and Gas valuations and 2009 residential valuations. The Oil and Gas activity has begun to drop during the second half of 2008, so any increase in property taxes would not be expected in 2011 based on the decline in the year 2009. A decrease of 40% of active Piceance rigs has occurred since August 2008. Therefore, oil and gas companies are faced with high development costs, new pipeline timing and regulatory uncertainty and this puts Garfield County at risk whereupon a conservative approach should be taken in the 2010 budget process. Other factors to be considered include possible reductions in sales tax, interest income, charges & fees for services and other revenue. Recommendation: The Finance department would like to schedule a work session with the Board to review the 2009 budgeted capital projects and the County's 5-year plan.

Commissioner Houpt favored this approach. On the 17th of March we have set a legal meeting at 8 am with the County Attorney's office to review the procedures. Don would like this scheduled from 8 am – 10 a.m. and meet with finance from 11a.m. – 2 p.m. with finance. Chairman Martin said we need to put out some other feelers; one, an oil and gas company called and in 2009 estimated their expenditures in Garfield County at \$800 million dollars. They let me know they have reduced that to \$80 million dollars and we need to look at projected revenues in reference to that and the spin off. That is just one of the 15 companies and we see an overall reduction from 30 to 80% of expenditures in Garfield County from those folks. We need to revamp, reassess and really start looking at what the future holds. Reach out, call those people, get some information, and actually get their projected budgets within Garfield County.

- Issue #5 – Raising the Current Purchase Approval Threshold to \$10,000 or less with no competition needed and no purchase order required; however, over \$10,000 up to \$50,000 would require an informal bid process and purchase order or contract procured by the Contract Administrator and must obtain Elected Officials or County Manager approval. Over \$50,000 the Contract Administrator must publish, formally solicit the procurement and must be approved publically by the Board.
- Issue #6 – Conversion of Contracting from a Centralized to Dispersed Function. The proposal includes a multi-step process where departments would have two designated purchasing agents to procure requirements between the proposed threshold increases up to \$50,000. Each purchasing agent would be trained and certified by the Purchasing Office and only informal procurement procedures will be used by the Department Purchasing Agents. Any required formal procedures would still be handled by the Purchasing Office. The Department Purchasing Agents would complete and enter information in Requisition/Purchase order system but the final approval would remain with the Contract Administrator.

Matt presented a strategic plan with four major steps. Some parts of the purchasing manual are very restrictive, thus the recommendation in Issue #5 and Issue #6.

Commissioner Houpt – Three things: the budget is going to be declining and Matt is asking for a more relaxed approach; the second is that she needs to hear from Ed on what kind of strain this process will place on each department for bidding and how this is moving to individual departments which thirdly could mean the hiring of more individuals to accomplish this task and she is not willing to do this. Matt said some of the things the departments are purchasing should have gone through the process. This will be very helpful when the budget is reviewed. Commissioner Houpt asked who would be able to do this in the individual departments. Ed thinks you have to distribute this process. Don – First of all the actions Matt is suggesting are new to the Purchasing Code. One of the things the Board will be seeing is to move all the contract review actions out of his office and to move this all to Matt's office. This is in line with the reorganization of Don's legal office. There are standard form contracts and the problem is to have all the departments use those. We need people who are trained and know how to use those form contracts. Commissioner Houpt is not convinced that you will not be coming back asking for new positions. Lisa answered saying she went through this in her last position at Aspen. The change was met with a huge resistance by the various departments. We currently have people in place in every department who create their invoices and send to finance. These individuals would most likely become the purchasing agent. It is not a huge increase in their responsibilities. New World Systems is great and this new idea could be accomplished with many benefits; it will make budget processes go a lot smoother. By changing these thresholds, the process will be better defined. Lisa does not anticipate any department having to hire any new staff to do this. Matt explained the \$50,000 threshold. This is the number we go out for a proposal. The process takes 45 days. This will allow each department to go through an informal bidding process. Chairman Martin said it gives the department more ownership. Commissioner Samson asked how long Matt has been employed with the County. Answer – about one year. Tim Arnett was the contract-purchasing officer before he came. For clarification, the two new positions in Matt's departments will be the individuals assisting the various departments and elected officials. Matt will assure this is a friendly system. The departments are looking for standardization. He has received positive feedback. Ed said this is a work in progress. Formal bids will be required for items over \$50,000 but under \$50,000; the new purchasing personnel can visit with vendors and do solicitations. Lisa explained the individuals would go into the New World system and enter a requisition. Matt would be the approver. Lisa would make sure the funds are budgeted, then a purchase order would be given and approval or rejection of the request. Don wants this to come back due to the amendments to the Purchasing Code. The details have not been worked out but he does not see why the thresholds cannot be raised. This will come back before the Board once the Board agrees with the concept.

COUNTY ENGINEER AND LOVA REPORT ON SHOVEL-READY TRANSPORTATION PROJECTS FOR POSSIBLE STIMULUS PROJECT INCLUSION – JEFF NELSON AND LARRY DRAGON

Jeff Nelson and Larry Dragon submitted the report saying they were at the meeting last week and certain requests were made of them. Jeff Nelson indicated there are very few shovel ready projects. Parachute was not ready per CDOT.

Chairman Martin – All the projects are in the metropolitan area and are State projects. He noted that nothing has been finalized but most of the projects will be on the Front Range. Larry Dragon heard that some of the funds would come to all counties. Jeff said we are on the list to possibly receive some funds and the LoVa Trail is already on the list. Jeff said Larry prepared a draft letter of recommendation of a project that Garfield County acknowledges could be shovel-ready. Then, we can go to the ITPR and say if you guys so choose, this project is shovel ready. We could get it pushed up on the list because out of the 60 projects on the ITPR list, \$280 million dollars worth are not shovel-ready projects. Larry suggested a letter to the ITPR and CDOT from the Commissioners saying this is what we promote. Basically, the letter outlines the South Canyon Trail to be funded by the Federal Economic Stimulus Package. Larry describes this as a “green” project, which will allow residents of the Canyon Creek, New Castle, and Silt areas to use the trail to commute to Glenwood Springs by bicycle, reducing gasoline use, unclogging the interstate highway and reduce auto emissions. Chairman Martin – Since the South Canyon project is adjoined to a Federal highway, it may qualify and it is one system, State controlled, etc.

Commissioner Houpt made a motion that we support moving the inclusion of the South Canyon Trail as a recommendation from Garfield County to the ITPR and CDOT for stimulus money since it is a shovel-ready project. Larry said it might turn out that there is some other State agency or the Governor’s office that has some involvement in distributing funds. Commissioner Houpt would like to copy as many people as possible with this letter including the governor’s office, the transportation commission, and Weldon Allen, CDOT Regional Director. Commissioner Samson seconded the motion. Don said he has not heard from the State on a license agreement so right now we do not have a legal right to use the right-of-way. Larry said they are working concurrently with the State on this effort. We just could not wait and we have to move because timing is so critical. Ed asked about the County’s portion of matching funds. Larry did not know, we do have a formula and it is projected by 2010 we would have raised \$900,000.00 to the project in South Canyon. In 2009, we do not have that amount of money. That was including a possible grant requested of the Commission, \$100,000.00 from Conservation Trust or request to the city in 2010. Right now if we had this grant, we would probably have about \$400,000.00 to \$500,000.00. We do not know the requirements for any matching funds. In favor: Martin – aye; Houpt – aye; Samson – aye. Chairman Martin commented we could put a fee for the trail like CDOT on the Vail Pass to collect enough money to complete the trail.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE - Ed requested legal update on negotiations with Valley View Hospital. Don stated he needs to provide the Board with an update on the Gilstrap litigation; update on the status of the Rose Ranch PUD development; legal advice concerning the budget supplement waiver as it relates to the Sheriff’s office; quick update on the status of the liquor license hearing set today at 3 p.m.; and legal advice on your authority over contracting in the County. Commissioner Houpt made a motion to go into an Executive Session. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

Action Taken:

LITIGATION GILSTRAP

Don said that currently there is pending litigation between the County and Gilstrap on a code enforcement issue; we have reached a resolution on that issue at this point and would like the Board to authorize the County Attorney’s office to dismiss that action if the appropriate certificates are issued. Commissioner Houpt made a motion to approve. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

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 Exemption Plat for the Perryman Exemption located 12 miles south of Silt on County Road 342. Applicant is Patricia Perryman – Kathy Eastley

Commissioner Samson so moved; Commissioner Samson – Houpt.

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

HUMAN SERVICES COMMISSION

FAMILY SERVICES – TISH FILISS

Tish Filiss, Sandy Swanson, Julie Olson, Karen Meier-Binde were present. These ladies presented a Colorado Economic Self-Sufficiency Standard for 2008 from the Division of Local Government; State Demography Office. Julie Olson introduced a family living in Silt with the medium income of \$63,350.00. They have 2 children and both parents work. Karen submitted a packet of information regarding the analysis of a family of four living in Garfield County with both parents working earning \$63,350.00 yearly. The analysis included: Housing – a 2 bedroom home with \$1,395.00 for rent; Utilities - \$250.00 for water, electric and heat; Health Care expenses - \$300.00 in insurance. She said many avoid going to the dentist and doctor; \$500.00 for food; and sharing one car at \$500.00 a month in expenses. Miscellaneous - \$125.00 to live on for anything else; and \$990 in monthly taxes. Income left over after all this is paid = \$169.00 for other expenses such as school supplies, fees for athletics, clothes and entertainment. Sandy – If someone gets sick and is hospitalized, there is nothing left. That is when these families that are living in this situation need assistance. Commissioners can do the following: add to the child care subsidizes suggesting they could raise the amount that people could qualify for; county wages and pay scales should be plugged into the realities; look at ways for more housing to be built and subsidized; and renting housing at a lower rate if opportunities arise. This is based on Garfield County data and the impact of poverty and how it looks in this County. Tish said the website is www.dola.state.co.us.dlg/demog/selfsuff.html. This will assist individuals in their budgeting process and will also determine if they need assistance. A second handout included County data in Garfield County from Colorado Children’s Campaign, 2008 Kids Count in Colorado!

Human Services Banquet

Lynn Renick will appear at the Human Services Banquet; the Board will be in Washington at the NACO conference.

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENTS FOR JANUARY 2009

Lynn Renick submitted the EBT/EFT disbursements for January 2009 in the total amount of \$525,021.14 and requested the Board approve as submitted.

Commissioner Houpt so moved; Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF 2009 CONTRACT WITH VALLEY VIEW HOSPITAL FOR MEAL PREPARATION AT EAST GARFIELD SENIOR NUTRITION SITES

Judy Martin and Lynn Renick submitted the 2009 contract with Valley View Hospital for meal preparation at the West Garfield Senior Nutrition Sites. The original contract was signed with Morrison LLC who provided services through Valley View; however, clarification was made that the correct contracting entity is Valley View Hospital. The 2009 contract is in process and will be brought back for Board consideration. Commissioner Samson so moved; Commissioner Houpt – second. In favor: Houpt – aye; Martin – aye; Samson- aye;

CONSIDERATION AND APPROVAL OF 2009 IGA WITH ROARING FORK TRANSPORTATION AUTHORITY FOR THE TRAVELER

Judy Martin and Lynn Renick submitted the 2009 IGA with Roaring Fork Transportation Authority (RFTA) for the Traveler in the not-to-exceed amount of \$400,000.00 and requested Board approval. Commissioner Samson so moved; Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF 2009 IGA WITH ROARING FORK TRANSPORTATION AUTHORITY FOR HUMAN SERVICES COMMISSION GRANT

Lynn Renick and Judy Martin submitted the contract in the amount not-to-exceed amount of \$55,000.00 and requested Board approval and signature on the IGA document. Commissioner Houpt made a motion to approve the IGA for the calendar year 2009 with Garfield County and RFTA in a not to exceed amount of \$55,000.00. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND SIGNATURE AUTHORIZATION ON CONTRACT FOR MEDIATION TRAINING BY MARES-DIXON & ASSOCIATES

Lynn Renick - The contract is in the not-to-exceed amount of \$16,000.00 saying the contract is being finalized by the County Attorney's office and she requested Board approval once the review is complete. This is a 40 hour training and they can train 20 employees. Lynn requested approval and signature authority by the Chair. Commissioner Houpt so moved; Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF QUALITY AND CAPACITY ENHANCEMENT CONTRACT WITH EVEN START LITERACY PROGRAM

Lynn Renick and Jim Rada submitted the contract and requested Board approval in the not-to-exceed amount of \$11,200.00 for nurse consultant services, professional development activities, and teacher attendance at an early childhood conference. Other Child Care Quality and Capacity Enhancement contracts are being finalized with various licensed providers in the amount of \$129,551.46 in TANF dollars. These funds are expected to be expended prior to July 1, 2009. This is in accordance with SB-177 and Lynn expects three reserve categories will be carried over into SFY 2010. Lynn suspects that the TANF funds will go away. Commissioner Houpt made a motion to approve the quality and capacity enhancement contract with Even Start Literacy program in the not to exceed amount of \$11,200.00. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye Lynn commented they do not know how things will go at this time with the State because things are changing on a daily basis.

COMMUNITY SERVICES BLOCK GRANT

Lynn announced she received the grant of \$40,662.00 and Mary Meisner was the one who suggested this be switched to the senior programs, which they did.

PROGRAM UPDATES

Lynn gave the Commissioners an update on the programs saying the department has received limited information regarding State cuts for the 2009 fiscal year. At this time, the Child Welfare Block is being reduced by \$24,616.00 due to provider cuts and another \$15,771.00 in mitigation reductions. \$1,640.00 will be deducted from the Core Services funding and senior programs will take a 20% reduction in the State general fund share totaling \$10,000.00 for caregiver support, senior services, equipment and senior nutrition programs combined. There is an anticipated reduction in county administration on the Health Care Policy and financing side which will impact each county. Statewide this reduction is around \$417,000.00; however, county-by-county reductions have not been released. Single Entry Point program funds have been announced but no specific information is available at this time. Lynn also anticipates a reduction in the Colorado Works allocation. Other department information in her report included Bruce Perry is scheduled to present to approximately 400 individuals on the effects of trauma on brain development and strategies for helping children through traumatic experiences sponsored by the Child Care Program. The department has been awarded a "Supportive Services for Runaway and Homeless Youth" a five year demonstration grant for the Federal Youth Services Bureau. Six rural Colorado communities (including West Garfield County) has been selected to participate in developing local community plans and form a statewide a Rural Coalition for Homeless Youth (RCHY) to address the needs of rural youth.

BOARD OF HEALTH: UPDATES

Mary Meisner provided the Board with updates from Public Health including a request for a temporary Clerk II as a designated regular part-time position. The total cost to the Public Health budget at \$13.92 per hour @ 24 hours per week would amount to \$17,372.15 per year. The caseload has been increasing due to the economy. Commissioner Houpt so moved; Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

RELAY FOR LIFE AWARD – JULIA SPENCER AND THERESA HAMILTON

Linda Hoffman, Chair for the Relay for Life and Theresa Hamilton presented the award saying in 2007 Garfield County was tops in the Great West Division in fund raising per capita and a top 10 finisher in the nation for counties our size. In 2008, Garfield County was number one and shared this with the Board. The request is to have the County support this event possibly through donations, matching funds or other options. The purpose of the Relay for Life is to benefit cancer victims. The Commissioners thanked the ladies for all their work. Theresa submitted a request for funding for the 2009 Relay for Life. Chairman Martin said they would submit this to the employees through the EPIC Committee. Ed said the money collected does stay in the County. Commissioner Houpt – Lack of support for the relay was stopped because of so many events and the Board was overwhelmed with requests for funding. When we talked about the policy; another organization came forth and the list started to grow. We either do it for all events or none. The Board decided it was better to have the employees sponsor these events. It was not easy but an even greater dilemma occurred with all the requests. Ed commented that this is part of our wellness program and it enhances team building. Don suggested the Board establish a policy on how to distinguish these events. Chairman Martin suggested they establish a committee and work with them on leftover proceeds from the Human Services Commission fund. Commissioner Houpt did not want to use those funds. Ed thought the Human Services Commission would be concerned about that idea due to some emergency situations. It was suggested a proposal from the Wellness Committee be discussed and then come back to the Board with a proposal.

GREAT OUTDOORS COLORADO GRANT FOR COAL RIDGE BASEBALL FIELD – THERESA HAMILTON

Theresa Hamilton, Jeanne Humble, Steve Ryan, Betsy Suerth and Lisa Dawson were present. Theresa submitted the grant and explained the request of the Board saying Garfield County RE-2 is asking for two things: 1) Garfield County to be the applicant for the \$200,000.00 GoCo grant and 2) financial contribution to add strength to the application and illustrate a true collaborative application. Steve talked about the conditions they are operating under. The practice ball field is located next to Elk Creek and every time a foul ball is hit in the creek, it cost \$4.00 to replace it. They also have to bus the kids for the games and practices. All home games have been played at Deer Field Park in Rifle placing an added burden. There are also drainage issues. The main discussion is funds. The Town of Silt is interested in a partnership to benefit their programs in the community; but they cannot help with a partnership because the school is not in the Town of Silt. Tonight Theresa will be before the Town of New Castle asking for support. Support by Garfield County in actual cash was requested in the amount of \$100,000.00. Coal Ridge is a County-school. Commissioner Samson asked what they could see as a barebones contribution. Theresa replied \$30,000.00. The cost of the project was not submitted but they are anticipating a cost of \$450,000.00 for a barebones field. The Town of Silt has committed to donating funds and they are also looking at the energy companies for contributions. The Booster Club is committed as well and is willing to hold a fund-raising event. Community members are willing to commit to in-kind support. Commissioner Samson made a motion that we provide a letter of support with the application and be the fiscal agent for the \$200,000.00 GoCo grant and Garfield County give \$30,000.00 for this ball field plus in-kind contributions with administrative and other in-house assistance. Commissioner Houpt asked if he would consider raising this to \$50,000.00. Don added a couple of things, with the ball field in Rifle it came to about \$600,000.00. Normally when you apply for a grant, we also control the construction contract and in this case, the school district will take on that responsibility. We are representing to GoCo that a project would be committed by the County. We are obligated to complete the project. Normally we have agreements with the other donors. Commissioner Houpt seconded for discussion. As the contracting agent with GoCo, we would be responsible for picking up the tab if the funding is short. Commissioner Samson said if we need more funds, then we could pitch in. Most people in the community will come forward with support. In favor: Houpt – aye; Martin – aye; Samson – aye. Don – They need to work with the County Engineer.

REINSTATEMENT OF DRILLING MORATORIUM IN A PORTION OF EAST MAMM CREEK NOTICE AREA – LISA BRACKEN

Lisa Bracken requested this to be postponed. Commissioner Samson read the entire information Lisa submitted and the thought that came to his mind - the beef is with the COGGC. Commissioner Houpt – The Commissioners are the door to the COGGC and that is why Lisa wants to come and ask you for support in her endeavor. She will be abstaining from this conversation because of her role on the COGGC.

CONTRACTOR SELECTION FOR THE RESTROOM AT THE AIRPORT – BRIAN CONDIE

John Dyer and Brian Condie submitted the various contractor bids for the restroom ranging from \$223,396.00 to \$145,744.00. Randy Withee, Matt Anderson, and Brian Condie sat on the evaluation committee. Each of the six proposals was evaluated and price was a consideration as well as past performance and the design of the building. John Dyer's proposal came out as the best-priced and designed proposal. Mr. Dyer rotated the building so it will not be adjacent to the driveway and he is adding heat in the paved area so it will not be slick in the winter. Brian explained when Commissioner Samson asked for clarification as to what happened to the restroom or did we ever have one saying when they demolished the older administration building the bathroom was eliminated. This will replace the former 24-hour restroom. The cost for the Dyer proposal is \$167,570.00 plus the tap fees to City of Rifle. This also includes a mechanical room and storage.

Commissioner Houpt made a motion to award the contract to John Dyer in a not-to-exceed amount of \$167,570.00.

Commissioner Samson seconded but asked for discussion regarding the current lack of a restroom. Brian explained this was for pilots and passengers who come to the Airport after the administration building is closed.

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

CDOT GRANT ACCEPTANCE – BRIAN CONDIE

Brian Condie submitted the acceptance from the CDOT grant agreement under Vendor ID 2000173, Fund number 160, GL No. 4512000010, Organization code V0099-033 in the amount of \$250,000.00 and requested Board approval. This is for the match on FAA ARC upgrade project AIP 18 and 19. The local match is also \$250,000.00 and the federal match is \$9,500,000.00. The Contract and the Resolution need to be considered. Commissioner Houpt made a motion to approve the grant agreement with CDOT in \$250,000.00 matching funds on airport improvements and the Chair authorized to sign the grant agreement and Resolution and also to fill in Brian Condie as the Project Director. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION OF IGA WITH GLENWOOD SPRINGS FOR THE NEW ENERGY COMMUNITIES INITIATIVE – ED GREEN AND CAROLYN DAHLGREN

David Sturgis from Glenwood Springs and Lisa Dawson, speaking for Carolyn Dahlgren, submitted the ITA New Energy Initiative (NECI) and explained the document. The request is for the Board to ratify the signature of the Chair. This is the IGA that Carolyn drafted and Lisa asked to move forward with the form contract with the other entities. The second question is to give Chairman Martin signing authority; the third is the Garfield County funds in Exhibit C and how to distribute those monies. Glenwood Springs meets the 19th and this IGA was presented to the City Council as well as Exhibit C on how they would like their funds to be expended. Lisa is requesting, pending the approval of the Glenwood Springs Council, to go forward to have Chairman Martin given the signing authority. Lisa made another change on page 4 referring to establishing a NECI agency fund. Don DeFord discussed this with Lisa and Paul Backus, the auditor who said it was better to establish a grant fund versus an agency fund. We are not acting in a total custodial position and the wording will reflect a grant fund. We do have some fiscal agent responsibilities. Don anticipates general statutory funds by Resolution and then the terms of the grant fund would determine the awards. Search and Rescue was used as an example. In a similar way when we sign a grant agreement it will define how we will receive and grant the funds – a line item for each grant that we make. Lisa said it is also okay to include the matching funds in this grant fund. Commissioner Houpt – Language on page 5; we are also committing to the 1% treasurer's fees. Carolyn stated this is just on those two. Chairman Martin – A policy discussion was held and these may be exempted. Commissioner Houpt – The matching money would also be in effect for the 1% treasurer's fees. Ed – It would be on \$3.5 million and a little over \$500,000.00 in Garfield County funds and no 1% treasurer's fee. The maximum of those fees would be about \$30,000.00. Carolyn requested a motion to this affect. The BOCC will pay the Treasurer's fee. Chairman Martin – We need to change the statute. Don – The County is paying the fee. Carolyn will add a paragraph that we are not waiving it

but Garfield is paying it. Commissioner Houpt made a motion to approve the IGA with the NEIC with the 1% Treasurer's fee paragraph and authorize the Chair to sign these agreements as they are presented unless there are major changes. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

COOPERATION AND PARTNERSHIP WITH NEIC

David Sturgis commented that a lot of new ground has been broken in working together and applying for these funds. It is a wonderful partnership. The intent and confidence in getting the details worked out is noteworthy. He thanked the staff of Garfield County who has worked very hard on this. Lisa Dawson submitted Exhibit C as an example put together on matching funds. She explained how the matching funds of \$30,000.00 should be added. Assumed residents in Garfield County will participate in rebates and no numbers were placed in this exhibit. This is the recommendation, under Item C, we originally put in the expected \$250,000.00 for 'greening our government' but realistically we will receive 40% less. In-kind is \$500,000.00 and in cash matching funds; assuming the Board would like to put \$50,000.00 in renewal energy programs in solar projects and another \$150,000.00 for the sustainability team. Ed and Theresa commented that everybody will be putting in \$400,000.00 matching funds and most will go to the administration of the program. Carolyn - Look at Exhibit A – Scope of Services is also for educational programs. Ed said \$50,000.00 would go to the small programs; we plan to put \$500,000.00 for solar funds and indicted some measure of money from this grant would be to the augment for the new building - the Human Services complex in Rifle and the Sheriff's annex as well. We also wanted to support Mountain Family and they want to get some money as well. This makes sense. We will need to contribute \$400,000.00. This is still a work in progress until we figure out all the details. The motion has already been made and accepted.

DISCUSSION OF THE 2ND SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 2ND AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Theresa Wagenman submitted the Resolution and notice of hearing. Don advised the Board the notice was adequate and timely and they could proceed. Chairman Martin swore in the speakers.

Theresa explained the amendment and submitted Exhibit A showing the disbursements. Commissioner Houpt made a motion to close the public hearing. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye Commissioner Houpt made a motion to approve Exhibit A to the 2nd supplement to the 2009 approved budget and the 2nd amended appropriation of funds as submitted. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

DISCUSSION OF A PORTION OF THE 2ND SUPPLEMENT IN THE AMOUNT OF \$10,000 TO COVER LEGAL FEES FOR THE SHERIFF'S DEPARTMENT – THERESA WAGENMAN

Theresa Wagenman submitted the Resolution and public notice. Don reviewed the notice and advised the Board they could proceed. Chairman Martin swore in the speaker. Theresa submitted the request in Exhibit A to add a supplement in the amount of \$10,000.00 to cover the legal fees for the Sheriff's department. Chairman Martin stepped down and recused himself due to a potential conflict. Commissioner Houpt made a motion to close the public hearing;

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – abstained from the hearing and vote.

Commissioner Samson made a motion to approve a portion of the second appropriation in the amount of \$10,000.00.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

TOWN MEETING WITH U.S. SENATOR MICHAEL BENNET

Michael Bennet announced he would not be able to meet with the Commissioners. President Obama announced he would sign the Stimulus Bill in Denver today.

CONSIDER A REQUEST FOR EXEMPTION FROM SUBDIVISION REGULATIONS FOR A PROPERTY LOCATED SOUTH OF THE I-70 RULISON EXIT AT THE INTERSECTION OF COUNTY ROAD 320 AND COUNTY ROAD 323. THE APPLICANT SEEKS TO CREATE TWO NEW PARCELS AND THE REMAINDER PARCEL FROM AN EXISTING 136.58-ACRE PROPERTY. THE APPLICANT IS SAMUEL POTTER – KATHY EASTLEY

Kathy Eastley, Debbie Quinn, Barb Clifton and Samuel Potter were present. Barb explained the defects to the notice saying it only included the proposed exemption lots. Mr. Potter explained the posting issues saying he posted the property within the time frame as required by the regulations. He posted it on the property line between parcel 1 and the parcel on County Road 323 and on County Road 320. Don reviewed the noticing and determined it was a Board decision to determine if it was adequate. The Board determined that the notice was adequate. Chairman Martin swore in the speakers. Dusty entered 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 Subdivision Regulations of 1984, as amended; Exhibit E Garfield County Comprehensive Plan of 2000; Exhibit F - Application; Exhibit G – Staff Memorandum; Exhibit H – Staff Presentation; Exhibit I – Letter dated December 30, 2008 from Jake Mall, Road and Bridge; Exhibit J – Memo dated January 19, 2009 from Steve Anthony, Vegetation Manager, and Exhibit K – Email, dated January 6, 2009 from Jim Rada, Environmental Health Manager. Chairman Martin entered Exhibits A – K into the record. Kathy submitted the proposal saying the applicant; Samuel Potter, Jr. is requesting approval for an Exemption from the Definition of Subdivision, which, if approved, will create two (2) new parcels, and a remainder parcel from 136.58-acres. Commissioner Samson wanted to advise the Board that Sam is married to his cousin however; he has no financial interest of involvement in this property and did not feel it was a conflict of interest to participate and vote. Don said as long as there are no conflicts it would not interfere with his participation. Commissioner Houpt and Chairman Martin agreed there was no conflict of interest.

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 2175-312-00-028 with the following conditions of approval:

1. 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.
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.

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. The exemption plat shall designate a 30' right-of-way easement from the centerline of the roadway along County Roads 320 and 323 along the property line of the parcels.

4. The exemption plat shall describe all necessary easements for provision of utilities.

5. The Applicant shall submit an inventory of County Listed Noxious Weeds and a Weed Management Plan for the three parcels comprising the 136.58-acre site. The inventory and management plan shall be reviewed and determined sufficient by the County Vegetation Manager prior to the signing of the exemption plat.

6. Prior to the signing of the plat the Applicant shall provide a legal spring 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.

7. The property is located in the School District 16. As such, the Applicant shall be required to pay \$200 each for Parcels 1 and 2 as a fee in-lieu of School Land Dedication. This fee shall be paid prior to the signing of the exemption plat.

Samuel Potter explained the property has been in the family since 1905 and he became the owner of the property in 1969. Some of the recommendations are troublesome to him and create a situation of overburden. He wants to convey a parcel of property to his sister on which they already have a 50-year lease. The second parcel is for this sister's son to construct a home on. It is all a family endeavor. He introduced his entire family. Samuel is distressed with the bureaucracy; it has been a long process to get this completed. Commissioner Houpt moved to close the public hearing. Commissioner Samson – Second. Motion carried. Commissioner Houpt made a motion to approve this exemption from the definition with the conditions as set forth by staff. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A WATER TREATMENT PLANT IN THE ARRD ZONE DISTRICT, SOUTHWEST OF RIFLE ON COUNTY ROAD 321. APPLICANT IS ALTELA, INC. ON BEHALF OF LARAMIE ENERGY II, LLC – DUSTY DUNBAR

Dusty Dunbar and Matthew Broaden were present. Laramie Energy submitted a letter of request to continue this hearing. Commissioner Houpt stated the applicant has two options: 1) open the public hearing and then continue it or 2) re-notice and start all over. Dusty said it would be better to re-notice the hearing due to some issues that arose with the neighborhood that the energy company wishes to resolve before going forward. Another reason Dusty suggested this was because they are not working with a staff report. Dusty said the applicant is willing to re-notice. There is some additional information from the applicant and suggested the request be granted to Laramie Energy. Chairman Martin reiterated that the applicant would have to start all over with the noticing. We cannot even open the meeting.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THE CONN CREEK II COMPRESSOR STATION IN THE RESOURCE LANDS ZONE DISTRICT, NORTH OF DEBEQUE ON COUNTY ROAD 213. APPLICANT IS OXY USA WTP LP – DUSTY DUNBAR

Dusty Dunbar, Don DeFord, Daniel Padilla, Paul Heald, P.E. with ForeRunner Corporation Herman Lucero, REM with HRL Compliance Solutions, Inc. and Mark Bellingshausen, PE from Nolte were present. Don reviewed the noticing, posting and determined it was timely, accurate and advised the Board they could proceed. Chairman Martin swore in the speakers. Dusty entered 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 –Application; Exhibit E – Staff report; Exhibit F – Staff Power Point presentation; Exhibit G – Letter from Garfield County Road & Bridge dated 2-2-09; and Exhibit I – Letter from Steve Anthony, Vegetation Manager dated 1-29-09. Chairman Martin entered Exhibits A – I into the record. Dusty explained the description of the proposal saying the installation of a natural gas compressor station on 3.83 acres of 10,303-acre property owned by Oxy USA WTP LP ('Oxy'). The application was deemed 'technically complete' prior to December 31, 2008 and is being processed under the Zoning Resolution of 1978, as amended.

STAFF RECOMMENDATION

Due to the following conditions the limited nature of potential impacts to surrounding properties, the remote location of the property, the proposed is an expansion of an existing complex that is required to operated within compliance for noise and mitigate glare.

Staff recommends the Board approve the request for a Special Use Permit for the expansion of the Conn Creek II Compressor Station 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 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.
8. No storage of heavy equipment or materials is proposed or permitted.
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. Two (2) new compressor units shall be installed on the site under this Special Use Permit. Proper building and grading permits are to be obtained for the structures associated with the operation of the new compressor units prior to the issuance of a Special Use Permit.
12. A re-vegetation bond of \$4000 per acre shall be submitted for the 3.83-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a compressor plant is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
13. Any fencing installed shall follow the recommendation of DOW for “wildlife friendly” fencing.
14. Erosion control and storm water report updates specific to this facility shall be appended to the Cascade Creek SWMP for the area.

Daniel Padilla – On the photo shown for the facility, the county road is not accurately depicted, as it is partly a private road belonging to OXY. Regarding the noise study, they will do a post operational noise study. They do have a gas-covering bond and lastly regarding the Conn Creek I facility, Daniel was unaware of the Resolution and conditions of approval. This has been corrected with the addition of a checklist and will comply with those previous conditions. Commissioner Houpt noted the letter from the DOW regarding the construction activity and asked if there are any concerns from you about their letter showing their concerns. Daniel Padilla and Dusty talked about this and Daniel explained his concern is the vehicle impact for big game species. There are speed limits in place to address the DOW’s concerns. Dusty said they did discuss water concerns and Daniel did have some suggestions. Don – Follow up on water; what is the arrangement for potable water? Daniel – It is not a manned facility but bottled water will be supplied if necessary. If water is needed for the tanks, it will be handled according to the application. Commissioner Houpt moved to close the public portion of the public hearing. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye Commissioner Houpt made a motion to approve the application for a SUP for the Conn Creek II Compressor Station with the 14 conditions as proposed by staff. Commissioner Samson – Second.

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

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THE CONN CREEK II COMPRESSOR STATION CONTROL FACILITY IN THE RESOURCE LANDS ZONE DISTRICT, NORTH OF DEBEQUE ON COUNTY ROAD 213. APPLICANT IS OXY USA WTP LP – DUSTY DUNBAR

Dusty Dunbar, Don DeFord, Daniel Padilla with OXY and Mark Bellingshausen, PE for Nottle were present. Don reviewed the noticing and determined it was timely, accurate, and advised the Board they could proceed. Chairman Martin swore in the speakers. Dusty entered 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 – Application; Exhibit E – Staff report; Exhibit F – Staff Power Point Presentation; and Exhibit G – Letter from J.T. Romatzke, area wildlife manager, area 7 from Grand Junction) Colorado Division of Wildlife, dated 1-26-09; Exhibit H – Letter from Road and Bridge dated 2-02-09; Exhibit I – Letter from John Niewoehner, PE Project Engineer dated 12.29.08; and Exhibit J – Letter from Vegetation Management Director Steve Anthony dated 1-29-09.

This is a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for the installation of a control facility for a natural gas compressor station on .86 acres of 10,303-acre property owned by Oxy USA WTP LP (‘Oxy’). The site is shown on the map at right, and detailed below.

The application was deemed ‘technically complete’ prior to December 31, 2008, and is being processed under the Zoning Resolution of 1978, as amended.

STAFF RECOMMENDATION

Due to the following conditions and the limited nature of potential impacts to surrounding properties, the remote location of the property, the proposed is an office use in an existing complex that is required to operated within compliance for noise and other undesirable effects staff recommends the Board approve the request for a Special Use Permit for the expansion of the Conn Creek II Compressor Station Control 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. 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 Control Facility 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.
6. Emissions of particulate matter: the Compressor Control Facility 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 Control Facility 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.
8. No storage of heavy equipment or materials is proposed or permitted.
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. The Conn Creek II Compressor Control Facility is to be installed on the site under this Special Use Permit. Proper building and grading permits are to be obtained for the pad and structures prior to the issuance of a Special Use Permit.
12. The Conn Creek II Compressor Control Facility shall meet state requirements for permitting as to storm water management, and the erosion plan specific to this site shall be apprehended to the Storm Water Management Plan for the Cascade Creek Common Plan of Development (2007) that is used for projects in this area.
13. A re-vegetation bond of \$4000 per acre shall be submitted for the .86-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a compressor plant is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
14. Any fencing installed shall follow the recommendations of the DOW for 'wildlife friendly' fencing.
15. Bear-proof garbage containers shall be required for use on the site.

Commissioner Houpt asked about the condition for bear proof containers for the garbage. Dusty said they would not have human waste but this was a good idea. Applicant: Daniel Padilla requested the slide presented by Dusty showing the aerial facility photo and he illustrated where they will extend the fencing since cattle still graze on the Prather's and Albertsons property. He also addressed the fact that we do have a site proposed for stranded emergency personnel where someone could stay overnight if needed. The area would be stocked with an emergency bag and water. This is a very remote area and they want to be prepared in case of an emergency. Dusty – This is not standard procedure and she did not include that as a condition. It will only be stocked with an emergency bag and water. Commissioner Houpt moved to close the public hearing. Commissioner Samson – Second. Motion carried. Commissioner Houpt made a motion to approve the SUP for the Conn Creek Control Facility with the conditions 1-14 recommended by staff and adding Condition No. 15 requiring the use of bear proof garbage containers. Commissioner Samson – Second. In favor: Houpt – aye; Martin – aye; Samson - aye

RENEWAL OF THE HOTEL & RESTAURANT LIQUOR LICENSE FOR COLOREXAS, INC. D/B/A DOS HERMANOS – JEAN ALBERICO

Don DeFord, Damien Zumbrennen Attorney at Law from Leavenworth & Karp, PC representing Jean Alberico were present. A request was submitted by the law firm representing Colorexas, Inc. dba Dos Hermanos to continue this for 30-days.

The public hearing was opened and Don reviewed the noticing, determined it was timely, accurate, and advised the Board they could proceed. Chairman Martin swore in the speakers. Don DeFord entered the following Exhibits for the record: Exhibit A – Proof of Show Cause delivered to Mr. David Edgar on February 4, 2009; Exhibit B – Proof of Publication in the Grand Junction Sentinel dated February 7, 2009; Exhibit C – Proof of Publication in the Glenwood Springs Post Independent dated February 6, 2009; Exhibit D – Posted Notice; Exhibit E – Letter from Allen H. Adger PC requesting a 30-day extension; Exhibit F – Entry of Appearance and Request for Extension from Allen H. Adger, PC. for Colorexas, Inc. dba Dos Hermanos. Chairman Martin entered Exhibits A – F into the record. Discussion was held with the Allen Adger advising him that if a 30-day extension was granted by the Commissioners, his client David Edgar could possibly be shut down due to the time factor involved with this liquor license. The Board went into recess allowing time for Mr. Adger to consult with his client regarding this matter. The Board resumed and Mr. Adger agreed to the March 2, 2009 date proposed by the Board of County Commissioners. Don noted that he would not be available but will appoint someone from his office to handle the case for the Board. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to grant an extension until March 2, 2009 at 3 p.m. In favor: Houpt – aye; Martin – aye; Samson – aye.

COMMISSIONER REPORTS

Commissioner Samson – Met with the mayors in New Castle; it was a cordial meeting and all the mayors were present except Mr. Hassig from Carbondale. The mayor from Basalt was there as well. They all expressed a desire to work with the County. The next meeting will be held on Monday, March 30 from 9 a.m. to 12 noon. We decided to meet once a quarter and keep the meetings very informal. Commissioner Samson thinks these meeting will be very productive. On March 30, Mike will host the meeting at the Airport Administration Building. Most of the mayors said they have never been to the Airport. Mike will hold the meeting in the conference room and will provide lunch. They will be discussing

transportation, land use, affordable housing and senior services. Consensus of the group was to work together on these various projects. Mike did not think they would address all of these topics at the next meeting, but these are the goals. Thursday, February 12, 2009, Mike spoke to the Chamber of Commerce at the State of the Community held at the Rifle Creek Golf Course. Mayor Keith Lambert and representatives from the banking industry also spoke. It was a very positive and upbeat meeting. Everyone is staying positive recognizing times are tough but being very optimistic that we will get through these times.

Commissioner Houpt – I-70 Coalition Planning Grant was presented on Thursday, February 12th and this will be available on the website (Tresi will notify the other two Commissioners once it is posted). Tresi said it’s a support document; the larger Rocky Mountain Rail system where they had talked to all the counties and asked for input on where they would envision a route going through their respective counties. This will support the feasibility study of the Rocky Mountain Authority; it will be from Jefferson County through Garfield County however, Denver has been participating. At the present, the rail would go from Floyd Hill to the core area of Glenwood Springs. The ultimate goal is to have a rail system going all the way though the State. This committee meets monthly. This week we have a meeting with the City Council of Glenwood Springs on Thursday at 5 p.m. There is a Southbridge meeting in Glenwood Springs on Thursday and CCI on Friday. Tresi said her grandmother celebrated her 102 birthday in El Paso, Texas over the weekend. Chairman Martin – Senior Wellness Committee meeting on the 9th; New Energy Initiative from 1 – 3 in Rifle on Wednesday the 11th, Community Corrections Board on Thursday and received the bad news in reference to the Rifle Correctional Facility. The warden is reducing his numbers through attrition and he is down from 192 to 170 inmates. He is not accepting any new ones and believes the closure of that facility is solid. They plan to put the facility up for sale. The closure is due to the fact that they can’t meet the \$900 million dollar deficit in the State budget. The impacts on this closure will affect our Community Corrections, the food service and the Garfield County jail. CCI conference on Friday and they will be addressing tax, finance and transportation. Commissioner Houpt noted that Russ George is involved in the transportation meeting. Russ mentioned it is still a divided issue and occurring in his own department. Chairman Martin - County Area of Aging at 9 am on Tuesday the 24th; Kathleen Curry will be here on the 26th at 5 pm. Senior Programs 9 am on Friday and the following week NACO in Washington, DC.

Recess

Meeting at Glenwood Springs Thursday 5 p.m. at Council Chamber.

A motion was made by Commissioner Houpt to recess the meeting until Thursday. Commissioner Samson seconded the motion. In favor: Houpt – aye; Martin – aye; Samson - aye

Attest:

Chairman of the Board

MARCH 2, 2009
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 2, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

DISCUSSION OF OPEN MEETINGS – MIKE SAMSON

Commissioner Samson stated the reason he requested this to be brought up is that he needs clarification from the legal staff on what constitutes an open meeting. He asked why in the world two or three commissioners could not go to the same meeting. Specifically, the Commissioners had an invitation from Advantage inviting the Commissioners to an informational meeting to get to know them. There seemed to be some concerns from people that two or three Commissioners could not go to that meeting. There was not any official action to be taken. Commissioner Samson noticed the next morning; Ed said there was an informational meeting with OXY at the airport. He went to the meeting and Commissioner Houpt was there. Carolyn said they would like to give some advice in executive session on case law and the very words of the statute. Commissioner Samson said a ruling from CCI at the Commissioners training was that two Commissioners traveling together were within the statutes. Carolyn said there are two levels of analysis under the opening meetings act, the first one being whether or not you have, by statutory definition a public meeting, which has to be noticed. The second level of analysis is if policymaking is occurring, do you have to keep a record of the meeting. Carolyn said she and Deb Quinn would talk with them in executive session. Carolyn understands that you have a meeting coming up at NACO and you will all be there in DC is that correct? Chairman Martin stated they will be, but in different steering committees, so they will not see each other. Carolyn would like to talk with them in executive session so she and Deb can give them the latest Colorado Supreme Court update on interrupting the open meetings act. Commissioner Houpt would like discussion B to start out in executive session – County Road 300.

DISCUSSION OF SCOPE AND COST ESTIMATE OF THE COUNTY ROAD 300 INTERSECTION
SEE: Executive Session

DISCUSSION OF PAYMENT REQUEST FROM CITY OF GLENWOOD FOR THE SOUTH BRIDGE ENVIRONMENTAL ASSESSMENT

A letter was presented from Michael G. McDill, P.E., City Engineer Glenwood Springs for the Board to consider a request for \$89,313.00 to cover half of the local share of costs through the end of September 2009 for this project. Ed said Chairman Martin’s concern was that the IGA was produced in 2007 and the intent was that this payment be made in 2008. Ed did not see anything in the agreement that has a drop-dead date. Carolyn stated there was no termination procedure, or date, that there was our usual appropriation language. Ed asked if any problems proceeding and Chairman Martin said no.

ENERGY ADVISORY BOARD (EAB) CITIZEN REPRESENTATIVE CANDIDATES – JUDY JORDAN

Judy explained that after reviewing three candidates, who submitted letters of interest, the group unanimously voted to recommend Jeff Simonson to represent Divide Creek/Dry Hollow and Maria Vazquez to represent Parachute/Battlement Mesa. She is requesting the Boards approval of these two candidates and has attached letters of appointment for the

Board to approve. Commissioner Samson asked, if we had some vacancies and where are they from. Judy explained they still have one vacancy. Commissioner Samson - I would move that Maria C. Vasquez and Jeff Simonson be appointed for an unlimited term to the Energy Advisory Board. Commissioner Houpt – Second

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

DISCUSSION REGARDING ADDITIONAL CHARGES FOR THE VIDEO CONFERENCING AND SOUND SYSTEM IN THE BOCC – CHARLES ZELENKA

Two invoices were presented indicating software to be installed, pre-wiring, installation etc. for this system. The total amount requested is \$12,051.00. Charles stated he is making a formal request for a budget supplement for the BOCC. This equipment is not only used by the recording department but also the building and planning department. Charles explained how the system would work, better quality sound and a lot more flexibility. Commissioner Samson asked if there would be some training and Charles stated there would. Chairman Martin asked if there was a motion to approve and Commissioner Samson said he would so move. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

RELEASE OF BOND TO ENCANA OIL AND GAS USA, INC. – MIKE VANDER POL

Mike Vander Pol presented a memo from Marvin Stephens, Road & Bridge Director for the Boards review indicating that EnCana Oil & Gas (USA) Inc. has tendered correspondence requesting acknowledgment of satisfactory performance under the terms of their road use permit, or overweight permit. Further that the County release their surety and bonding company from all obligations provided pursuant to that permit. Marvin’s department has reviewed the permit. Any work performed in the County right-of-way pursuant to the terms of that permit, as well as the condition of the road that may have been subject to use by EnCana. It is Marvin’s opinion that EnCana has satisfactorily performed all conditions of their permit and there are no potential claims that may be asserted by Garfield County against EnCana under the terms of the permit. It is Marvin’s opinion that the County Commissioners should release RLI Indemnity Company, the surety company, from the terms and conditions of bond number B5862. Commissioner Houpt – I make a motion we release Bond No. B5862 released to RLI Indemnity for EnCana Oil and Gas. Commissioner Samson – Second.

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

NECI CHANGE IN EXHIBIT A, DOLA CONTRACT – APPROVAL FOR FORM IGA AND RATIFICATION OF CHAIR’S SIGNATURE ON GLENWOOD SPRINGS IGA – CAROLYN DAHLGREN

Exhibit A was included in the Boards packet for their review. The changes occur in the budget section, reflecting adjustments in the anticipated in-kind match from local government partners. The total program amount has increased from the original \$3,535,000.00 to a new total of \$3,639,500.00. Counsel is advising the Board they need to ratify Chairman Martin’s signature with an amended Exhibit A. Carolyn stated that the partner and entities came up with additional in-kind services, which changed the bottom line dollar amount of the DOLA contract. What is not clear to Carolyn is if this is likely to change as conversations go forward with each of the partnering governments governing bodies. Is Exhibit A; includes all of the revenue likely to change again. Will the DOLA contract continue to have to be amended if Exhibit A changes? Heather said it is possible. Carolyn stated, what we are asking today, as it turns out Chairman Martin already signed a contract. Carolyn thinks what DOLA has is the old Exhibit A and DOLA does not seem too concerned about this. Carolyn is asking for an amendment to Exhibit A and if this changes does the Board want it brought back on the consent agenda or do you want to give Chairman Martin permission to sign amendments as need be? Chairman Martin - It needs to be on the consent agenda so it is public. Carolyn will talk to DOLA about doing the amendment. She will also alert Jack Kirkland at DOLA if this should occur. Carolyn said we are looking for a motion to approve more money. Commissioner Houpt asked if there was a date on the Exhibit. Chairman Martin - The date on the signature would suffice. Commissioner Houpt – I make a motion we approve the amended Exhibit A in the New Energy Communities Initiative contract as presented. Commissioner Samson – Second.

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

DISCUSSION OF 90 DAY NECI CONTRACT – MATT ANDERSON AND JIM RADA

A memo was provided for the Board on the 90-day scope and budget that was approved by the Garfield NECI Advisory Board at the February 11, 2009 meeting, with adjustments and edits to respond to feedback received at that meeting.

The goals of this proposed 90-day scope are:

1. Build on the \$2 million that CLEER has mobilized
2. Build an organizational structure and procedures
3. Take advantage of grants and private funding pledges
4. Meet the timelines for deliverables as presented in the original grant proposal
5. Effectively deliver on high-profile state programs
6. Build knowledge and action
7. Respond to emerging Federal and State funding
8. Attract additional funding

Matt stated what they are asking is a sole source contract for the 90 days under the emergency procurement procedures. The plan for the 90-day scope is to have a contract in place for them to continue work and it would be detrimental to the program if we were to stop everything and issue an RFP. In front of the Board today is the 90-day scope and it is over \$100,000.00, and Amendment 54 would apply. The plan is to have this contract run from today through May 31, 2009. Ed said his concern is the budget in excess of \$100,000.00. Alice wanted to clarify they did not think the budget was over \$100,000.00. Ed stated it shows \$122,000.00. Alice said this is for expenses beyond CLEER labor. The budget that is \$122,000.00 is specifically to respond to the finance departments request to outline what additional program expenses including equipment and software. Ed asked if that would flow through CLEER and Alice stated no. Matt asked the Commissioners to look at page 13 as it outline the CLEER labor budget of not-to-exceed \$80,000.00. One of the issues they have to deal with when purchasing this equipment is that it will be flowing through Garfield County; therefore, they will be subject to our procurement code. They will be receiving training on this and everything will still flow through Matt. If it is over \$10,000 they will bring it back to the Board. Everything that is purchased should be on a contract if it is over \$1,000.00. Carolyn said we have to be clear that ownership will be in the County; both hardware and software. Matt said they are asking for emergency procurement for 90-days for a not-to-exceed \$80,000.00. Commissioner Houpt asked where all the other expenses would come in. Matt said a lot of this is the actual labor. What they do have in here are several different items they are going to purchase. Normally on contracts, you see this go through sub-contracts, which means we make one payment to CLEER. In this case, we want to have those contracts and those additional costs go through us. The only thing we are paying for in this contract is labor hours.

Commissioner Houpt – I make motion we approve the 90-day contract by the NECI Advisory Board on February 11 in an amount to CLEER not-to-exceed \$80,000.00. Commissioner Samson – Second.

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

AWARD OF CONTRACT FOR THE PURCHASE OF AN 80 BARREL WATER TRUCK – MATT ANDERSON AND MARVIN STEPHENS

This requirement was sent out as an invitation for bid with a response date of February 3, 2009. Seven bids were received and they are recommending approval for the award of contract to Hanson International in a not-to-exceed amount of \$170,760.00. Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

AWARD OF CONTRACT FOR THE PURCHASE OF A BACKHOE FOR THE LANDFILL – MATT ANDERSON AND MARVIN STEPHENS

This requirement was sent out as an invitation for bid with a response date of February 5, 2009. Six bids were received and it is recommended approval for the award of contract to Power Equipment Company in an amount not-to-exceed \$92,856.00. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

AWARD OF CONTRACT FOR THE PURCHASE OF A TANDEM DRIVE MOTOR GRADER – MATT ANDERSON AND MARVIN STEPHENS

This requirement was sent out as an invitation for bid with a response date of February 18, 2009. Five bids were received and it was recommended for approval to award the contract to Power Equipment Company in an amount not-to-exceed \$205,870.00. Commissioner Samson – I move we approve the bid for Tandem in a not-to-exceed \$205,870.00.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

AWARD OF CONTRACT FOR THE PURCHASE OF MAG CHLORIDE – MATT ANDERSON AND MARVIN STEPHENS

This requirement was sent out as an invitation for bid with a response date of February 24, 2009. Two bids were received and it is recommended approval for contract award to Envirotech Services Inc. in an amount not-to-exceed \$480,058.00. Commissioner Samson – I move we award the bid to Envirotech for Mag Chloride in a not-to-exceed \$480,058.00. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

AWARD OF CONTRACT FOR THE CONVERSION OF THE FOURTH FLOOR BREAK ROOM – MATT ANDERSON AND RICHARD ALARY

This requirement is to convert the fourth floor break room into an office space and convert the office space on the second floor into the new break room. It was originally estimated that this requirement would not exceed \$10K so this requirement was formally competed. However, a walkthrough was held and two offers were received. Recommended approval is to award to Farhurst Enterprises, LLC for an amount not-to-exceed \$11,090.50. Commissioner Houpt – I make a motion we award the contract for the new fourth floor project in an amount not-to-exceed \$11,090.50.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

RIO GRANDE COUNTY – VEHICLE WANTED – ED GREEN

Ed received a call the sheriff of Rio Grande County; they have no money and was asking for assistance if we have any cars they could have. Ed said we have a 2000 Explorer with about 130,000 miles on it. If they would auction they would probably get \$1,500.00. Ed is wondering if the Board would be receptive to assisting Rio Grande in this request. Commissioner Houpt felt it was fine. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye Chairman Martin asked Lou Vallario to contact Baca County; they had the same type of issue.

RIFLE CORRECTIONAL FACILITY – LABOR – MARVIN STEPHENS

Marvin said they have been talking with some of the people at the Rifle Correctional Facility, they are trying to barter a little bit. He has some tires that need to be cut-up at the landfill. The correctional facility has a road-a- mill; they have only one truck and no way to haul very fast. Marvin was wondering if they hauled the material for them, they would furnish labor to chop the tires. Commissioner Houpt asked Carolyn if there were any legal issues with bartering. Carolyn said we normally have agreements. Marvin said this was in the early stages and wanted to bring to the Board; they could do a written agreement if you wish. We have used them in the past and they have waived the liability. Chairman Martin said the liability is on the correctional facility. Marvin stated they will have someone there from the correctional facility. Carolyn asked Marvin to have them send over a work plan and Marvin said he would.

ECONOMIC REPORT

Ed wanted to make note that the Board was provided a script for the economic report and asked them to get their input back to Dale Hancock ASAP. Dale stated the production team is scheduled to be on premises March 12th through the 15th and they did not get the script until Thursday after 10:00 p.m. Dale said that he and Ed have reviewed, and Linda sent out Friday, via e-mail, to all three Commissioners. Dale said they had another project that is oriented to economic development. In a recent conversation Dale had with the Vice President of Production, roughly February 20th, they felt we had a lot of good material. However, it is unfortunate that they cannot do more than five minutes. Dale asked if they could look at a ten-minute segment and they are unable due to broadcasting rules and agreements. There is another program aired on FOX called The Art of Living and it is called Lifestyles. It is hosted by Marylou Henner, formally a cast member of Taxi. Dale thought they could have that production crew come back, on scene, sometime in May and do a script oriented to quality of living and the opportunities that people could realize as far as recreation, cultural activities in our County in a different season. They would first focus on business and second on quality of life. The production was shot in March and will probably air in April. It will go to production in May or June and would air in July or August. Dale said it would be a tremendous promotional opportunity to increase tourism in the County. The DVD's which would result from those will be the property of Garfield County. This production would cost another \$19,700.00, and he is asking for approval to start script development for a five-minute piece on The Art of Living show that would run sometime in July or August. Carolyn asked if this does not need a motion. Chairman Martin stated there are two items we are talking about; a request for \$19,700.00 for a second production and the other one is to make sure that we get our input on this script back to Dale by tomorrow. Commissioner Houpt said, we will get the input back and she would like to see a more formal request on the next one. Carolyn asked, individual feedback is going to Dale from each of you but we still have the possibility of a motion regarding money on the table. Chairman Martin stated exactly. No action was taken.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Lou wanted to let the Commissioners know that they have taken a little break from their testing process. They still have some openings; shifts are running better. He wanted to mention that County Sheriffs of Colorado are having their conference June 10 and 12th. It will include sheriffs, commissioners, and judicial district judges. Almost every courthouse is either secured or will be shortly. The conference will be held in Montrose and an invitation should be coming shortly. Lou is working on new programs in the jail; we have someone focusing on jail programs, GED, religious programs, etc. Ed asked if Lou knew they would be meeting on the 17th to discuss big-ticket items in the budget and they would like Lou's input. Ed also stated that Lou will be getting about a dozen new vehicles and it might make sense to recycle the ones coming off the line in your organization. Ed said he thinks they are going to move those into our fleet for a year or two and save us about ¾ of a million dollars a year. Ed stated they are revamping all their motor pool procedures.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Carolyn said she would like to discuss item B; County Road 300 and also to give an update on the Continental Rifle litigation. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried. **Action Taken:** Carolyn said that on County Road 300 intersection, we have land use approval in place, which requires a developer to be responsible for getting a permit for CDOT. Apparently, there has been some engineering work going on in the County that is at a certain level. There are two things that need to be addressed; the process that would be required to amend the preliminary plan if that is what Mr. Strong wants to do, and the second is direction to staff as to whether the County is to continue developing the conceptual plan dealing with County Road 300's intersection with the highway. Commissioner Houpt voiced her concerns over the long-standing policy with CDOT regarding access permits. Many of our citizens have endured the regulations under CDOT to obtain access permits. Mr. Strong has conditions in the approval of his application for an SUP. We have a County policy in place, which refers changes to the Building and Planning Department. Previously, as the minutes reflect:

“Commissioner McCown – I make motion we approve the preliminary plan for the 17.578-acre property on County Road 300, south of Parachute, with the conditions as listed by staff which would mean if those conditions have already been complied with; no big deal, they don't have to comply twice. If you have the documentation no foul, no gain. I am going to leave Number 11 in there; I think that is the one that addresses the access permit. The way I see it, it is a hardship on Mr. Strong because he cannot go out and start building tomorrow; but you do have time between now and the preliminary plan to put some things together and include the County and CDOT and let us know. We don't have anything budgeted but part of that 300 road is the County's responsibility as well.” Commissioner Houpt stated that Commissioner McCown specifically kept the condition in there that would require the applicant to go through CDOT for the access code. That is part of this condition. It does not say the County will take the lead, it does not say that the County will be a partner in obtaining that access permit. It says that the applicant will obtain the access permit. As she understands it, and she asked Fred to please correct her if she is wrong; the new code allows you to come back and appeal or try to change that condition. Fred was requested to clarify the County's policy on the sketch plan, preliminary plan and final plat applications adding how applications are determined to be technically complete. Fred said we could not accept a final plat application because it did not have two things: 1. a pre-application conference, pre-requisite every application; 2. part of this was direction from this Board under Commissioner McCown's motion, that “CDOT permit be obtained as part of the final plat application”. Chairman Martin said for the last 12 years, CDOT has been requesting that the County take over access control and review. Except, the caveat is that the developer still has to pay for that development and CDOT has the final approval of the intersection or the improvement. The County says yes to a land use plan; but not to the overall approved access plan. His policy is the County sits in the middle and decides if they want it to go forward and help design it working with CDOT. Either we are in charge of the access with the approval of CDOT, or we are not. Commissioner Houpt said those were two different issues. The applicant is going to bring a newly proposed policy to us at some point, on the access permits. Secondly, we got involved and spent money on the preliminary engineering report. Chairman Martin said he thinks the request from the legal department is to continue our preliminary review of the intersection 300 and 6 & 24. Chairman Martin - a motion is necessary to make it legal. We use our professional services contract, which we have \$100,000.00 plus dollars in there. We continue to do that under the \$10,000.00 signature policy this Board has set. The motion would be that we allow the completion of that with the intellectual property coming back to us, then sitting down with all the people who are affected and do an analysis and a cost share, and then decide to move forward or not. George needs to decide if he wishes to fulfill that and to design that and use his money to design the intersection to allow CDOT to approve it and the other one is that he may have the option to request a hearing and change his conditions of approval. Commissioner Houpt said she would not agree with that proposal because she thinks what they are doing is giving preference to an applicant over another. We have put some of these applicants through a great deal of work and we just created a district to be willing to accomplish this. Chairman Martin said that is why he included all people affected by the intersection. Commissioner Samson – I will second the motion. Being the newest member on the Board, it would be unwise for us not to go ahead and have our engineering department finish up; 90% of this project is done. Let us give staff more direction and if there needs to be a policy change, we can revisit that. We need to learn from this and we need to correct it. Commissioner Houpt said she would like to get a better understanding of what this motion means. Does it mean the report will be finished, and as she understands it, it is just to be a preliminary sketch, it is not the technical engineer that needs to occur to accomplish this project. Jeff said it is a conceptual plan. Commissioner Houpt asked what does this motion intend the County to do after that report is completed. Chairman Martin stated some options; meet with all the different folks; George Strong would either go forward with an application to CDOT and we will continue our talk with CDOT, and we need to continue talking with Mr. Hicks and his investment in the special district on the north side of this intersection. We need to see what development is taking place south of this intersection, railroad, etc. County Road 300 is going to be developed by them. We need to also address the safety issues there. Knowing those challenges, we need to share that information with everyone and if we go forward, do a cost share analysis, a fair share on the use and the increase of the traffic. The motion is just to finish the project, use it for intellectual information and then sit down with everyone and work out the details. Commissioner Houpt asked what he meant by working out the details. Are we still expecting the applicant to fulfill their responsibility of obtaining the access permit? Is the County taking the lead? Commissioner Samson asked to re-read the motion; she did so and Commissioner Samson asked for clarification. Chairman Martin responded by saying, if Mr. Strong decides to proceed under the new regulations, if he decides to revisit the recommendations or the requirements of this original then he will work with Building and Planning. At that point it becomes a separate hearing

and then we can go back through the land use process and we can change those or leave them the same. Commissioner Houpt said her concern is having part of the motion including sitting down with all of the stakeholders at this point. Commissioner Samson said that would hopefully clear up a lot of confusion by meeting with everybody and getting everyone on the same page. Chairman Martin said that was his intent. Commissioner Houpt asked, what is the project that is being looked at? Carolyn asked when they were planning to get the policy discussion back in front of the Board. Fred said there was a broader policy issue here. There is the specific land use application with the conditions for Mr. Strong. You have to be careful not to blur that with this bigger issue that is County wide, from Parachute to beyond Carbondale. Fred is hoping to come back to the Board with a set of tools, policy points for you discuss, and how you would like to go forward. It will probably be in mid-April. There is a long list of tool available to address this; but it would definitely take a discussion with CDOT, with landowners and the County. It is a much bigger policy discussion than just Mr. Strong. Commissioner Houpt said if sitting down with a stakeholder is taken out of that motion but completing the report is the discussion then she could support that motion. Chairman Martin said it needs to stand because we have too many people affected immediately, including our own road and bridge folks. We need to have that discussion knowing the intellectual properties, knowing that the other folks have done their engineering, their traffic studies, and we will know what Fred is facing at land use. We need to be able to see what impacts we are levying on these folks or not and if CDOT is walking away from this issue and dropping it on us. They are the ones that are really driving the issue on control access plans. The motion is; we sit down with folks after this intellectual property is done, continue the project until its completion and bring it back to this Board for review. Commissioner Houpt asked; continue what project until its completion. Chairman Martin said the engineering project, which is Jeff's. He has 90% done; let him finish the other 10% and bring it back to us for review. Chairman Martin named the folks Mr. Hicks, Grand Junction Pipe, EnCana, George Strong, C-DOT, Garfield County Road and Bridge, Planning Department, Engineering, Administration, BOCC, Frac Tech, and Union Pacific Railroad. All these and other citizens using County Road 300 to cross the bridge, others involved are Dalbo, Williams Energy, Nobel Energy, pipeline companies, etc. Those people are driving that traffic count. Is that going to continue or not, we need to know that? Do we have a bigger issue on both sides of that bridge at County Road 300? We need to know what we are facing and how we are going to approach it. All of these people are included in this conversation, which then leads us to the planning staff, and the legal staff, this is the same type of conversation with developments on Hwy. 82. Carolyn said we do have a motion that has a second on the table, which needs to be voted on one way or the other. Is there perhaps a practical reason to table this until Jeff can bring back the conceptual plan? Chairman Martin said he did not think so because we cannot go forward without this motion. Commissioner Houpt stated we could if you limit that motion. Carolyn said the motion as stated has Jeff going forward as one of four sub-parts to the motion. Commissioner Houpt said she thinks there are three different issues. One, it is very important not to cloud the commitment that the applicant has on this application. If they have two options, they can either move forward on their permit with CDOT, they can work with the planning staff to plan a new hearing that would come before us. We would make a determination on whether they would still have to go in front of CDOT and obtain that access permit. The next thing, there is the interplay with the other projects that are going on out there - travelers and other stakeholders. That is a bigger area plan for transportation. The third component is the countywide policy issue that is going to come before us in April. That will give us more clarity on what role we can play with the County Road 300 area plan. The stakeholder meeting and the discussion on how we as a County are going to start working with developers with access permits are two separate discussions that need to happen separately from this application. Commissioner Samson said the motion addresses the first point about Mr. Strong working with CDOT. Let Jeff Nelson as the engineer complete this with the private engineering. Commissioner Houpt said there was a third component to that, which was bringing in the stakeholder discussion. It is premature to do that before we have seen the report. She would like to see the final report, and she would like to have a better understanding of what various projects might be triggered that the County should be responsible for. This would be a good discussion to have, but not in the context of this application. Commissioner Houpt said she was going to be very frank about her concern on this motion. She agreed that because this report has been started it should be completed. She does not think it should have been started by the County in the first place because the condition of approval said that the applicant would be responsible. She is afraid that if in the same motion we say that this report needs to be completed and we will have a follow-up meeting with all of the stakeholders then the message we are sending to the applicant, and to our past applicants, who have followed our conditions, is we are wavering on this one. We need to keep these separate. If we have a motion that completes the study and directs staff to meet with us on it, then we will have a better idea on how we need to move forward with all of the stakeholders. The applicant will still know that they need to move forward either to amend their application, or to work with CDOT on an access permit. Commissioner Samson asked if Commissioner Houpt wanted two different motions. Chairman Martin stated he believed the original motion includes all of those. We have safety issues because the number of users on this intersection, which would require four different traffic studies. We are negligent by not taking any action and allowing it to stay as status quo. If we hide behind the requirement then George has to do a design and build this intersection before he gets his three-lot subdivision. Chairman Martin stated the County and the State have a bigger picture to look at. The motion is very simple. Make sure we complete this project, use the intellectual property, sit down with the people that are affected there and then learn from that. Then go to a bigger policy question Countywide. Commissioner Houpt said she does not want the message to be sent today that we are changing that original condition in George Strong's approval. Chairman Martin thinks they should decide if this under the new rules and regulations, which would require a change. Eric McCafferty appreciates this being discussed and revisited. He is quite certain, when they were back in executive session, you discussed condition number 11 and Eric wanted to read the condition and did so for the benefit of other people and stakeholders out in the area today. There has been no formal designation making George the designee to apply on behalf of Garfield County. But frankly, they don't want that designation to happen. In the real world if Mr. Strong is made the designate, does anything ever happen? Carolyn stated this sounds like an amendment to an application, or to a preliminary plan and we need to stop. Eric said; I guess we are being shut down in reference to this, but he thought they would probably come back at 1:00 p.m. as they have some other comments relative to your new regulations that make it difficult to proceed forward. He thinks there are some things the Board might like to consider. Chairman Martin said we still have the motion on the floor.

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

Chairman Martin stated it will pass, we will complete the project, bring it back to us, and we will have discussions.

TREASURER'S SEMI-ANNUAL REPORT JULY 1 – DECEMBER 31, 2009 AND PUBLIC TRUSTEE ANNUAL REPORT FOR 2008 – GEORGIA CHAMBERLAIN, TREASURER AND JEAN RICHARDSON

Georgia provided the Board with the Semi Annual Report for the second 6 months of 2009, Property Tax Collection Report (2007 taxes collected in 2008), Treasurer's Fee Collection Report, and the School Acquisition Fees, Sales Tax Reports for 2008. Under the Public Trustee: Annual Income Report 2008, Releases 1982-2009, Foreclosure History 1980-Present, Foreclosures by Cities 2008, Foreclosures by location 2008, Status of Foreclosures 2008 (Pie Chart), and Status of Foreclosures by location 2008 (Bar Graph). Georgia needs a motion to publish this in the Newspaper in the Citizen Telegram, and a copy in the Glenwood Post. Commissioner Samson – So moved. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye Georgia explained what monies were collected on each of her treasurer reports. Georgia asked Tresl and John if five years of information was enough and Tresl stated yes it was. Georgia read the Public Trustee report.

SOUTH BRIDGE PROJECT

Tom Newland stated there was not too much to discuss; they had a fruitful discussion with city council a while back. The direction he received from the meeting was that the Board wanted to continue those discussions with the city council. Tom said they were under the impression they could possibly get some public comment today. Commissioner Houpt agrees it will be most productive to move forward with the City. She is hopeful they will have public comment not only today but also in the next meeting. Commissioner Samson thought it was good to meet with Glenwood City Council and meet many of the council people. His concern is who is going to pay for this. If the three Commissioners were going to give you \$10 million dollars, you would still need \$12 million dollars. If we were shovel ready, it could come from the stimulus package; that isn't going to happen. Where are we going to go with this if there is no money to do the project? Tom said the environmental assessment processes he has been involved with do exactly what we are talking about. We try to come to a conclusion as to what we want to build and then find out where the funding is. Tom believes it is a valuable process to do because it really sets out the perimeters of what the public wants first before we pursue the funding. The NEPA process is to identify what is the best solution for an identified problem. In this case, a problem was identified; the stakeholders met and agreed on what the problem was. They said there are more problems than just the emergency access it is also local access. The NEPA process will look at a no action alternative which would basically do nothing or an alternative of what is the best thing to build if you are going to try and address the problem. It lays out those two things and evaluates then it gives you the answer but it does not say you have to build. The funding is a related question but it is a separate question. Commissioner Houpt said we have some very large applications coming up. It has always raised the question on how we are going to maintain safe transportation corridors if we continue to approve large developments at Four Mile Road and the south end of Glenwood Springs. She has not agreed with the traffic studies the City did along Midland and felt they were softened. She thinks we have hit a dangerous level in terms of use in that corridor some time ago. An avenue that we might be able to take is not only public monies going to a South Bridge solution but also some private funds from development. Chairman Martin said we have to make a decision; do we stay with the scope, do we abandon that earmark, go onto a larger scope, and deal with the multiple issues we have here; or do we focus in and come up with the \$18 million dollars to build this bridge and get it done? Mr. Janis says he can have it done by the middle of September this year; up and operational if we just give him the money. We have a timeline on this particular scope and that is September 2009. We have either to commit to this project or not to spend the money. We need to make sure we have the funding in place so we can report back to Congress to get the rest of the money that is to be refunded; after we spend up to \$5 million dollars. Do we go on or not? If we abandon this particular earmark and have to come up with the \$18-20+ million dollars, it will not be just one bridge it will be multiple bridges. Time is running out, we have been doing this since 2004. Commissioner Samson said that is a bypass; it is not just an evacuation route and there is going to be a lot of traffic. He knows the County does have some burden; but there will be a tremendous increase of traffic to the City of Glenwood. Chris Janis stated he is just a concerned citizen. The funding is there now to get it shovel ready. Many people in the community have participated and there is a lot of argument on what was decided. We need a bridge; there has not been a new access route for thirty years through here. Traffic is backed up to Rifle in the morning and coming home it is backed up to Buffalo Valley. Something needs to progress; we have some funds to take us into the next step and get it shovel ready. No one knows what is going to happen next year; but the way it is going, there might be a couple of more trillion dollars on the table to grab. Chris feels there has been no concern for the majority of our population for quite some time and South Bridge addresses the majority of our community. Commissioner Samson said he agrees with most of what Mr. Janis said. But, he is still concerned about putting all this money, time and effort into a project that will be shelved for ten, twenty years. We have a plan and he has seen the ones developed in 2009, and nothing gets done because there is no money. People fight over what the routes will be and things go on for a decade. Guess what will happen in 2019; we will have to start from scratch again because we cannot use the plan we developed in 2009. Jim Campbell agrees this is a bypass not an emergency or a local access route. We only have one river that runs through this valley. We have a wonderful chance to really screw it up. In our lifetimes if we build one bridge that will be the last bridge that we build. We had better do it right and we had better make sure we are doing it for the right reasons. The reason is not to provide local access. The reason is to take care of an estimate of 17,000 cars along Midland Avenue. That is not what the earmark was for. If we are going to do it, let's take a look at exactly what we need and approach it from that direction rather than the smoke screen of local access. Commissioner Houpt said from her perspective there would have to be a way to make sure it is not a bypass because she would not support putting money into something that would draw more people on Midland. Chairman Martin said that at that point it looks like they will have to expand the scope. He does not believe they can change the earmark; however, we can always ask.

ASSUMPTION OF THE DEFAULT WOOLDRIDGE AIRPORT LEASE BY BOB WOODWARD – JOHN HARRINGTON – BRIAN CONDIE

The request presented to the BOCC is between Robert Wooldridge and the County for an Airport parcel to build a 10,500 square foot hangar at the airport. The hangar will be for Mr. Wooldridge's aircraft and one or two other light or medium Jets or Turbo-props. Carolyn explained this was actually noticed as a public hearing and the applicant has provided proof of publication. Chairman Martin swore in the speakers. John Harrington and Bob Woodward were also present. Carolyn explained the underlying lease is arguably in default. She and Brian were getting ready to do a default notification to Mr. Wooldridge. Mr. Wooldridge said he would like to take on this lease and build another hangar. If you approve his application to be a private hangar operator, we would be asking to amend the underlying lease to give further time to get the construction going, completed, and then assign that lease and operating agreement as amended. Brian and the contractor will tell you how long it will take to get ready and how much longer they need to extend the lease. Brian - Mr. Wooldridge came in 2007 and acquired the lease. He was supposed to have the hangar up by October 2008 and was unable to accomplish that. Talking with Mr. Wooldridge, he wanted another shot at achieving his goals

and missed his deadline. Brian explained how Mr. Woodward came to him to take over Mr. Wooldridge's lease. This is a private hangar lease starting October 8, 2007; twenty years with the two-year tenure rule. Brian explained the dimensions of the building and the proposal. The hangar was approved before the water issue came up and was included in the authorization to bill. Brian made public notice regarding the parcel. John Harrington explained the hangers he built for Mr. Woodward at the airport and talked about completion for the end of July. Brian has no objections and would recommend that Mr. Woodward be allowed to assume this lease and have an extra six months. Carolyn showed a map and asked if it was the site plan that was to be approved and Mr. Woodward stated yes. Carolyn asked Brian if the lease parcel would be larger and Brian stated correct. Carolyn said they would need to amend several sections of the underlying lease. Carolyn asked the Commissioners if they wanted all documents back on the consent agenda. Chairman Martin stated if it goes through approval he thought that would be fine. Commissioner Houpt – I make a motion to close public hearing. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye Commissioner Houpt – I make a motion we approve the amendment of the underlying lease with Wooldridge to Whiskey Delta with the amendments adding an additional six months to the construction period and adjusting the land use fees to compensate for the size of the building. Commissioner Samson – Second. Carolyn said she thinks the six months is a bit of a misnomer because October 31 was the deadline under the old lease. Commissioner Houpt said lets adjust it from October to the end of July 2009. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye Carolyn said the assignment would be of the lease and operating agreement as you just amended it to Whiskey Delta. Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Grants – Sales Tax Recovery Distribution
- f. Authorize the Chairman to Sign a Resolution for National Forest Reserve Payment – Lisa Dawson
- g. Authorize the Chairman to Sign a Resolution of Approval for the Potter Exemption to Allow for the Creation of Two New Parcels and the Remainder parcel – This Site is Located One Mile South of the I-70 Exit at Rulison at the Intersection of County Roads 320 and 323 – Applicant; Samuel Potter, Jr. – Kathy Eastley
- h. Authorize the Chairman to Sign a Special Use Permit for an Automotive Services Station, Specifically a Card Lock Fueling Station Located on Hwy 6 & 24 West of the City of Rifle and Approved Under Resolution 2006-67 – Applicant; GILCO, Inc. – David Pesnichak
- i. Authorize the Chairman to Sign the Mylar for the Steele Subdivision Exemption, First Amended Plat on Mitchell Creek Road – Applicant; Wesben, LLC – dusty Dunbar
- j. Authorize the Chairman to Sign a Conditional Use Permit for a Museum/Library – Applicant; Kimiko Powers – Fred Jarman
- k. Authorize the Chairman to sign the 2009 Community Services Block Grant for Senior Transportation – Lynn Renick
- l. Authorize the Chairman to Sign a Purchase of Services Agreement – Animal Shelter – Lou Vallario
- m. Authorize the Chairman to Sign School Resource Officer Agreement – Lou Vallario

Carolyn had a question on letter l. Chairman Martin said the contract says \$475,000.00; it has nothing to do with the spay and neuter, he asked if he was correct. Did we have an agreement for spay and neuter, or did that go away? The question last year was what we adjusted for this one, it identified certain dollars to go to spay, and neuter, but it does not have it in this one. At this point, there is no spay and neuter clinic. Chairman Martin asked to table this until the March 17 and make sure we get an answer from the Director. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - m; except for l. Motion carried.

COMMENTS FROM CITIZENS NOT ON THE AGENDA

Eric McCafferty had some handouts for the Board and stated he was here representing himself as a professional planner. These items came up in the review of Mr. Strong's final plat application for his subdivision. Eric received a letter from Garfield County's staff planner that said; all applications require a pre-application conference. It also says this on your website and he does not see that in the County regulations. To clarify that Section 4-103 states unless otherwise provided by these regulations, a pre-application conference is required. Eric went through the County's new code and in many cases, the pre-application conference is required and states so in your regulations; but in other cases, pre-applications are not required because it is not stated in your regulations. What Eric is asking; which controls your new land use regulations, or just some posting on your website? Eric said he did not mean to be flipping about this; but he can post a website that the sun rises in the West and sets in the East, but it does not make it true. Eric referred to a handout. Administrative review process the first item, pre-application conference, he agrees that is required. It then goes on to application page 2, impact review process, pre-application process. We keep going through this major impact review process – pre-application conference. We can keep going through; you will see a star where it says pre-application conference and then under the subdivision review process; 5.301 on (his) page 6. Eric continued to go through pages and repeated there were pre-application conferences. Finally, to page 13; 4-302 here is an appeal of administrative interpretation of these regulations; outline of process and the very first thing says application it does not say 'not pre-application conference'. These are your regulations and these are what control over your website. If a pre-application conference were required, it would be step one in this process. Here is 5.301 again; pre-application conference; subdivision review, then sketch plan review, number one application not pre-application conference on page 15. Commissioner Houpt asked; isn't that sketch plan also sub-paragraph of the subdivision review process, it says optional. So isn't that just describing what that is? Chairman Martin said you then have to go to 5.302, which is done to show the definition and the process of that one. In 302, it does not have it in there; that is your point, because it needs to be in there consistently. Eric said absolutely and he continues to point out items that say application not pre-application conference. Eric talked about the flow chart for presumably the entire subdivision review process. The very first thing says pre-application conference. The way he reads it you get started with this process, you are required to have a pre-application conference, by the regulation. Yet when you talk to staff they say okay well this is the way we are going to treat it. We move on through the other required steps and on page 19, it says preliminary plan review; it just says application. It does not say anything about another pre-

application conference. Eric said he brings this up because our final plat application was boxed up and sent back to him without any kind of discussion. Eric said they always had the opportunity to review regulations or make an appeal by an administrative interpretation of these regulations, presumably to the Board of Adjustment. Eric reviewed the Section 4-302 of the second handout; Eric read the Section. Eric said that the new regulations do not have any kind of provision to have any kind of staff interpretation appeal. Eric feels this is a big problem. Chairman Martin said the appeal process is supposed to go to Board according to the original conversation. Fred Jarman felt he could add clarity to this. Going back to the pre-application concept, this endeavor, when the code was written and the concept was instead of having people jump into a process without any advice/direction from staff to help them get through it quickly and understand what red flags might come up; they incorporated the idea to have a pre-application conference with the planners hoping to get them through the process. You agreed and put that in the regulations and it was intended by you clearly for every land use change that the County does. Eric did a good job pointing out where those are. The main umbrella caveat 4-101, which on page 4-1 says, the review process for land use change requests. Everything that someone wants to do in Garfield County you have to do a pre-application conference. That is the umbrella requirement. It is reiterated through the code in some parts; it is omitted by mistake in other areas. Two things we are trying to do; one is to correct a lot of this. They are processing a fairly substantial list of changes and this is helpful for us to get through those. This will catch up with the ten that you have for every land use change. Every application is a discrete stand-alone application. There are a number of misrepresentative things in here; it is hard to catch all of those. We learned from the people who use this code and got some help. We are actively pursuing the changes for those. One of the examples that came up was the flow charts; they are real challenges and we are trying to clean those up. There may be a statutory process for appeals and the role of the Board of Adjustment. The role of the Board of Adjustment did not magically disappear because we adopted new regulations. The appeal of an administrative decision will still go as an interpretation to the Board of Adjustment. Chairman Martin said under exemptions from pre-application procedures; there is a request there that says the board will review upon request, an exception from any and all provision of the pre-application procedures within 40 days. If we get a letter saying, we wish to go beyond that we do not want it, why do you force them into doing it. Fred said the way he reads Section 4-302; is as simple as it is, as it is stated. Fred read the Section. It lays out the process pretty clearly. Eric stated, no it does not, there is no process. Refer to 4-37, which refers us to Section 402, which is the review criterion. If we had a pre-application conference he guesses they would hand to them, which would probably come right from the regulations, and it is not in here. On item number 4 on 4-37, it sets a process by which one could have a Board of Adjustment review its application. Eric said your new code does not codify the process. So, he can make it up as he goes along, which is really my complaint. When you go back to 4-103, unless otherwise provided by the regulations why should we be subjected to that? As someone who has to work with the regulations he would like to know what the regulations say, not what someone interprets them to say. If you do not have a specific process in your regulations or if you give exemption from it then why should we be subjected to it to begin with? Chairman Martin said if he wants to get out of pre-application review; he should be able to I'm sorry, I don't think I need it and go forward. Eric said which is exactly what the regulations allow for; but that is not what the website allows. Fred said he totally disagrees and this is not the venue for a debate or an argument. Fred thinks the regulations are pretty clear. There is a process for an interpretation, a process for an appeal of what Fred's office has to say, it goes for adjustments pretty clear. We absolutely packed up that application because they did not have a pre-application conference. In that box, they also tendered a letter that described why it was sent back. Not only in the letter did we tell them what they needed for a pre-application conference; we also outlined a few of the issues the application had as a courtesy helpful review. Fred said he is not sure what else he can do to help them; apparently, Commissioner Martin has a different opinion on what these regulations say. Commissioner Houpt said I know what we adopted and there were different pieces that people agreed with; but she does not remember that pre-application conference being controversial. It was put in there as a tool to assist applicants so that they could walk through the process in a timelier manner. Chairman Martin said he agreed. If it is a usable tool for them if they choose not to they should not be penalized for not using every tool in the toolbox. Fred said, perhaps you may want to revisit this when we look at those, to make that pre-application conference a discretionary item on behalf of the applicant. Your regulations do not tell you that right now. What it did do, as you remember is punted as an option in the sketch plan? If we talk about this just as subdivision world process, you agreed instead of doing a required sketch plan review that you would do only pre-application conferences. Chairman Martin said it could be optional, and I agree it should be optional. Fred said that might be perfectly fine; he thinks they should write that in the regulations if you want to go that route. Eric said when he looks at a regulation that says; here is Section 4-302 and it refers you to a Section that has absolutely nothing to do with the administrative interpretation of these regulations, then there is certainly something missing and probably something certainly wrong with your new code. Commissioner Houpt said they would probably be catching these things for a while because it is a new code. We appreciate it when people point those things out. Eric said you have worked on this thing for six years and I certainly would have hoped it would have been ready for prime time to give the regulated public at least some guidance; some review criteria about how an application is to be handled. If he went to the planning office tomorrow about this, Fred would have to make it up. It is not codified and it needs to be. Thank you for your time.

CONSIDER APPOINTMENTS OF COUNTY CITIZENS TO THE GARFIELD COUNTY PLANNING COMMISSION – FRED JARMAN

Fred Jarman presented a list of regular memberships and associate memberships on a breakdown of openings for the Garfield County Planning Commission. Based on the breakdown, five regular memberships need to be filled. Staff advertised for these positions in the Glenwood Post Independent for five days in January 2009. As a result, staff received six written requests for appointment and Fred named them in his letter. Staff recommends the Board appoint Lauren Martindale and Bethany Collins as they bring very qualified and differing backgrounds that are not represented on the current commission. There are three current members asking for reappointment. Staff recommends the Board re-appoint those current members. Staff also recommends the Board appoint two current "associate" members, Shannon Kyle and Adolfo Gorra to regular memberships. The following is the new breakdown:

Regular Member:

1. Phil Vaughn – Rulison
2. Jock Jacober – Glenwood Springs

3. Cheryl Chandler – Silt
4. Bob Fullerton – Carbondale
5. Sean Martin – Carbondale
6. Shannon Kyle – New Castle
7. Adolfo Gorra – Glenwood Springs

Associate Member:

1. Greg McKennis – New Castle
2. Lauren Martindale – Carbondale
3. Bethany Collins – New Castle

Fred's recommendations are as above. Commissioner Houpt - I make a motion we reappoint Jock Jacober, Bob Fullerton, and Sean Martin as regular members, and appoint Shannon Kyle and Adolfo Gorra as regular members, and appoint Lauren Martindale, Bethany Collins, and Greg McKennis as associate members. Chairman Martin wants to debate the associate members; he agrees with the others. Commissioner Samson said he has a problem here. He knows you cannot get people to serve if they do not put in an application; but he only sees one person from Rifle. His concern is that Rifle is the largest municipality. He is concerned because the comprehensive plan; once adopted, we as a Board have to follow that, correct? Chairman Martin stated it was a tool. Fred said that is correct. That is the purpose of the comprehensive plan. The planning commission is the board that crafts it and brings it to the Commissioners and you ultimately certify it. It is intended to be a land use guide. Commissioner Houpt said that is also, why you do a very comprehensive planning process; it does not just involve these people on the planning commission. You go to the various municipalities and you gauge people from every community. Fred said there were two things that applied; primarily that the process of the comprehensive plan we think is going to go through. But the idea is that you have a very participatory process that engages the entire community. The second piece, we are hoping to put together a more focused citizen action group, even beyond the planning commission that is geographical. So that you have a broad base opinion. Fred said they did publish in the newspaper for a week, and it is very tough to have people sign up. Commissioner Houpt asked when this would happen again, next year. Fred said that in this case it would be December 10, 2009. Chairman Martin stated the motion did not pass for lack of a second. Let's do regular members. Commissioner Houpt – I make a motion we reappoint Jock Jacober, Bob Fullerton, Sean Martin, Shannon Kyle and Adolfo Gorra as regular members on the planning commission. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye
Commissioner Samson asked if it would be appropriate to invite them in. He stated he does know two of the people; the other five he does not have a clue who they are. Fred said he did not know of any reason they could not do that as a Board. Commissioner Samson wanted to preface his remarks; it is not that I am trying to disqualify anyone, but feels inadequate in making a decision, as he does not know anyone. Commissioner Houpt said that this is the best process she has seen come forward. We are looking at their professional backgrounds. In the past, there have been some loopholes; now we have two people come forward who have land use backgrounds, which we never had before. It has always been construction or real estate primarily. Chairman Martin said, here is the second motion regarding associated members and that is Greg McKennis, John Kershner and Kevin Wasli from Glenwood Springs, who practices in Carbondale, be there and that is his motion to put them on as associate members. Deb wanted to clarify that Mr. McGinnis's term is not up. Chairman Martin said then John Kershner and Kevin Wasli. Commissioner Houpt said that one thing they have to be aware of is our staff works very closely with this group. It is much easier for our planning director to know where the needs are on this planning commission. Granted the area residents are not all represented, it never has been since she has been on the Board. She thinks they need to look at people's qualifications especially since we are working on the comprehensive plan, and especially since that comprehensive plan is going to include focus groups from every community involved. Chairman Martin stated unless John's on there, Rifle will not be, and that is your largest metropolitan area. Commissioner Houpt said she is not talking about the planning commission; she is talking about community members who are going to be engaged. Commissioner Samson said he is not going to second that either. Commissioner Samson said I would move that the staff set-up some time that the Commissioners could meet some of these people, and get to know them. Chairman Martin asked the associate members. Do you want to invite them in for a face-to-face meeting? Commissioner Houpt said the prospective members would be Lauren Martindale, Kevin Wasli, John Kershner and Bethany Collins. Commissioner Samson said those are the four he wants to meet and that is his motion. Fred asked if you would prefer to have them here in an open setting. Deb would prefer an open setting. Chairman Martin said I would second the motion and have it put on the agenda. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REQUEST FOR AN EXTENSION TO FILE A FINAL PLAT WITH GARFIELD COUNTY FOR PHASE III OF IRONBRIDGE PUD – APPLICANT LB ROSE, LLC REPRESENTED BY BALCOMB & GREEN – FRED JARMAN

Tim Thulson was present. LB Rose Ranch, LLC requests the Board to grant a 1-year extension to file their final plat for Phase III of the Ironbridge planned unit development (PUD) which is the last and final phase. The Board granted a preliminary plan approval on March 10, 2008, which will expire on March 10, 2009. The County's Subdivision regulations on 1984, as amended provide the Board with the authority to grant 1-year extensions. The County's new land use regulations do not prevent the Board from also granting extensions. Staff recommends that the Board grant LB Rose Ranch, LLC a 1-year extension to file the final plat for Phase III. Fred said it is within the Board's ability to grant for a full year. In this case, they have asked you as a commission to do that prior to their existing approvals expiring. The only issue they really looked at, with the size of this subdivision, does this get sideways with the overall phasing plan of that development, and in this case that this extension will still fall within the bounds of your approved phasing plan. Staff recommends you do grant the approval. Tim Thulson said he had nothing to add except that Rose Ranch is filing for bankruptcy; they are in Chapter 11. Deb Quinn is familiar with the filing. Commissioner Houpt – I make a motion to grant the one year extension to LB Rose Ranch, LLC to March 10, 2010, to file a final plat for Phase III at the Ironbridge PUD. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER REFERRING A SPECIAL USE PERMIT FOR THE SCOTT GRAVEL PIT LOCATED EAST OF RIFLE, COLORADO TO THE PLANNING COMMISSION – APPLICANT; RIVER'S EDGE, LLC REPRESENTED BY LEWICKI & ASSOCIATES – FRED JARMAN

This property is located in the "Rural" zone district and includes gravel extraction in the 100-year floodplain. The applicant pursued an SUP in 2006, which was discussed by the Planning Commission but failed to proceed to the

Board. That plan included the following general extraction activity. (Staff recommended denial of the application based on: 1) Inability to demonstrate a 0.00 rise in the 100-year base flood elevation of the 100-year floodplain; 2) that the proposed mining areas 2 and 3 fall with a ½ and ¼ mile bald eagle nest buffer; and 3) Inability to effectively mitigate visual impacts during mining.) The applicant withdrew that application and has returned to request approvals for a different site plan, which Fred provided. Note; this application is being processed under the Zoning Resolution on 1978, as amended (known as the Old Code.) Staff recommends the Board refer the application to the Planning Commission in order to obtain a recommendation. Fred said he had a verbal agreement from Greg Lewicki and he did not have any issues. Chairman Martin has a letter from a surrounding neighbor and it needs to be part of the application review process. Commissioner Houpt – I make a motion we refer this application to the planning commission in order to obtain a recommendation. Commissioner Samson – Second.

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

CONSIDER A SPECIAL USE PERMIT FOR A COMMUNICATION FACILITY LOCATED APPROXIMATELY 17.5 MILES NORTHWEST OF THE TOWN OF PARACHUTE AND WEST OF COUNTY ROAD 215 AND OPERATED BY MARATHON OIL COMPANY – APPLICANT; OXY USA WTP LP – DAVID PESNICHAK

David Pesnichak, Deb Quinn, Lorne Prescott from Cordilleran and William (Bill) Coleman from Marathon American Oil were present. Deb 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 Steve Anthony of the Garfield County Vegetation Management, dated February 12, 2009 and Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department, dated February 2, 2009 and, Exhibit H the power point presentation today.

Chairman Martin entered Exhibits A – H into the record. Planner David Pesnichak explained:

The Applicant is proposing to construct one, seventy (70) foot tall communication tower to support oil and gas operations in the area. The site will be on a 10,303.37-acre parcel, which is already used by the Applicant for resource extraction operations. The tower is proposed to be located on a 400 square foot concrete pad and will have a self-contained electrical supply. This facility is proposed to be unmanned with no exterior lighting. As this application was deemed technically complete prior to December 31, 2008, this application has been reviewed in accordance with the Zoning Resolution of 1978, as amended. This application was brought to the BOCC regarding referral to the Planning Commission on January 9, 2009. The BOCC elected not to refer this application to the Planning Commission.

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 for one Communication 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) 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) 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) That all proper building permits are obtained for the structures associated with the operation of the Communication Facilities, if any.
- 6) 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.

Lorne Prescott thinks that staff has accurately reflected the application and the intent. The only point he would like to add, based on Dave's comment, the propane is designed to power thermoelectric generator for the facility in solar array in an event that system fails. Commissioner Houpt asked, we would like to see people make an attempt to co-locate, was there any location of a communication facility in the area that would have been a suitable co-location instead of sighting a new facility. Bill Coleman stated on their previous two applications they have done that and there was not one they could co-locate on, but as asked, we will keep it open for co-location from other folks if they would like too. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Samson – I move to approve a special use permit for one communication facility on property owned by OXY USA WTP LP, operated by Marathon American Oil with the six conditions provided by staff.

Commissioner Houpt -Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD IN THE ARRD ZONE DISTRICT – APPLICANTS; ROGER AND SHERRY HARRIS, 0536 ODIN DRIVE, SILT – DUSTY DUNBAR

Dusty Dunbar, Deb Quinn, Mike Christianson and Jillene Christianson were present.

Deborah 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 Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended (the Zoning Code); Exhibit D – Application; Exhibit E – Staff Report; Exhibit F - Staff Powerpoint Presentation; Exhibit G – E-mail with attached comment letter from Garfield County Road & Bridge Department Administration Foreman Jake Mall, dated February 3, 2009; Exhibit H – E-mail with attached comment letter from Garfield County Vegetation Management Department

Director Steve Anthony, dated February 12, 2009 and Exhibit I – E-mail from Burning Mountains Fire Protection district, Assistant Fire Marshall Orrin Moon, dated February 18, 2009.

Chairman Martin entered Exhibits A – I into the record.

Planner Dusty Dunbar explained: This application was deemed ‘technically complete’ before December 31, 2008, and hence is being considered under the ‘Old Code’, the Zoning Resolution of 1978, As Amended. The application is to consider a Special Use Permit for a Contractor’s Yard whose main purpose is store heavy equipment on a residential property in the A/R/RD Zone district. The Applicants seek permission to utilize a small portion of their property for parking heavy trucks, trailers and implements, and continue to utilize an existing enclosed garage for storage and minor repair. Roger and Sherry Harris operate R & S Trucking. No employees work on-site. The employees that are assigned to drive the equipment to the site arrive and park their personal vehicles or carpool vehicle in an area of the surfaced drive, then drive to job sites with the equipment. (Once the equipment is on the job site, it generally stays on the job site and employees commute to the job site rather than 0536 Odin Drive.) If the vehicles / equipment are not stored at the job site, or if it requires minor repairs, it returns to the residence. The equipment is parked on a surfaced area of the parcel lot, and the driveway off Odin Drive is hard-surfaced, as well. The company owns the following equipment (in additional to equipment solely used to farm the fields on the parcel):

- 7 tandem axle dump trucks,
- 1 single-axle tractor for hauling equipment on a trailer,
- 2 backhoes (Model 416 Cat and 420E Cat)
- 2 track-hoes (Model John Deere 50 & 135) and
- 1 equipment trailer.

The trips generated from the site vary; there is more activity during spring/ summer/fall, and less during winter. (During winter, it is estimated that 2 of the 7 trucks are going out, as opposed to the full compliment during the rest of the year.)

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Contractor’s Yard” with the following conditions:

1. 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 comply with all performance standards identified in §5.03.07 and §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
3. The use of the site shall be between the hours of 6 a.m. and 7 p.m. daily.
 - a. Volume and sound generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute (CRS) 25-12-103, except as detailed in (b).
 - b. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors, vapors, vibration or glare beyond the property boundaries will be conducted within the building, and those activities that cannot be performed inside the structure shall be in compliance for those residential standards in CRS 25-12-103 and performed during the hours of 8 a.m. to 5 p.m.
4. The truck and equipment storage area shall be limited to that depicted in the application.
5. To assist with the general plan for screening, a plan for both the succession of the existing trees forming the screen and the trees to complete the screening on the south shall be submitted within 30 days of hearing, and additional browse-resistant trees no less than 4 feet in height shall be installed within 90 days of permit. Trees not surviving shall be replaced.
6. All requirements of Garfield County Road and Bridge shall be met, including the installation of a stop sign that conforms to the MUTCD, and all vehicles shall have proper oversize/overweight permits, applied for and issued at the Road and Bridge Department.
7. Loading or unloading equipment in the Garfield County right-of-way is prohibited.
8. The number of vehicles and pieces of equipment listed in the application shall be the maximum permitted with this Special Use Permit, those being: 7 tandem axle dump trucks, 1 single-axle tractor for hauling equipment on a trailer, 2 backhoes, 2 track-hoes and 1 equipment trailer.
9. No materials and wastes shall be deposited upon the property in such way that they may be transferred off the property by any reasonably foreseeable natural causes or force.
10. The Applicant shall prepare and submit a Spill Containment and Cleanup Management Plan (SCCMP) to utilize Best Management Practices, shall implement the plan in conduct of this permit to meet all local, County, State and Federal regulations and comply with CRS 30-20-105, as well.
11. No more than 100 gallons of oil in conjunction with this use may be stored on site at any time. That accumulation must be stored in a labeled container that meets the requirements set forth in all local, State, County and Federal regulations for the proper storage of used oil and other chemicals. The containers are then to be stored inside a properly sized safety vault that serves as a containment basin and meets any required containment and spill management requirements set forth by Federal, State, and County and local regulation to prevent spills onto the property and beyond.

Commissioner Houpt stated that she is trying to remember in the past how we have responded to applications where the covenants are specifically contrary to the application that is coming forward to us. She does not have any recollection of ever approving an application that we had some kind of letter from the homeowners association. Chairman Martin said there is none in this particular case. There have been no regular meetings that he knows of that is even addressed in the report, there is no activity whatsoever. If there were a complaint, by the adjoining owners, then they would have an action on covenants that they would have to take to district court, not in front of this Board. Chairman Martin said there was another covenant issue on Missouri Heights, allowing accessory dwelling units; we approved that and then the homeowners association changed the rules and regulations. Grass Mesa did the same thing after we took action. It is up to the homeowners association to enforce those. Deb said, in connection with this particular application, as Dusty pointed out these applicants did not realize until after they were in the process that there were some issues related to the platted subdivision. Deb has copies of minutes from this Board going back to 1971 where the Board did approve the plats for the various filings of this subdivision. There is

no question it is a platted subdivision. Unfortunately, your regulations for industrial uses, Section 5.03.08 on storage of heavy equipment, indicates that it will only be allowed if it meets the following standards. The one that Dusty pointed out has not been met; it is not a platted sub-division. Chairman Martin stated the plat was done in 1971 and the rules and regulations were not until 1978. Deb said; but this Board did approve that sub-division and was platted and recorded in the Clerk and Records office. Chairman Martin said he understood but he thought Deb was obligating something that was platted seven years ahead of time before the rules and regulations. Maybe look at that as grandfathered in the project. Deb said she has not looked at what was in place with the County; but she knows from the minutes that it was brought to this Board for approval and it was approved and platted and filed with the Clerk and Records office. Commissioner Houpt stated, you are saying our regulations do not allow this use. Deb said unless the Board is in agreement with Chairman Martin that for some reason this is not a platted subdivision. This Board has made this decision in another instance, and that was for the Morrisiana Mesa, approved back in 1910 or 1920 and there were no minutes in connection with that. Chairman Martin also brought up other subdivisions, which they looked at the same issues and said they did not apply. Commissioner Houpt said, but these have minutes. Dusty stated this has been in process to try to gain a permit for something that has been going on in the neighborhood and there is another commercial use in this same neighborhood. You can apply any kind of condition at your pleasure, and perhaps a condition that says they need to satisfy their covenant restrictions in order to proceed with this use. You are granting the use, which is your choice to do. Commissioner Houpt said, but it is not according to Deb. It is totally separate from the covenants. Chairman Martin thinks that one way they can resolve that is for the special use to come into compliance, it has already been there and it stays with the person that has it right now; but is not transferrable if the property is sold. If he goes out of business, it is done. Therefore, you put your rules and regulations in again making a formal action; but again to have it there, bring it into compliance we put this provision on them before. It is only good for the present property owner. Commissioner Houpt asked how we do that. Do we have to say this is not platted? Deb said you could find it is not a platted subdivision under our regulations and you may proceed. She feels unless the Board makes a finding that it is not, and Commissioner Houpt asked how we could do that. Chairman Martin said that the rules and regulations of 1978 did not apply in 1971. Commissioner Houpt said, but it was a platted subdivision that was approved in 1971. Chairman Martin explained not under the same standards and the same requirements. Commissioner Houpt asked, would we be doing the same thing from here on out now that we are adding a new code and everything is defined. This is a terrible situation. Chairman Martin stated it is called new rules and regulations. Deb said this is our old code and Chairman Martin said he understood. Commissioner Houpt asked if this would be allowed in the new code. Deb stated she did not know the answer. Commissioner Houpt wanted to know if they objected to continuing this until they get an answer. Continue it to our next meeting so that we have a really good understanding of our legal alternatives. She does not want to send them out without an application after everything they have been through. But we are being told by our attorney that this isn't possible. Chairman Martin said it was up to their determination and if it is risky then you are subject to a challenge, a 106 action and it goes to district court. The court may say there was a mistake made; reconsider. Commissioner Samson asked why we do not try to get it right the first time. Jillene replied that there is another piece of property where they have gotten a special use permit and everything is fine. Chairman Martin said the same issue is there; we could have made an error, it is challengeable for a 106 action. That is why we put in the provision that it only sticks with the original property owner. Fred Jarman stated the question you posed was with the same regulation being in place with the new regulations and the cases as he reads it that is true. So if the old regulations and the new still talks about the storage area for uses not associated with natural resources, it's alright that they have a minimum lot size of five acres; they are not platted, not within a platted residential subdivision shall be required. Fred referred to page 7-127. Chairman Martin asked do you see the same type of argument in reference to a right-of-way because we have to accept a right-of-way in a formal process. Commissioner Houpt stated, we knew in '78 and this time around, that subdivisions existed. Chairman Martin stated this was in '71 and Commissioner Houpt said she knew. Roger asked, basically what you are saying is that if law would have been pointed out before we started this, and spent all these thousands of dollars, we wouldn't be here today. Commissioner Houpt explained that was what she was hearing, and it bothers her. Roger said it bothers him too; it is a lot of money. Commissioner Houpt said she would like to continue this so we can independently look at what kind of solutions there might be. Roger said it is either no or let you do your thing. Chairman Martin said you could challenge the delay and ask for a decision today. Fred explained to the applicant that he has an option; this Board can continue the matter so they could look at other options that may be available. This gives you the time. Deb said they could, given the discussion today, have the staff look at the definition of a platted subdivision and see if there is any room for interpretation as the Board seems to want to find. Chairman Martin said the definition has changed with every rule change and he thinks that they will find in '71; it is different than in 1910 and 1901, which is going to be definitely different in 2009. Which rule are you going to apply? When they did their subdivision, which rules? Will you take the 2009 rules to make sure that 1971 subdivision requirements are met? Well they cannot do it; so you have to undo that subdivision because it does not meet today's code, and that's the problem you have. Commissioner Houpt said it sounds to her that they will do a global look at that. She asked applicant if March 16th would work and they stated yes. I will make a motion to continue this hearing until March 16, 2009 at which time we will take it up again. You do not have to go through the noticing again. We will just continue and start where we left off. Commissioner Samson – Second.

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

Commissioner Samson said he hoped they did not have to reinvent the wheel. He wanted to know if there were some precedents in other counties that we could draw from. Deb said part of this depends upon our own regulations and then applying that to law. Deb said that staff said this did not meet this condition of our code. Our code does not give you any discretion based upon staff finding. What our code says was the basis for her advice. You cannot approve. We will come back and look at that issue further to see if perhaps it is not a platted subdivision, and then it meets our code definition. We will get that advice to you in executive session before the next meeting.

Dusty wanted to add this was in response to a code enforcement action.

CONSIDER A REQUEST FOR EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR A PROPERTY LOCATED NORTH OF THE CITY OF RIFLE ON COUNTY ROAD 226 – APPLICANT IS SEEKING TO OBTAIN AN EXEMPTION OF RECORD AS A RECOGNIZED CREATED PARCEL FROM A 1979 PROPERTY SPLIT – APPLICANT: AARON DALER AND KRISTINA SWANSON – SCOTT HALL

Scott Hall, Deb Quinn, Melody Massy, Kristina Swanson and Aaron Daler were present.

Deb 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 Scott Hall submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Proof of Mailing; 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 – PowerPoint and I – E-mail from the Garfield County Road and Bridge, dated February 17, 2009 from Jake B. Mall.

Chairman Martin entered Exhibits A – I into the record. Planner Scott Hall explained: The Applicants request approval for an Exemption from the Definition of Subdivision to formalize the creation of the subject 18.009-acre property into a legally recorded parcel. As a matter of background, the Applicants attempted to obtain a well permit from the Division of Water Resources for the property but were denied because the property is not considered to be a legally created parcel. The County has been treating this property as a separate parcel with an assigned number since 1991 under the Assessor's Parcel Number 2127-034-00-135. A building permit, septic permit and Certificate of Occupancy were issued for the property in 1996. The application is being submitted to obtain the exemption that should have been applied for and received in 1979, at the time the property was subdivided from the parent parcel. Wastewater is to be handled by an Individual Sewage Disposal System. Access to the subject property is presently provided by gravel road from County Road 226. The property is characterized primarily by moderately sloping sage / juniper rangeland with significant vistas looking south. The photo below was taken from CR 226 at the southeast corner of the property and looking northwest across the northwest half of the Parcel.

STAFF RECOMMENDATION

Staff recommends the Board **approve** the request for an Exemption from the Definition of Subdivision for Aaron Daler and Kristina Swanson with the following conditions:

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 for recordation with the Garfield County Clerk:
 - 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 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 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.
 - 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, 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. 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.
 - h. Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.
 - i. Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and
 - j. Due to the lack of current fire protection water supply and travel distance to the area, the Rifle Fire Protection District would likely experience difficulties in extinguishing a large fire.
 - k. The mineral rights associated with this property (also known as Daler/Swanson 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).

3. The Applicant shall be required, if deemed necessary, to obtain a driveway access permit from the Road and Bridge Department for access as it connects to CR 226.

4. The Applicant obtains a well permit through the State of Colorado, Division of Water Resources, for a legal source of water supply.

Discussion:

Melody agrees with the conditions and stated there are some suggested plat notes that they have concerns about. There is one dog, a suggested plat note and at the time, back in January 2, 1979, had this exemption been done correctly then there would have been two regulations. She has a copy of those regulations. There is nothing stating

there should be a dog limitation at that time. Section 8 of the code says that the Commissioners shall consider this as a plat note; not something that is mandatory. Considering the circumstances of this property, they would request this be taken off as a plat note. The surrounding areas and the neighboring properties have several dogs. The characteristics of the area certainly support more than one dog. The applicants are certainly willing to keep their dogs within the bounds of their property. They do not believe this is a reasonable plat note. The other plat note they have a concern about is "J" under Section 2, under staff recommendation, regarding the lack of current fire protection water supply. We do not think this is necessary and will harm marketability of this property. There are three ponds on the property that are spring fed and are full all the time and can be used for fire protection. Raymond Langstaff stated he and his son own property immediately adjacent to Kris and Aaron. His brother, Dwayne and Linda Langstaff own the other piece of property. He just wanted to point out some errors in fact. The description he has, it says the property is bifurcated by a public service power line; that is not true. There used to be a telephone line and that has been taken down. The 67-acres are approximately what he and his son own. What they identified to the south is approximately 83 acres, which belongs to his brother and his wife. The rest he is not sure where the confusion comes on the minerals. That piece of property was homesteaded in the early 1900's and the mineral rights belong to us. As far as he knows when his dad sold the piece of property, he did not withhold the mineral rights. Chairman Martin stated that needs to be recorded; it should have been stated somewhere on that provision. Raymond said he has several abstracts and it does mention it. Commissioner Houpt asked about the three lots; they were a piece of the original 160 acres and Raymond said yes. Commissioner Houpt stated, yours is 67-acres, your brother's is 83-acres and theirs is 18-acres, but that does not add up to 160. Commissioner Houpt asked if that was why he was testifying today because there is a question of lot lines. Tom Stuver said there is likely a discrepancy between the assessor's records and those three parcels being a government quarter section or 160-acres; the county road runs through it. I suspect if you were to subtract the acreage as the assessor often does.... Commissioner Houpt said so there is a disagreement and Tom agreed. Commissioner Samson asked Raymond if he had a problem with this and Raymond said no, he just wanted to make sure the record was set straight. Commissioner Houpt asked Scott, on J, what does that statement mean? Scott interrupted it as wildfire. He does not see any problems because there is water on site and Rifle did not respond. Commissioner Houpt said she always had problems with the one dog law. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. In favor: Houpt – aye Samson – aye Martin – aye Commissioner Houpt – I make a motion to approve the request for an exemption from the definition of subdivision for Aaron Daler and Kristina Swanson with the conditions brought forward by staff; however I am going to delete B and J. I am deleting B, not because I have ever won the argument that we should look at that, but because you did not have an exemption in place at that time. Commissioner Samson stated you want to eliminate the one dog. Commissioner Houpt explained the one dog and the statement on wildfires or large fires 2B and 2J. Commissioner Samson said he would second and why do you have a problem with J? Commissioner Houpt said because we did not receive a response from the fire district, which tells me they do not have a concern about this application. We typically refer it to the fire district and they are really good about coming forward with a request of plans or concerns; but they did not do that in this situation which tells me they already have a plan in that area. In favor: Houpt – aye Samson – aye Martin – aye

**CONTINUED HEARING LIQUOR BOARD HEARING ON DOS HERMANOS
KARL HANLON REPRESENTING JEAN ALBERICO**

Jean Alberico, Karl Hanlon, David Edgar and Allen Adger were present.

Chairman Martin swore in the speakers. Karl would like to submit Exhibits 1-21 and one additional Exhibit 22, which is the stipulation agreement, an order between the State of Colorado and the applicant. This is a hearing on a renewal for a liquor license for Dos Hermanos on Hwy 82. Karl stated he had an opportunity to meet with the applicant today and the applicant would like to propose a continuation for 60-days on the following terms; which during that 60-day period they would apply for what would be the appropriate liquor license for the location to be a tavern license rather than a restaurant and hotel license. During that time period they would address specific issues raised in the show cause order that you issued back in February. Alan Adger, Attorney in Basalt, met with Karl this morning and met with his client a number of times. He would like to make an initial opening statement and a proposal for an alternate license. Colorex started their business as a restaurant about one year or so ago. They operated for a while and found that the restaurant did not meet their overhead requirements and they started dances on the weekends. There is demand for a dance hall; but even today, business is very difficult. Colorex would like to apply for a tavern license within 15-days. His client has had a death in the family and it is affecting his ability to carry forward on matters; he has to go to his home state this week. They would like to apply for the tavern license, and during that period; they would like to take specific actions at the premises. He would like his client to address those specific items, which he has listed and given to counsel. He looked up the tavern license rules and regulations, statutes, and to his knowledge, they state there is a 30-day minimum period after the application is filed to set a hearing. There is up to 30-days after the hearing to render a decision. His client would like to make the application as soon as possible and set the hearing as soon as possible, and Mr. Adger has no experience with these procedures. From what he could see from the statutes, they could be looking at a 90-day period for this license. He is requesting they have time to apply for the license and keep operating so they can pay the rent. His client is under lease and is obligated to pay his overhead. These statements address item one and two in order to show cause. They would like to detail further items three and four in this proceeding. David Edgar wanted to talk about what they were going to do. Effective immediately no minors are allowed to be on the property or in the business. The ID's - they will have some video cameras installed at the door so that every ID, you can see the person and the ID, so they can have a reference. He and his son will be the only ones checking ID's at the doors. They have just completed a course through the TIPS Program. They will contact the health department to get approvals; he thinks he has five more items to be corrected in order to comply with the health department. Alan asked what that was on, the tavern license or the hotel and restaurant license. David believes it is a little bit different; but he understands they are probably the same things. He does not know exactly what the different requirements are; but he assumes it is not quite as technical as far as the size of the refrigerator and stuff like that for the food. He said it might be an issue for a mop sink; but it should not be that major. He thinks the biggest thing there is; when they are in the area again make sure she can come by and let him know what he needs to do. He also has to improve the police relations. He feels if he can speak with someone over there on a regular basis and see what he needs to do, could help some of the problems that they have going on. He speaks with some of the officers who come out there; but they rotate around on the late

night shift and there are many different officers. There was an incident that is in the record about him serving an underage person. He wanted to go into detail as to what exactly happened. The State came in and did an operation, and they took out the bartender. It was on Cinco de Mayo, May 5th; there was a full bar and no one was behind there, so he went behind the bar. Within 2-3 minutes, they took me outside and said I served an individual who was a minor. He stated he knew he had given them an ID; he was at the door when this individual came in, so he just didn't want it to sound like we had a bunch of minors there and serving anyone. That is why they want a video system there to show if someone gives an ID that looks valid, and it turns out when the police contact them, they do not have any information at all. The incident about over serving; they say there was a guy that fell twice in front of the security guards and got right up and walked over to me, and I served him. He stated he did not do that and he did not see the guy; the place isn't that big, the area they described, this couldn't have happened. It just looks like myself personally, sometimes if someone else serves a minor, then he also gets ticketed. But this was one that he actually did it. He just wanted to make sure that the Board knew that he does not agree with that one. If he saw someone fall down, he certainly would not let him stand up and serve him again. I don't remember the gentlemen's name I talked to this morning; but he wanted to make sure he knew his intentions; it's true it is hard to make a restaurant work in that location. I hope that the Cattle Creek Development will go through. For the time being, we are in a lease and he thinks they run a good operation. If there is a concern in the community that many minors are being served there, which he does not agree with, he does not want that image out there. He is more than willing to go to the tavern license and put a stop to that. Chairman Martin asked if his request was to continue; is that correct. Mr. Edgar stated yes. Karl did not object on the conditions they outlined. He thinks with critical points added they have to make an application for a tavern license, a complete application. Addressing the issues that Mr. Edgar raised, that he was going to address, he hopes in that same fourteen day period we can do a site inspection to confirm that happened. He does not want it to drag on. Obviously, at the same time if there are issues that can be addressed, he recognizes the current economic conditions and also the fact this type of establishment it is going to occur. He thinks Sheriff Vallario has some thoughts on that and you may want to take some testimony, keeping in mind we are strictly talking about the continuance right now. Lou Vallario stated from his perception this establishment has been operating a little over a year now, probably close to two. We have had numerous situations where we have had law enforcement response, numerous citations, not just for underage issues, over service, fights, DUI calls, etc. He does not know about the wrong license or the application to correct the license. His understanding is this is to review the renewal of the license and in his opinion; the license should not be renewed. It is interesting that Mr. Edgar, this is the first time he has ever seen him after again close to two years of operating with all the numerous problems we have had, with the continual law enforcement presence we had to have there. He is now deciding that he should improve relations with the Sheriff's office. Yet he has never taken the time to come to Lou's office and talk about this. Lou finds it interesting that we are talking about trying to cut down on the minors in the establishment, as far as Lou is concerned he has to comply with the liquor license as an establishment. It would be in his best interest to have two people, three people at the door to stop minors from entering the establishment. Lou finds it inexcusable that when law enforcement arrives and deputies are there, we are being questioned, delayed, and whenever there is a liquor license we absolutely have the authority to inspect at any time during business hours. There are several things and Sergeant Torres can speak to some of the specifics, if you are interested, as far as the number of law enforcement responses and citations pending. Lou does not know the status of those in the court system. These folks have failed to comply; they failed to listen to law enforcement. They have repeatedly gone out there and spoken with them. They show no interest in Lou's opinion to promote the betterment of the community and in Lou's opinion; this license should be revoked permanently. Commissioner Houpt said she read the exhibits and her first question is; how would you (Lou) compare the type of activity that has occurred at this restaurant in the past year to others who are serving liquor. Lou stated that certainly within the County jurisdiction we do not have quite as many liquor licenses as municipalities. Karl had mentioned comparable things to the Oasis, and the problem at the City level. If you look at County liquor licenses by far it draws our attention than all of them combined. Commissioner Samson stated, this one establishment you have more problems and calls than all the others combined? Lou stated sure we do not have that many liquor licenses in the County. The White Buffalo in Parachute, but most of them are in City limits. So, from our point of view we are constantly there for something or another, it is a very busy place. And, again we respond there more than any other in the County. Commissioner Houpt asked, what are some recommendations you would give to a business owner who has to clean up these issues. Lou said the first thing is to sit down with him. He understands what our role is in this and again he appreciates all the economic factors, and what Karl is talking about. Lou's position is enforcement and compliance and there is a lot of work to do beginning with the compliance, and the lack. We need to sit down and get a handle on, here's what's expected, here's what your liquor license says, here's why law enforcement is here, here's why you are required to call us with things, as opposed to not calling with things, and that's the first thing. Then we have to actually engage them and make that happen. The other thing is; it is a popular establishment, we have issues in the parking lot, we have overcrowding, we have, my guess is, we might have some occupancy issues. Lou knows they have traffic issues. Lou knows they have statistics from the State Patrol, the number of DUI's that come out of that area. Lou said they need to sit down and say this is how this business could be run successfully, and it is not by carelessly allowing minors in. If you have to have a number of people at the door that is what you have to have. It is not by over serving people, not by letting people fighting in the parking lot, and on and on. It has to be a maintained business where perhaps what you should be looking at is an optimum level of quality of service, not a maximum level of service. Alan asked if they could make a statement about these issues and Chairman Martin said yes. Alan stated his client opened his business in December 23, 2007, and the dancing issues began in May of '08. Alan understands the sheriffs concern about compliance and disturbance, and all of the issues. This type of operation has been active since May of '08, so we are not talking about an establishment that has been having problems for years; he just wanted to clarify. It is a little bit of a new business to his clients also. They have been in the restaurant business for 30 years, and they are learning their lessons in this type of business rapidly. He hopes the Commissioners will take that into consideration. David said it is a shame that I have not come and spoken with him (Sheriff). He stated, to tell you the truth, in all these years, I do not know how to do it. It is a hard thing you know, it is. He said he has nothing but respect for the officers that come out there. He stated he was very sorry if that is the reports you are getting back that I am stone walling and not doing things that I should. He thinks that is part of what he is trying to say, he would rather have a better working relationship because they help me more than anyone else. He does not want to be viewed like that. He would love to make it a better relationship and he apologized.

Alan said this operation has been in the weekend dance business less than a year. David said many of the issues the sheriff did point out were when we first opened. The fire department issues, parking, etc. is not a problem right now and probably will not be for a while. The scope of business has changed from that sense; it was overwhelming in the beginning. Chairman Martin said looking at the report, looking in the last year to year and a half, there are over 200 reports that the Sheriff's office has had to respond to. This is a list by day, by time and which call it was. We have an issue there. That is spending a whole bunch of time going to the restaurant. They have to be making contact with someone down there. There is another section of calls and another type of calls; so you have an issue, we have an issue. We have to make a determination that you go through the right process to do that; at that point, see if you can work out relationships with the sheriff. Otherwise, you have violations; your shutdown ends everything. Commissioner Samson asked, is the owner notified automatically when there is a violation? You have known about these 200 plus calls. David said no he saw the one that had 40; he has not seen one that has 200. Chairman Martin said it is three and one half pages and covers 2009 through 2007.

Karl wanted to clarify; there were 40 calls related to inside the building and the balance of calls was related to outside the building. Where and who that call came from is unknown, it could have been someone in the parking lot making the call. He is not minimizing that there were 200 calls to that address. Commissioner Samson asked what happens when there is a violation. Is the owner notified, or someone working there at the time, or they do not even know that the police come? Karl said it is conceivable that the owner would not know if something happened in the parking lot. He finds that hard to believe. Typically, someone in management would be notified. Lou said there is no obligation for them to notify everyone; it could be a manager on duty. If we found someone who was served underage, we could charge both the bartender and the manager who is on the liquor license or Mr. Edgar if he's the one listed on the liquor license. However, that situation might be handled with the individuals present. We would not necessarily notify Mr. Edgar as the owner of the establishment; hey, by the way this happened last night. That would be up to his employees to keep him involved in what was going on. Commissioner Samson asked if they let people know inside the building that you have taken care of the problem. Sergeant Torres stated that most of the time Mr. Edgar or one of his sons is there and they are aware of what is going on in the parking lot. If they are not there because of safety issues, we do not allow one deputy to go into the bar establishment to do a bar check. We usually communicate with one of the doormen. We have had numerous calls on assaults; they have called us on Sundays, or after the bar had been closed which we have no obligation to contact or advise them of that. It has been his employees getting assaulted from the night prior. Commissioner Samson said the point he is trying to make is if there has been over 200 times, and you own this establishment, don't you think it would have been a good idea to contact the sheriff and say you need to get to know him before there is a serious problem. David said in reference to the 200 times; some of them may have been five or six on the same night. The sheriffs are across the street; there are things that happen out in the parking lot, they see it. David said he sees everything that is going on and frankly, it is hard to hear that number. He is trying to defend something and he is there every night since he has been open. He stated he always talks to the deputies. He speaks with them all the time and asked what he should do about the parking across the street. He did not think to call Mr. Vallario and make an appointment with him as he was dealing with all the deputies that came out. He discussed what he and the deputies talked about and how to do things better. David feels there is some confusion over when do we call them and what do we handle ourselves. David does not know where the stonewalling or the negativity with the officers is coming from. David feels the officers are doing a good job; he talks to them all the time. Commissioner Houpt said David has listed a number of things that he wants to address, and potentially will address the serving of minors issue. Have you thought about what may address the other issues that this business is having? It is creating some volatile activity on a regular basis.

David said they have never had a gunfight, a knife fight; they have not had that level. We do not have the public stumbling in and getting involved in something. These dances are going to happen somewhere, and where is the best place to have this take place. It happened to them by accident by having a place that was big enough to have the dances. That is how they got into this business. It is the nature of the beast. Commissioner Houpt said she saw many fights. It looked to her like there were many activities that were problematic. David said in the Hispanic places; there is tussling and we deal with a lot of that. It is a dance hall. Commissioner Houpt said it is a dance hall; but we have had dance halls in this valley before. Chairman Martin stated they need to make a decision regarding the request to continue or not. If we are going to have a full hearing, we need to put this in perspective.

Karl stated it is a request for 14 days to file for the tavern license. Chairman Martin indicated they needed to add a stipulation. If there are any laws or any violations of liquor code, law enforcement issues etc, then it is automatically suspended at that time. That just puts everyone on notice; we have to work together. Commissioner Houpt asked if that is in writing. The whole law enforcement thing seems to go along with the nature of the business. Karl thinks in the applicant proposing a continuance we would need to commit to writing the representations they made today along with any additional stipulations that you (the Board) if you chose to continue, would want to put on it. The major ones we discussed earlier today; Karl said he could not walk in and even suggest that would be a possibility unless there was a distinct time line for making application for the tavern license and unless the major issues have been identified and the police reports and the show cause order were addressed. Those specifically being to not allow any minors on the premises, there has been a continuing underage service issue and that is one way to deal with that. If they cannot get on the premises, you have just lowered your odds significantly having an issue. They need to get their license to be able to provide food; that has been an outstanding issue for the last year. You saw the letter from the Department of Health detailing the history and it needs to be addressed. Those are the bare minimum things Karl is looking for. If you wanted any other stipulations, you can put those on the continuance. If it is continued and they do not get the tavern license; then we are pretty much done. Karl wants a stipulation if they cannot meet the requirements of the restaurant and hotel license; you would not enter a decision on that until the hearing on the tavern license. Deb Quinn said that Mr. Hanlon mentioned earlier that he would work with our office to come up with language and stipulation, and she wanted to make sure that the Board had sufficient direction if it chooses to go forward to let us know what the specific conditions are going to be. One of the issues she has is in connection with the food license. What she heard the applicant say is that he was going to met with "her" when she is in town and she doesn't know who "her" is. It appears to Deb, if David has been in the restaurant business for 30 years he should have know he needed a food license before he started his business, and to allow it to continue is up to you. Chairman Martin said that some of the requirements in the food license he has not been able to meet. Deb said, to the extent that you indicated Chairman Martin, you want one of the conditions that if there are continued violations there is an automatic suspension. While operating under a restaurant license without a

food license, is a violation. There needs to be something specific about the timeframe within which that has to happen; that you are excusing this ongoing violation for a certain period. Deb does not know how Chairman Martin wants to deal with that one, if you choose to go forward. The other suggestion she has; if you continue the hearing, or get enough information today that you know what you would decide, absent this request for a continuance, is that you get a stipulation from the application that yes his existing license for the food and hotel; he has violated those conditions, and that license should not be renewed, but you do not make the decision until, whatever time period you give him, so we don't have to go through another hearing to revoke or renew this license. Chairman Martin stated that Lou would also be part of some of the stipulations if it were continued. He would have to give guidance and inspections. Lou said he is requesting a minimum that Mr. Edgar meet with his patrol staff and try to lay out a proactive approach instead of a reactive one. He appreciates what Mr. Edgar said; that every time the deputies' show up he asks how do I do this? So he is reactive and after the fact. He needs to come to us and work with Lou's patrol staff. It could be a matter of training his staff as well. Let them know what the liquor license obligations are, Lou's authorities to be in there and inspect, and what concerns Lou has is what his deputy just said; they will not let a deputy go in by himself because of the safety factor. Lou feels Mr. Edgar should come to them with a plan. Commissioner Houpt stated absolutely, she would make that a condition. To her this is the most urgent issue, and it would be the one that would make her say let's not renew this ever again. If you can actually come up with some kind of proactive plan you would follow to a "T"; it would be worth looking at. David said he is 51 years old and his sons also work there, he would not put himself in that risk that is being described. He would not be there if it was a life or death thing. He would not have the business if it were a place everyone was scared to attend. He does not carry a gun and he thinks he does a good job. Obviously, that is his opinion, and he needs to work on it and be more open to be proactive with the police department. Chairman Martin reiterated what Mr. Edgar needed to do and the time-periods. Karl said he would need to get the application in within two weeks then set the hearing. Obviously, we are running into problems right now because part of that will be publication. This has a tendency to mess with our dates. Once the application, if the application was filed, it would be two weeks from today, and you would be in a position to set the hearing. Chairman Martin asked if they could have the stipulation drawn up by today or tomorrow. The number one priority would be the health certificate or the license from the State of Colorado has to be in order to continue operation. Karl suggested that those items be taken care of by the time the application is made within 14 days. Deb stated the next meeting date is March 16th and she suggests they continue this hearing until then. You could then approve the stipulation. We should know by then that the application has been made and you can set the hearing date on the other application at the same time. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

MARCH 16, 2009 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 19, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

KELLY AND BRYAN DONNELLY – IRONBRIDGE DEED RESTRICTED HOUSING

Brian and Kelly Donnelly came before the Board saying they are one of the 10 families waiting on Ironbridge and asking for help from the Board on anything they can do. We have not heard a lot of information and the latest newspapers said the judge in New York could trump the deed restriction and as a group we've gotten together and wrote letters to the senators and the judge and we are at a loss as to what more we can do. Chairman Martin has had a couple of phone calls in reference to this same issue as well and we know it is a real issue under the bankruptcy that is going on. Deb Quinn said there is no new information from the bankruptcy court but she did hear from one of the contractors who has been working on the affordable housing portion of Ironbridge that they are trying to determine who can sign the deeds for closing on these units. There is some movement. Debbie said there is nothing more that we can do. We can look at the bankruptcy but this is a debtor and possession case, which means they will continue to do business as usual. She has not seen anything from the bankruptcy court that they intend to eliminate the deed restrictions placed on these properties; so, she is assuming they are still moving forward. It is painfully slow. Chairman Martin reiterated they are moving at a snail's pace; we understand your situation as well in trying to get into the units. We can continue to make calls and find out information. Commissioner Houpt said they would start writing letters as well.

ASSESSOR AND TREASURER – UPDATE SOFTWARE

Georgia Chamberlain and John Gorman submitted the Mineral and Impact Assistance Program Application for a grant. This is the DOLA application for impact funds. As the Board may be aware, we use very sophisticated software to keep track of all properties in Garfield County. The software we have currently is 15 years old and developed in the 1980's. So, this software we are using will not be supported much longer by Tyler Technologies. The Clerk & Recorder upgraded to the new version of software from Tyler Technologies 2.5 years ago and now the Assessor and Treasurer this September will upgrade to the new version. However in order to schedule to have that upgrade actually start right after the August certification, the best time to begin the upgrade then a contract must be signed. However, in looking at the DOLA grant if I have a contract in place then I would be disqualified for applying for a grant for some help under the DOLA terms. We spent time with Tyler Technologies to develop a way to secure a place in line so we can have the upgrade installed at the prodigious time and keep that place without disqualifying ourselves. We have a Letter of Intent and Tyler has agreed to schedule the upgrade. Now the deadline is fast approaching - April 1, 2009 to submit this DOLA application. Today we are before you to request \$100,000.00 The upgrade will be approximately \$234,000.00 with all the new software, onsite staff training and some newer things on the Treasurer's side. Georgia will be able to collect taxes via credit card. Georgia said the software would be updated at the same time the payment is made. Chairman Martin asked if there were funds

already appropriated for this upgrade. John said we have enough in the budget to purchase the entire package; however, Garfield County is one of the most impacted counties when it comes to oil and gas development therefore these funds are set aside by DOLA for these kinds of projects. We have been heavily overwhelmed with all the new gas wells, compressor stations, processing plants and all the ancillary functions that go along. We have also experienced explosive numbers of real estate parcels. The Assessor's staff has had a difficult time keeping up with everything. We are behind and that is in the DOLA application. One of the things with this new software, it will increase efficiency and slow down the growth of staff numbers. It will also help the Treasurer, Clerk and Recorder and the Assessor to communicate with each other in greater volume via paperless communications. Chairman Martin reiterated the request today is to support his grant and send it in electronically. Commissioner Houpt made a motion that we approve the Energy and Mineral Impact Assistance Program Application for software upgrade for our Garfield County Assessor and Treasurer in an amount of \$100,000.00. Commissioner Samson seconded the motion and asked for clarification on where these funds would be coming from. Chairman Martin explained the DOLA grant fund from oil and gas production that goes into Tier I and Tier II reviewed by a committee and then given to the requesting agencies. John does have money in his budget to meet the obligation for matching funds, which is \$126,000.00, and he would just like to be able to get some of the Energy Impact Funds so that he would not have to pay the entire amount of \$234,000. John Gorman explained the severance tax fund and his approach to get assistance with the impacts in the local community. Georgia is supportive of this move and said it is innovative thinking on John's part. She appreciates all the work he has done. This software is critical to the operations of both of our offices. It is very important that the Treasurer be on the same software as the Assessor. The communication is better and in transferring the information, you do not have two software companies arguing who is at fault if not done properly. John is looking outside the box and helping the County in this grant application. In favor: Houpt – aye Martin – aye Samson – aye

COUNTY MANAGER UPDATE: ED GREEN

DISCUSSION REGARDING OPEN MEETINGS AND COUNTY COMMISSIONERS DUTIES AND RESPONSIBILITIES WORKSHOP – MIKE SAMSON

We are scheduled for Tuesday, March 17th to get the information he requested and research from Don DeFord in our workshop but the timing has been changed. Ed said the budget part of the meeting would be from 8 – 10 a.m. and the legal discussions from 10 a.m. on. Lunch will also be provided.

DISCUSSION REGARDING THE BOARD OF EQUALIZATION – MIKE SAMSON

Mike Samson requested John Gorman stay for the discussion on the Board of Equalization item on the agenda. Mike said his understanding, after doing some research, is if we going to get independent referees/hearing officers to represent the Board of Equalization, then we need to start that process now before they are all taken. Don said MaryLynn Stevens is already starting to advertise. These referees need to conclude by the end of June all of their decisions on protests. John Gorman explained that any protest that a citizen makes, which the Assessor's office does not agree with, then they have the option to appeal to the County Board of Equalization. The County Attorney would then set up hearings for those appeals and that is where the referees come in. They can decide as early as June 15th. Mike clarified who does what once the referee has made a decision, and the people still do not like it, what is their recourse? Don said he plans to discuss this tomorrow; however, the way that a referee system works is they render a written decision that comes to this Board. This Board is still responsible for the final decision on the property and that comes to this Board. The property owner has the opportunity to discuss this with the Board and object to the position of the referee as does the Assessor. You as Commissioners, sitting as the Board of Equalization make the final decision. Chairman Martin thinks it is this Board's responsibility to be the hearing officers and has always taken that position. The option is to hire people. We still have to verify or agree with those findings and still take action. Commissioner Houpt does not share John's opinion and is glad that we are moving forward with the referees. John Gorman said some people suspect there may be many protests because this year, in May, each person who owns property will receive a "notice of valuation". That will not be reflective of the value of the property this coming May but it will reflect the value of the property last June 30, 2008. For many areas of the County, this will show the top of the market price. Many may have questions as to why everything is disintegrating around us and yet the property value has increased. What they will see on the "notice of valuation" will be two numbers; the value we gave the property June 30, 2006 for June 30, 2006 and then another value for June 30, 2008. Every class of property increased in value dramatically from June 2006 to June 2008 so this is going to be a tough viewing for most people. The property owners were able to use the lower number for two years for both those tax bills that came out. You are paying taxes on a value that you knew was much less than what you could see your property value on that day. Now we may, if indeed prices decline, be seeing the other side of the hill because the Assessor always, by statute, looks into the past. Chairman Martin still believes this Board should be the ones taking the heat from our constituents and face them and be able to explain this to them face to face instead of having a referee. Commissioner Houpt said this presents a valid opinion but she still thinks that because of the complexity of what is happening locally and nationally it would be very helpful to have people, who better understand those issues. That is why I support bringing people on board to serve that function. John Gorman said if indeed the volume of appeals to the County Board of Equalization were such that this Board would not be able to handle all of them, then it would be wise to prepare for a large number. We will be attempting to communicate with the people how this property evaluation lags by two years but he suggests the Board be prepared just in case they do not understand.

John Martin said it also has a bearing on the decision today by the Supreme Court if the mill levies are to stay frozen or not, in reference to the governor's order. He feels there will be a 5 to 2 vote to retain the same under the Supreme Court but that is just my prediction.

HEALTH INSURANCE RENEWAL – KATHERINE ROSS

Katherine Ross submitted the breakout for the County benefit insurance program with the changes for 2009. Premium Deposit Holiday for December 2009 is an estimated amount of \$438,838.00 As for medical, the premium increase of 8.50% per PPO Option; charges for a Colonoscopy for members over 50 years of age; PacifiCare provider network users will change to the United Healthcare PPO network and claims will be processed by UMR. Dental – A premium increase of 3.00% and an annual increase maximum from \$1,200 to \$1,500; an increase for lifetime orthodontia coverage from \$1,500 to \$2,000; and add coverage for dental implants under the major section of the plan. Vision remains the same as 2009. 1000 people use this and the average cost is \$450 per month. The average is about 88% and we came in at 88.6%. People are using this for preventive health care. Katherine recommends that the County accepts the Premium Deposit Holiday amount estimated at \$438,838, the County pay

the health insurance employee contribution with the present increase using the Premium Deposit Holiday amount. She also requested the Chairman be authorized to sign the CEBT Premium Deposit Holiday Notice; CEBT Garfield County Monthly Renewal; CEBT Employer Plan Selection; and CEBT Benefits Change.

Katherine looked into other brokers to see if we are getting a good deal. To stay in our current insurance they will give us a premium holiday so they we will not charge the County. She recommended using this holiday to pay the premium increase for the employees. The 8.5 % increase would not be charged to the employees. Commissioner Houpt asked if Katherine had worked the numbers on that recommendation that would cover the holiday amount. Ed said their years are from July to July so it basically works out to a zero increase when you factor in the December holiday. Katherine said this is a fantastic bonus. They knew she was looking at other insurance providers, as there were some service issues for some employees. They went through several mergers that created some havoc but these have been successfully worked out and they are enticing us to stay with them. We have to check with the federal government to see where they are going on health care but generally speaking what the federal government is saying is that they are going to warn employers to do offers like they are doing. Katherine said we do that now and she does not see any initial changes. Commissioner Houpt made a motion to approve the renewal documents for the CEBT premium deposit holiday notice for Garfield County monthly renewal with the plan selection and benefit changes and this keeps all the various plans that we have, PPO 1, 2 and 3 with vision. Ed said they still want us to eliminate PPO 1. Commissioner Houpt did not feel this was a good time to do that, so that is my motion and to authorize Mr. Green to sign the contract. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

WELLNESS PROCESS — KATHERINE ROSS

Katherine Ross submitted a plan including the solution for the requests the Commissioners receive from not-for-profit organizations to provide funds and other avenues of support for their health and wellness related activities research. The recommendation includes design, implementation and management of a decision process and decision criteria to remedy the problem. The Wellness Committee possesses the skills, knowledge, and capabilities to design, implement, and manage a decision process and decision criteria. The request before the Board is to direct the Wellness Committee to administer an initial budget of \$10,000.00 for the purpose of participating in various charitable organizations that have wellness activities as a component of their fund raising such as canyon walks, bike-a-thons, and 24-hour walking or skiing relays. The process for evaluating and determining the need would go to the County Manager for review and then to the BOCC for review, discussion, and decision and making changes as needed. Ed supports this and said that every agency that has a wellness benefit would be reviewed. The wellness committee could evaluate the requests. Commissioner Houpt would like the Wellness Committee review of the submittals to come before the Board so we would know which programs they selected. She would like to see a specific list of events so they will be looking at the entire list. My intent in supporting this is that it would not just be the big-ticket items, we have various races and events but many focusing on local events. Chairman Martin – It is well covered and gives them some ownership and responsibilities. Commissioner Houpt – It is important to look and realize that it does not just have to be a fundraiser. Carolyn added a cautionary note saying we have a few constitutional issues to deal with; but since the Board will be making the final decision that will satisfy those concerns. No motion yet; this will come back. Direction was given to proceed for a decision and criteria program.

EDUCATION PROGRAM – KATHERINE ROSS

Garfield County offers employees and their families a wide array of programs to help promote health and wellness. A list was provided on those services. In addition, the HR Department will be offering a Health and Wellness Education Program including classes, counseling, and other educational opportunities for employees and their families to enhance their health and wellness knowledge. A series of “Lunch-n-Learn” program and “Ask an Expert” programs will be provided throughout the County. The Lunch-n-Learn will consist of ½ hour programs during lunch and consists of information and training on topics, such as ergonomics, exercising, stress management, time management, weight management, smoking cessation, etc. “Ask-an-Expert” will also be ½ hour in length during the lunch period and will consist of subject matter experts in various wellness activities who will answer questions in their areas of expertise, such as cycling, walking for health, healthy cooking, etc. The request before the Board is to fund a budget of \$18,000.00 for these programs. Commissioner Samson thinks it would be a great thing for all employees to receive first aid training. Don – This \$18,000.00 would have to come under a budget supplemental. Commissioner Samson so moved that motion. Commissioner Houpt – Second.

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

REQUEST FOR MEMBERSHIP TO GARFIELD COUNTY HUMAN SERVICES COMMISSION

Ed presented the requests for membership to the Garfield County Human Services Commission. He submitted the names of Paula K. Chelewski for the School District RE-2 position; Darrell C. Green representing Employment for Colorado Workforce Center; and Kay Vasilakis for Citizen Representative on the Human Services Commission. Commissioner Samson made a motion that Paula K. Chelewski for the School District RE-2 position; Darrell C. Green representing Employment for Colorado Workforce Center; and Kay Vasilakis for Citizen Representative on the Human Services Commission be appointed. Commissioner Houpt – Second.

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

REQUEST TO FILL OPEN POSITION ON THE LIBRARY BOARD OF TRUSTEES – WILMA PADDOCK

Wilma Paddock submitted the request of Daniel J. Becker of Becker Construction and Prince Creek Construction as a project engineer for the open position on the Library Board of Trustees. Commissioner Houpt made a motion to appoint Daniel J. Becker to the Library Board of Trustees. Commissioner Samson – Second.

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

RATIFICATION OF THE CHAIRMAN’S SIGNATURE ON A VEHICLE TITLE AND APPROVAL FOR DONATION OF AN ADDITIONAL VEHICLE TO BACA COUNTY

Ed presented the request from Rio Grande County for a vehicle. We found out later there was a better vehicle than the one we had previously said would be available. This is a ratification issue that allows us to transfer another vehicle. Baca County has also requested a vehicle and this will be the second part of the request. Chairman Martin expressed his willingness to share these vehicles with other counties. Carolyn – No concern donating these vehicles the purchasing code does allow this and otherwise it would have to go to an auction. The issue would be if you were donating this to a private business. Commissioner Samson so moved to ratify a newer vehicle to Rio Grande County and find an appropriate vehicle for Baca County. Commissioner Houpt – Second but wants to make sure our local

municipalities have their needs met as well. Ed said we gave a vehicle to CMC for the police academy and also to the New Castle Police. Marvin said Baca County has been in trouble financially for some time.

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

APPOINTMENTS TO THE WEED ADVISORY BOARD – STEVE ANTHONY

Steve Anthony presented the applications from volunteers who wish to serve on the Weed Advisory Board.

Larry Ballenger	2 terms as alternate - Carbondale
Kathy Barrie –	New – Silt Mesa
Bob Elderkin	1 term as regular – Peach Valley
Bill Gaechter	New – Canyon Creek
Judith Hayward	1 term as alternate - Parachute
Charlotte Hood	new – South Canyon
Wayne Ives	2 terms as alternate – Federal rep - Carbondale
Thad Nieslanik	1 term as regular –Spring Valley
Janet Olson	1 term as regular – Main Elk Creek
Maria Potter	1 term as regular – Alkali Creek
Tom Whitmore	2 terms as alternate – Rifle

Town of Silt – Sonny Fernandez. This was not in the packet. Steve Anthony said we want to get all the Towns and Cities involved. The other item is the voting status of the municipal status and they have requested to be a voting member. We are shy a Glenwood Springs Municipal representative. There are 14 members on the Board.

Chairman Martin would like the Forest Service to have a representative. Steve’s recommendation is that they be regular voting members. Carolyn – Does either the statute or our local weed plan recommend the number of members and voting members? Steve said the Weed Plan does not address the members. Carolyn asked if the Resolution appointing members clarified voting members. Don had concerns about the Resolution and statute. He recommended deferring appointments until the next meeting so we can advise the Board. This was deferred until the April 6th BOCC meeting. The Board wanted Steve to let these individuals know they will be appointed.

FOX NETWORK PRODUCTION – DALE HANCOCK

Dale Hancock – Thought we would be talking about this tomorrow. They have completed the first segment on Thursday and thanked the Chamber and Hot Spring Lodge/Pool. I hope that we will have a review within 10 days. They had real good shots of the Airport and Sheriff’s offices and he believes all will be very happy about it. We will show it at the next BOCC meeting. We will talk about the other productions tomorrow at the workshop.

APPROVAL FOR CONTRACT TO INSTALL GRID CEILING IN MEN’S DAYROOM AT THE RIFLE CORRECTIONS FACILITY – MATT ANDERSON

Rodney Hollandsworth, Richard Alary and Matt Anderson recommended the board award to Farhurst Enterprises, LLC for an amount not-to-exceed \$15,180.00 contingent upon the contractor’s signature. This is to install a grid ceiling in the men’s dayroom at the Community Corrections Facility in Rifle. This went out to bid the same time as the remodel of the lunchroom on the fourth floor. Richard Alary explained the grid sealing. Currently there is a hard ceiling and the noise level is bad making it very hard to concentrate. This is for the large day room. This is an attempt to soften the sound and it also lowers the ceiling. Commissioner Samson asked for clarification as part of the ordinance; he thought we had to have three bids. Matt explained that on many of these smaller projects sometimes we do not always go out to bid. In this case, we only received two bids. Commissioner Samson moved to award the bid to Farhurst not to exceed \$15,180.00 for the installation of the grid ceiling at the Garfield County Communication Facility. Commissioner Houpt seconded.

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

APPOINTMENT OF EAB CITIZEN REPRESENTATIVES – JUDY JORDAN

Judy Jordan was not present. She was attending a meeting on the new oil and gas rules.

SATANK BRIDGE HISTORICAL REHABILITATION – JEFF NELSON

Jeff Nelson and John Hoffman submitted the information saying the rehabilitation project has surpassed the 60% engineering and design phase. The engineer’s estimate amounts to \$636,738.00 submitted by Loris and Associates on February 20, 2009. The Colorado Historical Fund completed the review of the project and announced a grant of \$297,500.00 awarded for the structure rehabilitation of Satank Bridge. Don provided a memorandum and some legal issues that concern this grant. Matt cleaned up some issues and added I am not here to have you sign a grant. The award has been made.

Executive Session – Satank Bridge Historical Rehabilitation

Don requested to go into an executive session to discuss the legal aspects of this issue and to have Jeff attend.

Motion made by Commissioner Houpt to go into an executive session. Commissioner Samson seconded.

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

Motion made by Commissioner Houpt to come out of executive session. Commissioner Samson seconded.

In favor: Houpt – aye Martin- aye Samson – aye **Action Taken:** Don stated that only advice was given and the discussion continued with Jeff Nelson. Jeff wanted to open this up for discussion from the Board saying we were at 60% of the project; he also wants to obtain the signature on the acknowledgement letter. In reference to a question asked by Commissioner Samson, Jeff said this has been an on-going issue for about 10 years. Citizens are using the bridge unauthorized; this bridge was built in 1905 and it is very unique. It’s the only structure of its kind in the entire State of Colorado. Commissioner Samson so moved to sign the acknowledgment letter. Commissioner Houpt – Second and thanked those who have worked on this adding this is a large amount of money from the historical society. The bridge will only be for foot traffic. In favor: Houpt – aye Samson – aye Martin - aye

Ed Executive Session Item: Legal advice is needed on the Zoning Code

COUNTY SHERIFF UPDATE: LOU VALLARIO

PURCHASE OF SERVICES AGREEMENT, CARE ANIMAL SHELTER – LESLIE ROCKEY – SPAY AND NEUTER PROGRAM

Leslie Rockey, Lou Vallario, and Lisa Dawson were present. Lou thought this was on the consent agenda but answered questions posed to him about the Spay and Neuter Program stating that money is available and they do have a voucher system. Commissioner Houpt made a motion to approve the Spay and Neuter Programs so they can continue. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION/APPROVAL OF IGA WITH GARFIELD COUNTY HOUSING AUTHORITY FOR PROVISION OF ADMINISTRATIVE SERVICES IN CONNECTION WITH THE GARFIELD COUNTY AFFORDABLE HOUSING PROGRAM

Don DeFord submitted the IGA concerning the administration of the Garfield County Affordable Housing Program including the duties and obligations of the Authority, duties and obligations of the County; term of agreement; appropriations; entire agreement; amendments and modifications; assignment, captions; binding effect; invalid provision; governing law; survival; authority; counterparts; and notice. He requested the Chairman to be authorized to sign the agreement in the form provided. The dollar amount is \$87,500.00.

Commissioner Houpt made a motion to sign the IGA with Garfield County Affordable Housing for 2009 in the not-to-exceed amount of \$87,500.00. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

STATUS OF VOTING MEMBERSHIP OF THE ENERGY ADVISORY BOARD – BETSY SUERTH AND JUDY JORDAN

Betsy Suerth – Chairman of the EAB presented. She stated that Judy Jordan was attending a meeting concerning the new rules formulated by the COGCC. This issue is a correctional measure to remove the former members that have not attended the meetings for some time. She had made efforts to contact them to see if they were still interested. She had advertised the openings and came to the Board to appoint those who submitted letters of interest who are as follows: Jeff Simonson for Dry Creek, and Maria Vasquez; and a 3rd letter from Marion Wells. Today she is asking for a procedural clean up so these members can be removed from the EAB and named those as Orin Bell, Mike Mosley, and Noel Richardson. Mike Mosley is out of the country and no response from Noel Richardson. Betsy will come back with a comprehensive resolution to clean up the membership. Commissioner Houpt asked staff to provide the original Resolution and added her concern would be an imbalance of those serving. She thinks it is looking more like an oil and gas board versus a well-balanced board to look at all those issues. She was very committed to the original Resolution. Chairman Martin agreed. Betsy said the current board has been in the process of tracking the activity of the industry with mapping. This has wrapped up and they will be making recommendations to the Board of County Commissioners. Chairman Martin said we need someone from Carbondale to participate as well as Glenwood on this board. John Hoffman from Carbondale submitted a request to serve on the Board. Don – The legal issue is to request to remove those members Betsy listed and in the amended By-Laws, it did not note the citizen representatives from Carbondale and Glenwood. There have been inconsistencies in the By-Laws since last April. The By-Laws state the Board of County Commissioners may remove such members who do not attend the meeting or in your opinion fail to support the objectives; failure to attend does justify the action.

Commissioner Samson made a motion that we eliminate Orin Bell, Mike Mosley and Noel Richardson because of non-attendance. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Deb Quinn’s discussion item is the Harris subdivision; Don - Acquisition of Koziels property; defense cost for the Sheriff office; update on the County Road 301 and County Road 309 surveys; update on Vezzoso; Continental Rifle; oil and gas as it affect Lisa Bracken, personnel policy issue and receive direction concerning organization of County employees; legal issue regarding Dos Hermanos; and the structure of the workshop for Tuesday, March 17th; contract changes with Matt Anderson - CH2M Hill wants to make changes; and Ed’s item previously mentioned on zoning code for properties. Commissioner Samson made a motion to go into Executive Session. Commissioner Samson – Second. Motion carried. Commissioner Houpt made a motion to come out of Executive Session. Commissioner Samson – Second. Motion carried.

ACTION TAKEN:

Don stated in regard to litigation that we have referred to as Vezzoso 2 concerning property off of Red Canyon Road, County Road 115, Cassie Cole from my office is asking for action by the Board authorizing her to execute necessary settlement documents as she has represented to the Board and consistent with representations to the Board. Commissioner Houpt so moved; Commissioner Samson seconded.

In favor: Houpt – aye; Samson – aye; Martin - aye

CONTRACT CHANGES AT THE AIRPORT – POSTPONED UNTIL THE MARCH 17, 2009 MEETING COMMISSIONER REPORT

No report was given from the Board due to the full agenda.

CONSENT AGENDA:

- a. Approve Bills
- b. Changes to Prior Warrant List
- c. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for one Communication Facility located approximately 17.5 miles northwest of the Town of Parachute and operated by Marathon Oil Company. Applicant is Oxy USA WTP LP – David Pesnichak
- d. Authorize the Chairman to sign two (2) Mylars for the Final Amended Plats for Parachute Commercial Block 5, Travelers Highlands Subdivision; the Sixth Amended Final Plat for Parcels “A”, B and “C”, and for the Seventh Amended Plat for Parcel “E”, Lots 18 and 7, located on Highway 6 and 24 approximately 4 miles southwest of the Town of Parachute. Applicant is Parachute Commercial, LLC – Scott Hall
- e. Authorize the Chairman to sign the Resolution Memorandum for the Daler/Swanson Exemption from the Definition of a Subdivision, located on County Road 226 approximately 5 miles northeast of the City of Rifle. Applicants are Aaron Daler and Kristina Swanson – Scott Hall
- f. Authorize the Chairman to sign Satisfaction of Permit and Release of Security in order to release EnCana’s bond on the Cobra Pipeline Development Permit – John Niewoehner
- g. Authorize the Chairman to sign the Resolution and Special Use Permit for a Contractor’s Yard on County Road 303 within the ARRD Zone District. Applicants are Daniel and Mark Gardner – Dusty Dunbar
- h. Authorize the Chairman to sign the Resolution and Special Use Permit for a Contractor’s Yard on County Road 337 within the ARRD Zone District. Applicants are Jason and Kelli Jabs. – Dusty Dunbar
- i. Liquor license renewals for Battlement Mesa management Co. d/b/a Fairway Café and Kum and Go #906 on Battlement Mesa – Jean Alberico

Commissioner Houpt made a motion to approve the Consent Agenda items a – i. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

ASSESSOR’S OFFICE

ABATEMENTS FOR ROBERT JOHN AND MARY JANE STENEMAN ABATEMENT NO. 09-024, SCHEDULE NO. R042761

Lisa Warder presented the abatement saying the taxes assessed against the property for tax year 2008 are incorrect due to a corrected abstract code from the vacant 29% assessed rate to residential 7.96% assessed rate. The abatement No. 09-02, Schedule No. R042761 is in the amount is \$1,471.93.

FRANK W. & RUTHANN EBLE ZLOGAR ABATEMENT NO. 09-028, SCHEDULE NO. R111651

Lisa Warder presented the abatement saying the taxes assessed against this property for tax year 2008 are incorrect because the parcel had improvements as of 1/1/2008. The abatement is for \$1,852.58.

WIND RIVER APARTMENTS, LLC ABATEMENT NO. 09-031, SCHEDULE NO. R361784

Lisa Warder presented the abatement saying the taxes assessed against this property for tax year 2008 are incorrect due to a clerical effort that resulted in the property being assessed at the commercial rate. The abatement amount is \$2,707.38.

PARACHUTE/BATTLEMENT MESA PARK & RECREATION ABATEMENT NO. 09-036, SCHEDULE NO. R470018

Lisa Warder presented the abatement saying the taxes assessed against the property for tax year 2008 and 2007 are incorrect because Parachute/Battlement Mesa Park and Recreation District purchased the property on 12/28/2007 and it should have been taxed as exempt from 12-28-2007 (4 days and for the entire year of 2008). The abatement amount is for 2008 \$1,195.16 only. This was presented with 2007 and 2008 however; the Assessor can make the adjustment for 2007 so we only need approval for the 2008 abatement of \$1195.16. Commissioner Houpt moved to close the public hearing. Commissioner Samson second. In favor: Houpt – aye Martin – aye Samson – aye Commissioner Houpt made a motion to approve the abatement for Robert John and Mary Jane Steneman No. 09-024, Schedule No. R042761 in the amount of \$1,471.93. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye Commissioner Houpt made a motion to approve the abatement for Frank W. and Ruthann Eble Zlogar No. 09-028, Schedule No. R111651 in the amount of

\$1,852.58. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt made a motion to approve the abatement No. 09-031, Schedule No. R361784 in that amount of \$2,707.38. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt made a motion to approve the abatement No. 09-036, Schedule No. R470018 for the Parachute/Battlement Mesa Park and Recreation District for the entire year of 2008 in the amount of \$1,195.16.

Commissioner Samson seconded. In favor: Houpt – aye; Martin – aye; Samson - aye

HUMAN SERVICES COMMISSION

EMERGENCY SERVICES – MIKE POWELL

Mickey Neal of the Red Cross, Mike Powell of Lift Up, Marian from Catholic Charities, Andrew from the Food Bank of the Rockies and Julie Olson with Advocate Safehouse were present. Marian gave the update on the fictitious family given last month. Today they used the same calculators as before. Mary lost her job and their monthly income dropped. The federal program guidelines were too high for the family to qualify for food stamps, they did not qualify for subsidized housing but could get some leap assistance but this only goes from November to April. Their expenses are exceeding their income. They may be coming to the Salvation Army, Catholic Charities, and Lift-Up, and possibly apply for rental assistance, health and dental insurance as well as some counseling issues dealing with depression. The tough thing is they can only apply for a one-time assistance and now need more than just a one-time assistance. She gave another example that Mary's hours were cut to 20 hours a week. Many of our agencies may be seeing this family coming in for assistance. Mike Powell provided a fact sheet for the Commissioners stating that unemployment in January, 2009 was 4.1%; Feed My Sheep Ministry housed an average of 25 people through the months of January, 2009 with all but three nights filled to capacity. January, 2008 they averaged 15 per night so they have seen a 75% increase per day in January, 2009; Roaring Fork Family Resource Center has seen an increase in the number of requests for emergency assistance. From January 1st to March 1, 2008, they had seven requests for assistance. In that same period in 2009 they've had at least 12 requests. The complexity of the family needs has increased. They get creative to help these families resolve their multiple needs. Alpine Legal Services has also had dramatic increases in requests for services over the years 2007-2008; they have increased 50%. Human Services in January, 2008 had a total caseload of 2949; however, in February, 2009 that number increased to 3833. Catholic Charities provides emergency assistance to households. 140 requests were made but they were only able to service 82 clients due to funding shortfalls. Youthzone has a funding loss of 8%. Their client load has remained stable except for the huge increase in Senate Bill 94 Kids. This month alone they have served 29 kids in that program. Normally they service 4 – 8 kids per month. Court referrals are about the same however, the youth are higher risk and re-offending more often. Red Cross statistics: 10 County-wide disaster responses in 2008; 52 single family house fires; 197 people involved in these fires; \$31,810.00 in disaster relief provided. Salvation Army is experiencing about three times as many requests as a year ago. Shelter Situations: I-70 road closure due to snow – 1 night; Castle Ridge Apartment fire – 1 night; Parachute Apartment fire – 1 night; Aspen Bomb incident – 1 night with 60 people assisted and sheltered. National Disaster Deployments: Washington Floods – 2 volunteers deployed; Windsor Tornadoes – 3 volunteers deployed; Midwest Floods – 1 volunteer deployed; Hurricane Dolly – 5 volunteers deployed; Hurricane Ike – 12 volunteers deployed; Hurricane Gustav – 12 volunteers deployed and 33 volunteers deployed for National Disasters in 2008. Emergency Messaging and Communication Cases – 131; Garfield County Disaster Response Statistics 2008 – 7 house fires; 1 Apartment fire; 1 Shelter for Apartment fire; 20 people assisted; \$3,450.00 in immediate disaster related needs including funds to replace lost clothing, shoes, and other personal items; funds to purchase food, obtaining shelter at a local hotel; and, providing referrals to other partner organizations for further support and mental health services. Advocate Safehouse provided in 2007 – 75 nights in 2008 – 59 and in 2009 – 39 already. Emergency Housing – Advocate Safehouse – cost of running the shelter. The request is for 100% match of the grant and with the money given through the Human Services, we are able to match 200%. Authorize the letter of support for the grant. Commissioner Houpt so moved; Commissioner Samson seconded. In favor – Houpt – aye; Martin- aye Samson - aye

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR FEBRUARY, 2009

Lynn Renick and Judy Martin were present. Lynn Renick submitted the EFT/EBT disbursements for February totaling \$572,132.13 and requested Board approval. Commissioner Houpt so moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACT

Lynn Renick submitted consideration and approval for the Briton Home, ID Number T770061 in the not-to-exceed amount of \$15,996.00. Lynn requested Board approval. Commissioner Houpt so moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF 2009 CONTRACT WITH COLORADO KIDS CHILD CARE CENTER

Lynn Renick presented the contract with Colorado Kids Child Care Center, located in Rifle in the not-to-exceed amount of \$26,695.20 to assist with personnel costs during the term March 16, 2009 through June 30, 2009.

Commissioner Houpt asked if we are looking at childcare for the entire county and wondered the status of other childcare facilities. Lynn stated over all it was \$100,000.00 or whatever they ask to assist them, and she is open to look at additional programs in those situations. The time frame is through June 30, 2008. They have been working with programs. Commissioner Houpt – We have seen this request twice for this one facility. She does not want the impression given that we have adopted one program and are not spreading the wealth. Lynn said they have helped with additional funding for other facilities and they are looking at their criteria needs. Chairman Martin – The Child Care providers groups are recognized once a year with assistance funding. Lynn – They have assisted two times this year for grant funding. Summit Child Care Center has asked to give a report on the way in which Garfield County has assisted them. Commissioner Samson made a motion we approve the contract with Colorado Kids Child Care Center in the not to exceed amount of \$26,695.20. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF 2009 IGA WITH KIDS FIRST FOR PROFESSIONAL DEVELOPMENT ACTIVITIES THROUGH THE RURAL RESORT REGION EARLY CHILDHOOD COUNCIL

Lynn Renick presented the IGA addendum with Kids First for Professional Development Activities through the Rural Resort Region Early Childhood council in the not-to-exceed amount of \$25,000.00. She stated that there is an IGA with the City of Aspen through Kids First acting as fiscal agent to the Rural Resort Regional Early Childhood Council. The IGA term is through June 30, 2009 with funds to be expended on professional development activities for childcare providers in Garfield County. Carolyn explained that Kids First would be the managing agent. This is a 4-county contract with Garfield, Eagle, Pitkin and Lake County and monies will stay in this County. This is for Professional Development in Garfield County only. They are no subcontracts with the Rural Resort Region.

Commissioner Houpt made a motion to approve and authorized the Chair to sign this after the County Attorney and Lynn has worked this out. Commissioner Samson seconded. In favor: Houpt – aye Martin – aye Samson - aye

CONSIDERATION AND APPROVAL OF THE SENIOR PROGRAMS ADVISORY BOARD BY-LAWS

Judy Martin and Lynn Renick presented the By-Laws for the Senior Program saying they have been drafted and accepted by the Advisory Board on February 27, 2009. The request before the Board is to approve these as submitted. The Chairperson is a rotating chair and it is vacant. Each month we decide who is going to chair the meeting. Carolyn – This is good thinking on Judy and asked why was there was an acknowledgement of confidentially for abuse or self-neglect that the group may notice and that is why it was included.

Commissioner Houpt made a motion to approve the Senior Program Advisory Board By-Laws. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

PROGRAM UPDATES

Lynn submitted the updates. She did not include the budget cuts but said there are going to be some cuts.

BOARD OF HEALTH:

ENVIRONMENTAL HEALTH UPDATE – JIM RADA

Jim Rada was present and submitted the quarterly Environmental Health Update showing the following: air quality monitoring; Carbondale air quality monitoring project; EPA RGI grant; reporting on the GARCO Safety Committee; the CARE grant project; G-NECI project; Radon Awareness and Outreach Program; Public Health Reauthorization Act; Emergency Planning; Water Quality Task Force – USGS Water Quality Data Repository; and the Community Health Risk Analysis of Oil and Gas Industry Impacts in Garfield County. They moved the site off Grass Mesa to Rulison to better have an idea of the impacts from oil and gas. We have submitted a scope of work to the State Air Pollution Control Division for next year's monitoring contract, which would begin July 1, 2009. We are asking for an increase of about \$14,000.00 to \$15,000.00 to include advanced analysis and reporting so that we can get timelier reporting and more in-depth analysis of the data that we collect. Jim said they have had over 1,800 hits on the website since they initially made the announcement. Jim presented to Grand Valley Citizen Alliance an update last month on the air quality monitoring. Saturday, Sheriff Lou Vallario and Jim represented the County on a discussion relative to open burning issues in and around Carbondale area. Another project in air quality is a diesel school bus retro fitting with Colorado CDPHE and implementing a supplemental environmental project around \$400,000.00 to retro fit all the diesel school buses in Garfield and Rio Blanco counties. That project has been extended in DeBeque since that school district serves some of our residents. Next year all buses will be retro fitted with equipment to reduce emissions both inside and outside. NECI has been presented this information and there may be some money for the diesel reduction emission programs. A very substantial increase is coming to Colorado and we are working with the State to extend money for Garfield County. Commissioner Houpt – There is a federal program for diesel reduction and asked if money was also coming from that source. Jim said this money is coming to Colorado and we are working with the State to work with Garfield County to expand the program in their grant request. Carbondale approached us and wanted to do air quality monitoring. We had not anticipated that request so we did not put any money in the budget to expand our program but we have been working with them to develop a new air quality-monitoring program for that area in the form of in-kind and technical support in developing the plan and then we will provide ongoing support for them. The Town did earmark some money for this and we are attempting to make that money fit with a reasonable beginning step program for them. Chairman Martin – It is up to the local government to pay the bill and perhaps we should come to the aid of our citizens by supporting these needs. Radon Awareness and Outreach Program: Initial analysis of available data indicates that between 2005 and 2007, 333 homes were tested and 40% exceeded the EPA standard. We have zip code data and it looks like it is in the western area of Garfield County. We have been working with the Public Health Reauthorization Act; this passed last year and will result in a better public health system for Colorado.

DISCUSSION OF PAYMENT FOR SACCOMANNO RESEARCH INSTITUTE CONTRACT – JIM RADA AND DON DEFORD

Jim Rada said they have the final report and it is on-line. Hard copies are also available. Jim requested to take this off the agenda today, as there needs to be a discussion as to who was responsible for paying. This will be taken care of very soon. Dr. Koontz could possibly come back and give an update.

REINSTATEMENT OF DRILLING MORATORIUM IN A PORTION OF THE EAST MAMM CREEK NOTICE AREA – LISA BRACKEN

Commissioner Houpt stepped aside as she has been involved in this with the COGCC.

Lisa Bracken – Divide Seep Area of East Mamm Creek. Lisa submitted a written request with documentation to reinstate the drilling moratorium imposed in 2004 within the affected portion of East Mamm Creek field. She gave her reasons for this request due to the scope or cause of the seep identified in 2008 and another event that occurred recently where EnCana apparently caused gas and water from a fresh water aquifer supplying water to residents and West Divide Creek to co-mingle. She strengthened her request by naming numerous events and finalizing saying the EPA has the complaint on file. Her report is given on the website: www.Journey for the forsaken.com

Discussion by the Board: Chairman Martin stated the County did take action and testing was done; we did not find anything. He is offended by her comments that during the political debates where he addressed Lisa about providing help that he did this for political reasons. We have taken the step of intervention. He feels that Commissioner Houpt has taken this to the COGCC and there seems to be some sort of blockage. We have reconsidered the rules and asked Commissioner Houpt to take this issue once again directly to the COGCC. Your issue is with the State of Colorado COGCC and/or they cannot find anything. Lisa – We do have lab reports and the County should rely on this when asking the Oil and Gas Commission to take action. Chairman Martin stated that Judy Jordan said she has been out on your property and has tried to work with the COGCC. Lisa wanted to know who tested the bubbles, because to her knowledge neither Judy nor anyone else has been out to do testing on the bubbles. Chairman Martin said this was produced gas but Dr. Thyne has not found anything, although we have not received his final report. Lisa still insists that this needs to be investigated. Chairman Martin attempted to inform Lisa that this issue is up to the State of Colorado; however, we will ask the State once again. Commissioner Samson began his remarks by saying job well done to Lisa for all her documentation. It appears that a lot of research has been done. He realizes that she has her heart in this and believes there is a health issue and thanked her for the research. Question of Lisa: Why was the original monitoring lifted? Lisa said in looking at the minutes and meetings held; EnCana put pressure on the State to go back in and lift the moratorium. The State felt there was no need for further investigation. This area is rich because it is very well over pressurized and very shallow, which makes it easy to drill and prone to catastrophes when things go wrong. It makes it faster and cheaper for the industry to go in and get the gas and there is a lot of it because it is so pressurized. This area is great for oil and gas. EnCana put a lot of pressure on the State saying they had addressed this issue. They said given new stipulations that requiring new bore drilling procedures everything would be safe. This is a broad and untested assumption, which we can now see was not effective or sufficient. Williams is recovering the gas and selling the gas. EnCana is opening valves and letting the gas into the air. Commissioner Samson asked about the statement regarding Williams drilling and recovering gas and what process are they using? Lisa – They are producing at the Braden head and there is enough gas in the regions where Williams is producing that they are pumping the gas and selling it; they made millions on that gas last year. EnCana in contrast is simply opening valves and letting it flow into the environment and they have to do that in order to take the pressures off the formation. Commissioner Samson said for the record, we all understand your fight is not necessarily with us; if you go out of here with what you want from us, your fight is not with us Lisa, this is with the COGCC and they are the ones you are going to have to convince. Lisa – The County did agree with the moratorium. Before it was lifted the County had a predominate presence in agreeing to it under certain conditions. So, it is within the County's scope of responsibility to make sure the COGCC lives up to their commitment and the State should live up to its obligations. Commissioner Samson – In all honesty, all three commissioners have in our hearts that the health of this County is very important. The difference between biogenetic and thermo-genetic has never been proven; the gas you are claiming is thermo-genetic. The best research he has found was in a report by Dr. Thyne, which has not produced any conclusions. Lisa began attacking John Martin and Commissioner Samson said, do not attack anyone personally. Lisa responded that she has been under immense pressure and she is located in the middle of this development; she was only reacting to promises not kept. She accused John Martin of expressing a bias for oil and gas. Commissioner Samson addressed Lisa saying I hope what you understand is that this commission has gone out on a limb for you to support the first moratorium, no Board of County Commissioners have ever done that before. The point to make is that they could have said, "Forget you". I hope you can see the animosity from Lisa – there is a little bit there and we are treading on ground that is dicey. Lisa has to take it up with the State COGCC. Chairman Martin – The only standing we have is this; the fine was paid; the studies have been made; sampling has been made and we are treading on thin ground. Lisa – The testing was done on the 2004 Divide Seep Creek. Chairman Martin – The State did step forward to test the mud after your last presentation to us. Lisa – The State is saying there is no standing. Lisa maintains this is two events. Chairman Martin – We'll make that request and ask Commissioner Houpt to take this to the COGCC Board. Commissioner Houpt – This has been taken to the COGCC Board. When it comes to standing, it does give the County standing. The new rules will give Lisa additional standing. It is important for the State to have the County take a stand. Chairman Martin stated there has been a dozen tests or more, the water is being tested, now they said it's your turn, you had better test it yourself I do believe. Lisa said the testing that was done was relative to the 2004 seep and had been going on from that date forward. Chairman Martin requested the oil and gas folks to go out and test it again. Lisa said they only tested the mud. So, I have stepped forward to get those tests and will do it again if necessary. Lisa said, however they allowed four months to pass before they ever came out and sampled the mud so you had a degradation of circumstances and evidence. She feels there is an intentional delay behind this. When they say you have no standing that is easy to do when you do not pursue any kind of information. That is what the tactic has been on the part of the COGCC. Chairman Martin said you are dealing with two different oil and gas conservation commissions. One was the original board that we started with; then the reforming and appointments, etc. getting the same results. Lisa – No, this is two different events two different samplings two different results. Chair Martin – We will go ahead and make our standing; we will make that request and then we will also ask Tresi to take this directly to the board and if they want to act on it they can and if not and there is no standing that will be up to them. Lisa asked if Tresi could approach the director himself as a unified board. Chairman Martin – One request is doing that, the other one is saying take this to the board. Lisa supports and appreciates this very much. Commissioner Houpt commented that this has been taken to the board and added when it comes to standing there has been a great debate on that subject. The old rules which are

still in place; but they do not give people like Lisa standing, but they do give counties standing and that's why she's coming to you so that you can approach the oil and gas commission. The new rules will give property owners additional standing. Chairman Martin – The County has limited standing as well, we do not have standing over all decisions made and identified on what standing and what issues we can get involved in still. Lisa – Having been a participant in the moratorium and participant in lifting it; that certainly does bring the County in. Chairman Martin – Again, that is based on the science and the little commitment we have and the little standing that we have – it's not that we advocated for this, it has satisfied the scientists and at that time our standing disappears. Lisa – They promised new stipulations and oversight; now they are insufficient and that is where the County can come in. Chairman Martin – Again, that is up to the enforcement of the rules and regulations through oil and gas conservation staff. Commissioner Houpt thinks it is important for the State to hear from counties too; it is part of the process. There is action being done on this because Lisa has brought this to the COGCC; but on top of that, it is very helpful for the landowner, community members to have support from the county. Chairman Martin made a motion to go ahead and request that they reconsider a temporary review of the moratorium based upon the findings. Commissioner Samson seconded. Chairman Martin – We will ask the COGCC and the director himself and see what results we can get. Don requested before the vote to make a request of the Board, if the Board elects to approve that motion, I think you should first understand the process a little bit. In order for us to proceed and ask for the oil and gas commission to reopen the existing order that looked at the moratorium; my office will need to present evidence and in that case I will need to retain Dr. Thyne for that purpose. The original orders that were entered and imposed the moratorium in substantial part were based on information and reports that Dr. Thyne submitted to the commission along with other experts over a fairly extensive period of several days. Eventually, that moratorium was lifted as Ms. Bracken has indicated and was done so with the agreement of this Board. However, there were two significant conditions placed on that agreement. The first was that this Board reserved the right to request the COGCC reopen that order that lifted the moratorium if the request was submitted within 30 days and that did not occur. The moratorium was lifted with specific conditions on those operators that as Ms. Bracken has indicated and imposed additional drilling requirements. When you look at the orders you can see that specifically in regard to the order for Barrett Resources that notice to operators specifically incorporated additional recommendations by Dr. Thyne. So if we are going to request that the moratorium be re-imposed it's critical that Dr. Thyne review the information that Ms. Bracken has submitted with the additional information she has on page two and submit a report that we tender to the COGCC. That will have to be the basis on which we argue impacts on public health and is the only basis in which we can have standing to make the request. Chairman Martin – That is the burden we have and we are aware of it. Chairman Martin added to his motion to have the supporting documents and opinions to go forth to give us the request of standing, go ahead, spend more money on this particular issue, and drive it home. Let's see if the State of Colorado will participate and follow up with what they said they were going to do and we'll live with the results. Don also requested authority to hire Dr. Thyne. Chairman Martin included that in his motion. Commissioner Samson amended his second. In favor: Martin – aye Samson – aye Commissioner Houpt – recused Chairman Martin said our task begins again and the expenditure of funds. The burden of proof begins again and the answer most likely will be exactly what we have in front of us right now. Lisa has been dealing with this for 6 years. It would not surprise me; but as a matter of our responsibility for something that I complained about, this is a natural progression of that process. Lisa said, hopefully, there will be a positive resolution and we can protect what is left of that environment.

CENSUS 2010 PARTNERSHIP PROGRAM & COMPLETE COUNT COMMITTEES – BRIAN MEINHART

Brian Meinhardt presented a handout explaining, "It's in Our Hands", an introduction to the 2010 Census. He explained the goal is to count all residents living in the United States on April 1, 2010. They do not ask about legal status of respondents in any of its surveys and census programs. To help ensure the nations' increasing diverse population those surveyed can answer the questionnaire accurately and completely. About 13 million bilingual Spanish/English forms will be mailed to housing units in neighborhoods identified as requiring high levels of Spanish assistance. Additionally, questionnaires in Spanish, Chinese (Simplified) Korean, Vietnamese and Russian and language guides in 59 languages will be available on requests. Census workers will be recruited and by 2010, there will be an estimated 310 million people residing in the United States. This 2010 Census is the shortest questionnaire in history asking 10 questions and taking about 10 minutes to complete. It asks for name, gender, age, race, ethnicity, relationship, and whether your own or rent. For more information, Brian gave the web address: www.census.gov/2010 where individuals can find out more information. The timetable for completion of the Census is as follows: December 2010 – By law, the Census Bureau delivers population counts to the President for apportionment; March 2011 – By law, Census Bureau completes delivery of redistricting data to states. He suggested the Board might want to adopt a Resolution to support this Census. They are trying to target 'Hard to Count Populations'. They need the elected officials involved as partners and include state and local governments, community and faith-based organization, schools, media, business and others. The County will receive \$870 per person for those counted and that is why they are asking for support. The actual date of the count is April 2010. Outreach is how the local media will be involved. Commissioner Houpt suggested Ed could pull together a group and suggested involving the Human Services Commission. Chairman Martin - Rob was involved in the 2000 census. An extra billion dollars was given to the Census count in addition to what they already had. 30% do not want to be counted. Commissioner Houpt – Requested to put this on the agenda in April for a more formalized Resolution. Brian is the point of contact for this Census. He would appreciate some support funds from the County if Garfield County wants to be a support county in this endeavor. Commissioner Houpt favored putting this on a future agenda after this Board had time to look at the material submitted today.

CONSIDERATION OF CO-SPONSORING A DOLA GRANT FOR EMPLOYEE HOUSING IN THE PARACHUTE/BATTLEMENT AREA FOR THE RE-16 SCHOOL DISTRICT – BILL SIMPSON AND KEN HAPTONSTALL

Bill Simpson, volunteer – former developer, heading this grant proposal to get some housing for the school district employees and Ken Haptonstall, School Superintendent presented the Energy and Mineral Impact Assistance Program Application for the Parachute Affordable Housing Development Projects in the amount, for Tier I, up to \$200,000.00; Tier II \$200,000.00 and Tier III - \$1,500,000.00 along with the justification for the funding requested. This involves a parcel of land for 66 units: 16 for sale units designed with 2 bedrooms and 2 baths priced at \$190,000. The remaining units will be rentals with rent control on a long-term basis but no income restrictions.

There are multi-sources for funding this project. A full package will be brought back to the Board but they are hoping the County will be a partner. They plan to seek an Energy Impact Grant. There will be long-term deed restrictions on the for sale homes. They will be in contact with the Affordable Housing and Housing Authority. Chairman Martin noted for the record that there are federal strings attached such as, who you can rent to; we are struggling with the Rifle project at the present on these issues. Bill said he was working on how to mix private and public funds and use these monies for land acquisition; they need the mineral impact money to build the infrastructure. They plan to use other funds for the housing and not get into the strings attached. They will come back with more information by April 1, 2009. Any money committed would be conditional. Today they are just giving the information. The Town of Parachute said the County had set aside some funds on a project but that is not going forward – the Parachute Interchange. Don reminded the Board that the County could only participate on such a project like this through the Housing Authority. Ed suggested the possibility of partnering with the Rifle folks on a joint housing project. However, last December, Susan Kirkpatrick said not to submit an application until the end of the year 2009. Bill said they had submitted an application in the last cycle. They have a complete package. The Board directed these gentlemen to work directly with Geneva Powell.

DISCUSSION OF THE 3RD SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 3RD AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Don reviewed the publication and advised the Board they were entitled to proceed. Theresa Wagenman submitted the Resolution concerned with the third amendment to the 2009 budget and the third amended appropriation of funds. She submitted Exhibit A that explained in detail the request. They will be sharing more information at the meeting tomorrow at the budget work session. Commissioner Houpt made a motion to close the public session. Commissioner Samson seconded. Motion carried. Commissioner Houpt made a motion to approve the 3rd supplement to the 2009 approved budget and the 3rd amended appropriation of funds. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin - aye

MEET AND GREET THE VOLUNTEERS REQUESTING APPOINTMENT TO THE PLANNING COMMISSION – FRED JARMAN

Fred Jarman summarized on the 2nd of March the Board decided to meet and greet the applicants for the Building and Planning Commission vacancies on that board. Two spots are open as associate members. Commissioner Samson requested this meeting. He asked each one to give a few details of their background and why they wanted to be a member of this very important commission. He elaborated saying, what was good about the work they have done and how that would fit into the review of applications. In addition, what things they would have changed in the past if they had been a member. *Lauren Martindale* – Professional/Background – Energy and Land Use Public Policy; she has been in Colorado for 8 year and in Durango for most of the time but in Carbondale for 2 years. She moved to this area to work for CORE as the Energy Manager for the Town of Carbondale. Most of the experience is with building and planning and that is with the building envelope as well as building code inspections for the Town of Carbondale. In this past year a lot of consulting for the City of Aspen, Pitkin County and Snowmass when they rewrote their building code. As part of that, she ran programs for the governor's energy office, one being the Energy Star New Homes program. Real connected with the New Home Builders Association not as much on the zoning side except when we get into some of the beyond code programs that deal with site issues. She is also working for CLEER working as a sub-contractor on the New Energy Initiative and mostly doing research and technical work. As to being on the commission, she realizes the impact of the environment and how we live our lives day to day and would like to be a part of that process. As far as what the Commission did this year, working through the Sunlight development project was extremely difficult and she worked with the developer on that; on Energy Star to get them to commit to incorporating those kinds of things. That would have been a very difficult decision for me knowing the developer. In the end, that was probably a good recommendation. On Cattle Creek, she did not know where she would stand on that project. She would want to think careful about that development. It was a good decision for them to work through that process carefully and they made the right decision. *Kevin Wamli*, structural engineer with Maggert and Associates, Inc. and has lived in Glenwood Springs with his wife and daughter since 1998. He has worked for several structural engineering firms in the valley. One reason to be on the Commission is because he is noticing a slight shift in how we do business. It is more of a team effort at the present time, before it was all of these stand alone architect contractors/subcontractors and structural engineers and now it's more on a larger project; we do more team building and team design from the start. For me to understand zoning issues and how they are arrived at is very important and feels his participation in the Commission could help him greatly with that area. He would like to understand how decisions are arrived at when they do not make sense to him on a personal level. He would like to know how things are arrived at on things he has seen in the valley. One was mentioned before, that being the initial project on Cattle Creek. He did not understand how the County could allow a project to start with a developer who does not have sufficient funds or sufficient experience to complete the project. This has occurred at least twice in the County. It may not be anyone's fault; it could be just the mix of things. He knows one of the current volunteers, Jock Jacober has spoken very highly of the Commission and he knows Adolfo Gorra as well. He would also like to concur with Lauren about Sunlight; Jock spoke about this and sounded like a very difficult situation and the outcome was good. *Bethany Collins* - She was born in Glenwood Springs and spent a great deal of her life here. Her background is in environmental law and natural resource law and works for Aspen Valley Land Trust doing conservation work which adds a vested interest in seeing what happens in this valley as far as its growth and development. She said she does not want to see everything stay in open space and had a concern that she might perhaps be thought to be against development. The goal is smart growth, smart development and paying attention. Some of the decisions made by the Planning Commission, Sunlight was a good decision and glad they were looking at water resources and potential infrastructure and not just the development in general. In terms of Sunlight and Cattle Creek Crossing, and even the potential for Spring Valley there needs to be a larger scale and not just a project based analysis. How many houses, how much development and to steal a word Tresi used earlier; we really need to come back to this sense of community. She recently purchased a home in New Castle but to see how many people live there and there is not a lot of infrastructure in place for those people for a bedroom community. She looks forward to making decisions like that and asking great questions. Obviously, in asking if a development plan is before you, okay, where is the open space located, where are the parks and what's going to instill the sense of community back in the development? *John Kuersten* - 3rd generation native of Garfield County growing up in-between New Castle and Silt. He and his wife own a small construction company in Rifle and employ 75 to 100 people in the busy season. We are in the middle of the energy industry which affects the entire county; the west end

more so than this end. He watched what Phil Vaughan and the Planning Commission did on the redraft of the entire planning and zoning guidelines and thinks part of that is due to the energy and commercial driven developments in this County. He believes there is some imbalance on the present board representing the up-valley and does not want the west end of the valley to be forgotten. He has been in construction for 20 plus years doing final development to build-out from sketch plans to completion through several different planning commissions and Board of County Commissioners. The experience is helpful and most importantly we care about where we live. You are going to have growth and he feels we need objective opinions on how to control growth and work within the guidelines established by the planning commission for further refinements. Commissioner Samson asked if there was another application. Fred said he had a telephone call from Tim Stoley but he did not send any information. Other questions asked by the Board: Commissioner Houpt noted that this face-to-face meeting had not occurred before today and there is a lot of interest in serving in this capacity. She further commented that she had been focusing on professional backgrounds and we do have a split of representatives in various areas of the County. Commissioner Houpt and Commissioner Samson stated they would rather not vote on this today. Chairman Martin asked each of the applicants a two-part question: Understanding the Planning and Zoning Commission position you are applying for has a document called the P&Z Master Plan and the members create that through all the processes. Does this master plan compliment or dictate the rules and regulations that this Board creates and tries to enforce; or should it be an advisory to the rules and regulations? Is it mandatory to follow them all because of the planning document? Is the planning document the master plan that dictates what the rules and regulations are going to be; or are the planning documents complimentary and an advisory to the rules and regulations? That is a philosophy and he needs to know where your philosophy is. John Kuersten responded saying the planning commission and the Commissioners spent a lot of time developing that document because we believe that is in the best interest of the County. Our job is to take that document and adhere to it as closely as we could, but there are times when your opinion or interpretation is needed obviously. However, those are the guidelines established and the Commissioners need to follow that to the best of your ability and still keep in mind on decisions that need to be made pertaining to that document and the interest of the community. Chairman Martin – Again my question is, the Comprehensive Plan is adopted, created by Planning and Zoning, rules and regulations are created by this Board through a process. Does the Comprehensive Plan dictate what the rules are going to be or are the rules complimentary to the Comprehensive Plan but not mandatory to follow? Are they locked together, no deviation, or are they advisory to each other? John Kuersten – They are locked together and developed in unison to work with each other. You can always get an instance that needs some interpretation and refer back to both documents to make that recommendation. Bethany agrees they should be locked together but the master plan should govern the rules and regulations and obviously that's where variances come in and things for zoning and everything else. The rules and regulations should dictate the use that is allowed within something outlined in the master plan document. Garfield County is currently going through a re-write of the comp. plan and she reads parts of the comp. plan regularly and said this is great but it's never really been implemented or only to a certain degree. Once you set out a plan, it should be followed; but there is room for variances and the Commissioners to do a Resolution against certain parts of the master plan. If you go through a huge planning document and then just say it's for guidance you could just consider again every development plan in front of you individually rather than taking it back and saying, in this area what was planned or what was looked at and forecast; and does this fit into Garfield County's survey; and what's important to the citizens and area and the potential impacts to that area. Kevin Wamli would say the two should be locked together as well but with a key that you can unlock. The planning of the County should possibility change some rules and regulations and the rules and regulations should definitely influence how the planning is put together. There are probably some issues as well that would govern both of those but you did not ask that so we'd stay away from those. However, as those two things are locked together you need a key to break them apart because; a plan is a plan and you can't always foresee every single specific situation that is going to come along and to me that's what the commissions part of the job is, to interpret these little nuances that the public brings up, that the developer brings up, that a governmental entity within the County brings up and they have questions – well your plan doesn't cover this, how does this fit. The rules do not cover this, how does this fit. Then the commission has to figure out how best that this little loophole or spot that was not covered by the plan or the rules can fit in here and then we would give our recommendations to you guys and hopefully you would follow them. Generally, those two should go together and influence one another but there will be occasions when you tear them apart. That occurs often in my business; we are governed more or less by the State rules and regulations, building codes by County building codes and local municipal codes. But almost always in those codes it says that the professional engineer or professional architect can overrule those based on the circumstances, based on your professional judgment and we stamp and sign those drawings; saying they either fit the codes or they fit the plan or for some reason we've chosen to deviate. There better be a good reason why you are deviating. Lauren – Rules and regulations probably trump the plan until a variance has been granted or the rules and regulation have been changed. From the developers standpoint, it's really important for them to be clear as to what they are being asked and the expectations and; they are not having to deal with one set of politics at the planning commission with grand visions but then having to comply with rules and regulations that the Board sets and for them it is conflicts and a waste of time and money to have to go through many different processes. Chairman Martin – If the recommendation for approval or denial comes from the planning commission and this Board disagrees with it, what is your overall opinion of this Board? John – All we can do is the job to the best of what we feel is right for the County; ultimately the decision lies in the Board's hands and they know they will take the advisement of the Planning Commission seriously but they have their own issues to weight also. Bethany– Yes, presumably they know something that has not been presented and looking at it in a different perspective but you guys were voted by the people of this County and if we're appointed by you, you are speaking on behalf of the entire County and we're mostly just recommending based on your confidence in us or lack thereof. Kevin – A good question, I would have a high opinion of the Board and maybe frustrated if it happened over and over again and we spent all this time and came up with this great recommendation, I could see being frustrated but; you three have been elected by the County, so we have put our confidence in you and my confidence would remain high. Lauren – She would agree with everyone else because that is why we have the structure that we do as Commissioner versus volunteers. We'll probably be spending many hours reading through documents and getting to know projects pretty intimately so I would hope you as Commissioners continue to ask P & Z members what they think if they have spent more time than what you all can afford, but ultimately it's your decision. Each of the Commissioners thanked the applicants

for coming in and answering questions in this process. It will be a hard decision to only pick two, noting they will be notified once the decision has been made.

CONSIDER ACTION REGARDING THE DEVELOPER DEFAULT FOR SUN MEADOWS ESTATES SUBDIVISION – FRED JARMAN

Tim Thulson, Fred Cooke and Fred Jarman were present. Fred submitted information pertaining to the county action being requested. He said based on the fact that the developer has not completed the infrastructure improvements required in the SIA and the fact that the LOC has now expired, staff finds the Board has the following options available to them as contained in the SIA, which is:

1. The Board may elect to vacate the Final Plat as it pertains to lots that do not have building permits issued on them;
2. The “Pledge Lots” (Lots 9 and 10) could be released to the County, which the County would be required to sell for the purpose of generating the funds necessary for completing the improvements. (In this case, that includes the improvements to the intersection of State Highway 6 & 24 and Miller Lane.)
3. The Board could re-negotiate a second amendment to the Replacement SIA with the Developer to address the completion of the remaining improvements and obtain a new LOC.

Staff Comment: The LOC has expired so there is no money available to the County. If the County were to sell the pledged lots, it is unclear as to how much the market will bear for those lots presently given the market conditions. We do not presently know what it will cost to make all the improvements, which would still include the intersection of Miller Lane and Highway 6&24. If the Board decides to vacate lots that have not had building permits issued, it would seem appropriate to vacate all of the lots south of Antonelli Lane (County Road 216) but the question remains if the improvements of the intersection of Miller Lane and State Highway 6 & 24 would still be needed to be completed. Staff points this out as an issue to be contemplated by the Board because the purchasers of lots within the subdivision (who have already built or simply purchased lots in Sun Meadows Estates) relied on the notion that that intersection was to be improved. If the Board vacates the other unsold/un-built lots, that notion of an improved intersection still exists. Therefore, staff suggests the Board require the Developer to provide a new engineer’s cost estimate for both the SIA and the Intersection of Miller Lane and Highway 6 & 24 so that the Board can assess what still has to occur and what it will cost. The County Planning Engineer visited the site on 3-4-09 and provided the following observations:

- All culverts are okay.
- South of CR 216 - The roadway south of CR 216 is constructed but not paved. All utilities have been installed. The ditches are clear. Re-vegetation is adequate although I am sure that most of the vegetation is weeds.
- North of CR 216 - Roads are chip sealed.
- I am surprised the site does not have multiple fire hydrants. (There is one hydrant at the corner North Meadow Drive and CR 216).

Lexi Meadows was approved and they were to participate and cost share the expenses. The escrow amount for each was \$145,000.00 in 2006 but we do not know what the appraisal value would be today. Most of the improvements have been done. Fred Cooke addressed the issue and gave a brief update saying we had full intent to move forward with the 6 & 24 improvements; all internal improvements have been made. A joint effort with Lexi Meadows was made; they backed out of their development. There is a meeting with CDOT at the end of the month to see what obligations we are to do with the original plan with Garfield County and then we will do those this summer. The most recent cost estimate was \$300,000.00 to \$400,000.00. \$283,000.00 is with the present lender. Based on Lexi Meadows, our share was \$100,000.00. They are in the process of renewing their letter of credit. Fred suggested the developers come back with a new SIA and negotiate the terms and this allows them to negotiate.

Commissioner Houpt wants a larger letter of credit. A motion was made by Commissioner Houpt to schedule this discussion with Sun Meadows for May 4th and a new SIA provided to staff in time to put into the packets.

Commissioner Samson seconded. In favor: Houpt – aye; Martin – aye; Samson - aye

CONSIDER A TEXT AMENDMENT TO THE ASPEN GLEN PLANNED UNIT DEVELOPMENT TO ALLOW FOR A REVISION TO THE EXISTING PHASING PLAN. APPLICANT IS ASPEN GLEN GOLF COMPANY – FRED JARMAN

Fred Jarman, Larry Green, and Debbie Quinn were present. Debbie verified the notification process and advised the Board was entitled to proceed. Larry Green requested to bring this back to the Board on April 20th. There is a legal issue that Debbie Quinn brought up on Friday; there was nothing ready for a resolution for it and we agreed a continuance was best. Commissioner Houpt made a motion that we continue this public hearing until April 20th. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONTINUED FROM MARCH 2, 2009 - CONSIDER A SPECIAL USE PERMIT FOR A CONTRACTOR’S YARD AT 0536 ODIN DRIVE, SILT, WITHIN THE ARRD ZONE DISTRICT. APPLICANTS ARE ROGER & SHERRY HARRIS. – DUSTY DUNBAR

Tim Thulson, Jullian Christensen, Debbie Quinn and Dusty Dunbar were present

Tim discussed there is a legal issue; if they can process this in a platted subdivision and have not had time to complete the investigation and asked for an extension into April. This is their second extension. Commissioner Houpt made a motion to continue this public hearing for Roger and Sherry Harris to consider a SUP for a contractor’s yard until April 20th. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMPRESSOR STATION IN THE RESOURCE LANDS, PLATEAU SUBZONE, THE STORY GULCH COMPRESSOR STATION. APPLICANT IS ENCANA USA – DUSTY DUNBAR

Dusty Dunbar, Brenda Linster, Khem Suthiwan and Debbie Quinn were present. Debbie reviewed the noticing requirements for the public hearing and said that under the old code a legal description was to be submitted. Commissioner Houpt – The need to notice the entire piece of property that is contiguous. The legal description did not include the 54,000-acres. She noted that someone could challenge. The Board accepted the notification. Brenda preferred to go forward. Chairman Martin swore in the speakers. Planner Dusty Dunbar 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 – Staff Power Point; Exhibit G – Letter - Garfield County Road and Bridge – Administrative Forman, Jake Mall, dated 1-06-09;

Exhibit H – Email from Garfield County Road and Bridge – Administrative Forman, Jake Mall, dated 3-10-09; Letter Exhibit I – Email, Garfield County Vegetation Management Department – Director, Steve Anthony, dated 1.29.09, revised 2.4.09; email from same dated 3-10 from Steve Anthony; and Exhibit J – Letter, Rio Blanco County Department of Development – Planning Director/Natural Resources Specialist, Jeff Madison dated 1-30-09. Chairman Martin entered Exhibits A – J into the record. The Story Gulch Compressor Station would consist of fourteen (14) natural gas driven compressors; fourteen (14) air coolers, and outdoor electrical substation; two power distribution centers; a generator building; two power distribution centers; a generator building, launcher/receivers; four slug catchers; vessels for separate and liquids storage, regenerator contractors, blow down stack, eight 12000 barrel liquid storage tanks’/vapor recommend units and three building for pumps.

STAFF RECOMMENDATION

Due to the following conditions:

- 1) The limited nature of potential impacts to surrounding properties,
- 2) The remote location of the site
- 3) The proposed installation is designed to meet the requirements of operations within local, County, State, and Federal operational requirements

Staff recommends the Board approve the request for a Special Use Permit for the Story Gulch Compressor Station 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 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 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.
8. All equipment and structures on the site shall be painted with a neutral shade of tan or Beetle Green non-reflective paint to reduce glare and make the site more inconspicuous.
9. No storage of heavy equipment is proposed or permitted on this site.
10. Any lighting of the site shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
11. 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.
12. The Story Gulch Compressor Station shall meet state requirements for permitting as to storm water management, and an erosion plan specific to this site shall be appended to Volume 1: Master Stormwater Management Plan Piceance Creek/Eureka/Story Gulch Unit COR-039167 (5/2008) that is used for projects in this area.
13. Conditions set forth by Garfield County Vegetation Management Dept. Director Steve Anthony in comments dated 2/4/2009 shall be met:
 - a. A re-vegetation bond of \$4000 per acre shall be submitted for the 7.2-acre site disturbance. If the use as a compressor plant is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards, at the date of permit issuance, are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
 - b. The security shall be held by Garfield County until vegetation has been successfully re-established 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.
 - c. The Applicant shall provide the Vegetation Management Department with the original tags from each seed bag.
- d. Any straw or hay bales used in erosion control shall be certified ‘weed free’.
14. Wildlife safety shall be addressed with the following conditions:
 - a. A plan to accommodate safe interaction between birds of prey and power line facilities and structures shall be completed and submitted to the Planning Department prior to the issuance of the Special Use Permit. If the line is installed after January 1, 2011, this plan shall be updated and submitted to the Planning Department 30 days prior to construction of the power line.
 - b. Bear-proof waste receptacles shall be used on-site.
 - c. Fencing around the substation shall meet ‘wildlife friendly’ fencing standards of the Colorado DOW.
 - d. Drainage from the site, roads or access roads for the power line shall not cause damage to streams used as Colorado Cutthroat Trout habitat.

15. Conditions set forth by Rio Blanco Planning Department to provide safer road use in Rio Blanco and Garfield County shall be required of all personnel working in conjunction with this project:
 - a. All employees and subcontractors working on this site shall be required to attend a safety orientation provided by the applicant and sign a work condition agreement provided by the applicant that includes information on violations that are cause for dismissal from job and/or site access, which include, but are not limited to:
 - No Valid Operator's License CRS 42-2-101;*
 - Driving Under Restraint - CRS 42-2-138 (1)(a);*
 - Reckless Driving CRS 42-4-1401;*
 - Speeding 20+ MPH Over the Limit CRS 42-4-1101;*
 - Illegal or Improper Passing CRS 42-4-1002 – 1005;*
 - Driving While Ability Impaired or Driving Under the Influence - CRS 42-4-1301.*
 - b. Individual vehicles may be used only if they contain specialized equipment or if workers are required and authorized to drive an individual vehicle to the site for logistical and/or short-term business purposes.
 - c. Transportation to the site in multi-passenger vehicles (carpools) shall be encouraged.
 - d. The Applicant shall submit a plan to implement items 15. a., b., and c. prior to the issuance of the Special Use Permit.

16. Requirements set forth in Garfield County Road and Bridge comments (Exhibit G) regarding overweight/oversize permit requirements shall be met.

17. A cost estimate for returning the site to its pre-construction condition shall be provided the Project Engineer, and a security for that amount shall be required prior to the issuance of the Special Use Permit.

18. Under this Special Use Permit, two CAT 3616 natural gas-driven compressor engines, two air coolers, a single glycol contactor, four 1,200 bbl (201,600 gallons total) storage tanks, one vapor recovery unit, one 3-phase separator, one slug catcher, one glycol regenerator unit, one blowdown stack, two pig launchers/receivers, the control building, cistern and leach field on the completed site, constructed during a period to last no longer than seven months in 2010 shall be permitted, with future construction to be managed as follows:

- a. The Applicant shall provide the Garfield County Planning Department Project Engineer properly scaled and engineered drawings wet-stamped by a professional engineer that details to the satisfaction of the Project Engineer the site, construction details and drainage to properly assess its build in 2010.
- b. Proper grading permits for the 2010 site construction shall be obtained prior to the issuance of the Special Use Permit.
- c. Proper building permits for the structures of the site for 2010 shall be obtained prior to the issuance of the Special Use Permit.
- d. Prior to the issuance of the Special Use Permit, the Applicant shall provide the Garfield County Planning Department Project Engineer or Planner a detailed phase plan identifying the time frame for each year's four-month construction period, the equipment to be installed, manpower needs, etc.
- e. The Applicant shall provide the Garfield County Planning Department Project Engineer properly scaled and engineered drawings wet-stamped by a professional engineer that details to the satisfaction of the Project Engineer the site, construction details for spill containment basins of adequate size to accommodate the capacity plus 10% of the four 1,200 bbl (201,600 gallons total) storage tanks. The containment basins shall be installed prior to the tanks becoming operational.
- f. Prior to the issuance of the Special Use Permit, the Applicant shall provide the Garfield County Planning Department a plan statement that explains the management and transport for the materials contained in the four 1,200 bbl (201,600 gallons total) storage tanks.
- g. All of the natural gas-driven compressor units shall be converted to electric-driven engines when adequate electrical capacity is available to the site.
- h. After 2010, and prior to each annual four-month construction period , the Applicant will provide the Planning Department Project Engineer a plan statement detailing that period's construction. Proper grading and building permits shall be secured prior to initiating construction or site preparation for projects to be built each year.

19. In the event that their plans change, the Applicant may apply for a revision to the SUP under the Major Impact Review Amendment process of the Unified Land Use Resolution of 2008 under which it will be administered.

Dusty discussed the highlights in the proposal and several conditions. The Board discussed the conditions at length. The applicant had several concerns in the conditions first stating that EnCana does have an emergency evacuation plan and fire protection plan in place. She also addressed conditions No. 18 and No. 19 and was confused as to how many compressor stations they were allowed to build under this SUP. Due to the economy, EnCana is not sure how many, or when they will build all the compressor sites and would like to have some flexibility. She specifically addressed the wildlife fencing noting that there is a guard on duty 10 hours a day and would let any hare or foxes out of the area if they when over the fence due to snow. This application is under the old code. Chairman Martin – Had a concern regarding access and they are coming off a private road so who would enforce this at the gate. If they have permission from the guardhouse going up there, how will you enforce it? Dusty said it was a recommendation. When this was brought to the Board, one thing requested was to ask Rio Blanco what they said and they were quite specific about wanting the requirement of busing these folks up there but; I don't think taking a passenger bus to this location is a safe recommendation so trying to give the applicant flexibility; and try to be a decent partner to our adjacent county is why that is in there. Chairman Martin did not think it was worthwhile leaving that in the conditions under 15 b. Commissioner Samson did not have any problem with the Colorado Revised Statutes regarding noise. Brenda Lister asked for discussion on Condition 15 d and h and on the screen, that Dusty is showing as Condition 18. It talks about under a SUP; you are going to initially approve two cat compressor engines and then from that point forward everything will have to be done under an amendment process for the subsequent phasing. Debbie Quinn stated this seems to be an application submitted for everything on the site however if conditions change they could go through the amendment process; that option is open to them. Dusty stated this is a

fairly narrow application as to what was going on in 2010. Dusty said you need to submit a plan as to when you are going to do this and let that go forward and then if you want to change anything else in the future you would go through an amendment process. We are going to permit with conditions as stated all of the things but you need to come up with a phasing plan and pen these sorts of things and tell us what years or months you think you are going to need this and come up with a general action plan. That way you can have a phased development under the SUP. Brenda said number 19 says, "Amendments to this permit may be considered for the expansion to its eventual level of 14 compressors". It seems that number 19 says we have to get amendments to get to 14. Are you saying that after 14 we can do amendments? Dusty responded by saying special use permits are not very compatible with phased developments because you only look at them once and you're basing your recommendations and decisions on what has been presented and then you don't know exactly whether you're going to drag this on and what years you plan to do these phases. It makes it difficult. Proper conditions and recommendations were written to satisfy the project engineer; but if we can get these ironed out and then anything outside of that would be handled through an amendment process under the new code. Brenda said it seems No. 19 appears to mean we have to have amendments for every phase of construction to get up to 14. Commissioner Samson agreed. Commissioner Houpt said this first paragraph outlines what pieces of this application would require grading, building permits and everything else except for an amendment and then 19 talks about what they would need an amendment for; so, let's focus first on this opening paragraph of No. 18 and ask where that structure came from. Dusty – These are all the things that would be initially required in 2010. This would allow, if granted, them to build essentially the site and get things set up and then as the market changed and the electrical line would come or not, that would dictate what kind of compressors would make up those 14 total. They represent all of them in a particular place; it is like a plate and you add the food on top of it in various places when that becomes available. Commissioner Houpt asked how many in the initial year, when you are setting up the site, would you be planning for compressor stations. Brenda – Right now only two engines. Commissioner Houpt – So this is consistent with what would happen in 2010. Brenda – Correct. Commissioner Houpt – Now, the question of Condition No. 19. Dusty – That was the guidance I received from the Planning Director that with these sorts of things you have to permit what is represented and try to help get a phased plan but you also cannot permit an unknown or leave something open-ended outside your guidance and control over the process. Commissioner Houpt – So the amendment process is administrative and what you are saying is it is very difficult to fit a phased project into a SUP in our County and so to accommodate that you have outlined what occurs during the first year. Dusty – Exactly. Commissioner Houpt – Which is the first phase of the SUP and then you are saying as the next phases come on board they just need to amend that. Dusty – There is also a condition that I wrote into that if the applicant so chooses to tell us what the phased plan is rather than saying we want to put 14 total out there but we don't know when, how big, what months, etc. Commissioner Houpt – So if we had a comprehensive plan for that site then all of that could fit under No. 18. Brenda – Could we modify No. 18 for 2010 and then subsequent phases after that fall under the amendment process? Chairman Martin – Up to a maximum of 14 compressors with these conditions. You have your full blown site plan submitted and as it specifies 2010 and will put in their phasing plan for the next so many years and within that plan you're going to tell me how many up to 14, and what you have in your plan, therefore you would not need No. 19. Dusty – Ok. I wanted to make sure there was a statement about the process because that was normally when things came in; they are now allowed an amendment where the Planning Director made it clear to me that an amendment to a major impact review would be permissible for this permit rather than making them do an entire major impact review submittal. Brenda asked if they could delete the 14 compressors because you are talking about an expansion past the 14 compressors for the amendment, is that correct? So No. 18 says, "this is what we can do in 2010 and as long as we submit a phased development plan...." Dusty – If you change your phased development plan, you need to do a little amendment. Brenda – Would No. 19 be more appropriate to say, "Amendments to this permit may be considered for the expansion of this compressor site inside the original footprint and delete its original reference to its eventually level of 14 compressors? This is very confusing and I know EnCana will be held to these conditions. Commissioner Houpt – I thought that No. 19 was what would have to happen if they do not come up with a comprehensive plan for this site. Dusty – What we are doing is, you will tell us what your marching orders are going to be and how you will do this and get it lined out as part of this permit, then we can go ahead and allow it to be a phased permit. However, if you do not satisfy this phased plan then we need to make sure that they understand and it says in here somewhere that the permission to do an amendment for this exists. This is allowing that major review to an SUP application. Commissioner Houpt asked if it would be better to say, "Unless the applicant provides a comprehensive plan for the site." Dusty – If it falls out of this then they would have to apply for a major impact review. Brenda asked to delete letter 'd' under No. 18; that seems to be for 2010 and then we would be more than happy to follow the amendment process for subsequent phases. A, b, c, e, f, and g all talk specifically about requirements for 2010 but the SPCC Plan, the wet stamps and whatnot; it's only 'd' and 'h' that talk about that phased stuff. Dusty – They are different; one is for grading, one is for building, one is for construction details and drainage on the site – the reason 'd' is in there was the phased sequence to talk to the planning department about what it is you are doing. Those are the things that satisfy the questions of the project engineer. Brenda – 'd' and 'h' are the only two that specifically talk about phased construction, so if we deleted 'd' and 'h' then No. 19 would say anything past Phase I has to go through the amendment process. Dusty – Ok, what I am trying to do is to get it so that they have a great deal of flexibility according to a plan that they submit as their best knowledge to what they intend to do and circumstances. If it falls outside of that, then also grant them the permission from the planning director to go through an amendment that normally does not amend this process. If you wish to remove No. 19, we could do that. Brenda – No. 19 seems to be confusing because of the wording. Chairman Martin – 'h' can be No. 19; it could be prior to each annual construction period and years 2011 through 2016 the applicant will provide the planning department the project engineering plans for that period's construction. At that point, you have phasing, you have your other, and if you want to put proper grading permits, etc. those need to be part of that but it is in the review process. No. 19 was an added benefit that they are now asking not to have. Brenda – No. 19, the wording is still confusing and it may be considered for the expansion up to 14 compressors. So how can we have an amendment for an expansion up to 14 if you are saying the 14 is already approved in No. 18 as long as we do a phased plan? That is why I am struggling with the language. No. 19 would make sense if we deleted the part that said, "If the eventual level of 14 compressors and related facilities". We are optimistic if the market comes back then we will have all this built out by 2016. Under the current code, the old code, SUP's do not expire. Under the new code, the major impact permits expire after a year. This is under the old code. Dusty – At any time, EnCana comes in for this particular thing, then it will

be up to the planning director to say whether they would have to submit an amendment or a major impact review and I don't think it would be a major issue. Chairman Martin – If this is approved, we know that there are going to be 14 on the overall plan and each year after 2010 supply the building out of that year; if they don't exceed 14 and the buildings have been identified, why do they need to start over and have a new permit and an amendment process. The site plan is already laid out; if it is outside the plan then they would do an amendment. Dusty based her report on the information that was provided in the application and responding to what was provided and not anticipating what might be or taking liberties with their application; change from 2016 to completion. Chairman Martin – They could also come in and say they would like to change their completion and phasing plan, we've seen this with subdivisions. We cannot accomplish this by 2016 and would like to move it to 2019 and then do a request of the Board. Commissioner Houpt suggested after 2010 and prior to each and formal construction period and take "in the years" out and the applicant will provide. I am afraid we are boxing ourselves in on these and they will go away after 2010. Dusty – Legal staff has instructed when we are doing these permits, there needs to be specific language in here and so it is hard when you do not know what is going to happen. Debbie Quinn – It was confusing reading through these conditions but it seems to me that there has been an application submitted for everything that's on this site and that problem is that staff didn't get sufficient detail about what's going to happen on this site post 2010. I think the conditions are meant to address the rest of the information as you go. I think so long as that condition is in there, give us the information each year, and an additional condition to the extent that their plans change from what was represented in this application then they may need to come through the amendment process. As long as we have that in there, I think we are safe. This issue about the amendment process is that currently the new land use code doesn't allow amendments to SUP's; we are going to be processing an amendment to the new code that will make it clear that this was the intention and so that shouldn't be an issue if and when they need in the future to come through with an amendment. Dusty proposed an amendment to No. 19, first let's propose an amendment to 18 'h' to remove the years 2011 to 2016 to read "after 2010 as per Commissioner Houpt and in No. 19 the recommendation from Debbie Quinn to the extent that "their plans change the applicant shall revise under the major impact review amendment." Brenda – I wanted to go to Item 15 'b' which is "access to the site by private vehicle with fewer than two occupants prohibited except where that vehicle contains specialized equipment". Chairman Martin – That is my point, it is not enforceable. Brenda – What we wanted to say if the Commissioners decide to adopt that language is we would like the full language that Rio Blanco County recommended; which includes the wording that "if workers are required and authorized to drive an individual vehicle to the site for logistical and/or for short term business purposes." We are fine with that as long as the full language of the Rio Blanco county planning director is included. The amount of traffic out of Rio Blanco is 75% of vehicle loads. 14 'c' – Wildlife fencing and the specific condition where it says and "it shall also be designed to prevent entrapment of animals that might be able to cross the fencing when or if snow drifts occur." That specifically refers to hares and foxes. I am not quite sure how we can build a fence if a rabbit or fox comes over in a snowdrift, it can come back out. This facility has an operator that will be there three/10 hours per day, so the most a rabbit or fox would be trapped would be overnight so would it be possible to keep everything in there but delete "also be designed to prevent entrapment of animals". Chairman Martin – Fencing around substations shall meet the wildlife friendly fencing standards of the Colorado Department of Wildlife. Brenda – We have those standards and there is nothing about entrapment. Commissioner Samson – Strike that clause. Dusty – The information I was provided had no fencing detail – this makes a big difference that someone would be there 10 hours a day. Brenda - Condition No. 4 – "Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes for Light Industry at the site's boundary." I think the wording should end after Colorado Revised Standards and delete "for Light Industrial at the site's boundary" because the CRS and the COGCC Rule 802b specifically says that the noise is measured 350 feet from the property boundaries. Debbie Quinn discussed with EnCana's counsel and I have no problem with that revision. Debbie had one more representation she wanted them to make; in connection with adequate water supply, they indicated they would be providing a cistern but their application did not indicate the source of the water for that cistern and I believe that we need to have a statement about that. Brenda – We do not have any water sources up there so we will be hauling water in. Right now for all our well pads, we use Mountain West and have provided affidavits in the past. Because construction is not starting until 2010 we do not know if we will be using that vendor or not but we could make that representation that we will provide a copy of the hauler affidavit prior to construction. We will also make the representation that we started with, that we will provide a state specific emergency response fire plan at the facility. Dusty – A question, you are not intending that all of the recommendations from Rio Blanco be implemented including busing people to the site. As I understand this you are looking for the last sentence of Item 2 that says, "Individual vehicles may be used only if they contain specialized equipment or if workers are required and authorized to drive an individual vehicle to the site for logistical and/or short term business purposes". Brenda – That is correct. Chairman Martin – That is a clarification on 15b that she would like that original statement from Rio Blanco. Brenda thanked the County planning staff, County attorney and Commissioners for helping and for the time given to this application. A motion was made by Commissioner Houpt to close the public hearing; Commissioner Samson seconded. Motion carried. Commissioner Houpt made a motion to approve the SUP for the Story Gulch Compressor Station with the 19 conditions or revisions to those provisions, Condition No. 3, I would add the sentence "applicant will supply Garfield County with a site specific emergency response plan prior to issuance of the SUP"; Condition No. 4 delete the words "for light industrial at the site's boundary"; Condition 15b "include the language proposed by Rio Blanco County"; Condition No. 18 h – "revising the language to read something to the effect of "after 2010 and prior to a general four month construction period the applicant will provide" continuing that paragraph deleted the years "2011 to 2016"; and then language in Condition No. 19 "to the extent that plans change the applicant can apply for an amendment to this SUP." Chairman Martin – And 14c with the recommendation of rewording of "fence around substations shall meet". Commissioner Houpt – I would delete 14c under fencing – the first sentence would read, "Fencing around the substation shall meet wildlife friendly fencing standards of the Colorado DOW". Commissioner Samson – Second.

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

CONTINUATION OF LIQUOR LICENSE RENEWAL HEARING FOR DOS HERMANOS

Jean Alberico, Damien Zumbrennen, Jean Alberico and Don DeFord were present.

Damien testified that he had a call this afternoon to advise him that the applicant wished to withdraw. Damien stated when he realized he was talking to David Edgar he said, "You are represented by counsel and I cannot speak directly to you." Commissioner Samson moved to close the public hearing; Commissioner Houpt seconded. Motion carried.

Don said this is a renewal application and the Board needs to find evidence to support the non-renewal. Commissioner Samson made a motion that we not renew the Hotel and Restaurant Liquor License and that is due to the fact that the establishment does not have a food license issued by the State Department of Health and therefore cannot comply with the liquor code; also they have not submitted a new Tavern License as represented at the last Commissioner meeting on March 2, 2009; therefore this Board denies their renewal of the Hotel and Restaurant license as currently submitted. Commissioner Houpt stated that the applicant did state they would submit a Traven license and since neither the applicant, Mr. David Edgar nor his attorney, Mr. Alan Adger has show for this hearing and word was received that they wished to withdraw their application and shut down their business, she would second the motion. In favor: Houpt – aye Martin – aye Samson – aye
Executive Session – Resume the previous items as aforementioned. Don stated public action would be taken after the session ended. Into Executive Session by motion made by Commissioner Houpt and seconded by Commissioner Samson. Motion carried. Out of Executive Session by motion made by Commissioner Houpt and seconded by Commissioner Samson. Motion carried. **Action Taken:**

- 1) Don stated he had three issues and asked the Board to continue discussion on requested changes to the **airport engineering contract** until the end of the joint meeting with Pitkin County on March 19, 2009. So moved by Commissioner Samson and seconded by Commissioner Houpt.

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

- 2) Don asked the Board to consider a motion to agree to **pay legal expenses for the Sheriff and any other sheriff employees** that might need advice or representation from a criminal defense attorney as a result of the District Attorney’s current investigation of the Sheriff’s office and;
- 3) This would include **re-evaluating this agreement** if any criminal charges are filed noting if any of these Sheriff employees are found guilty or make a plea agreement that the County would seek reimbursement of these legal expenditures

Commissioner Samson so moved. Commissioner Houpt – Seconded.

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

ADJOURNMENT

Attest:

Chairman of the Board

MARCH 17, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The continued meeting of the Board of County Commissioners began at 8:00 A.M. on Tuesday, March 17, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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 MEETING - BUDGET WORKSHOP

GARFIELD COUNTY BUDGET FORECAST – POWER POINT PRESENTATION

Ed Green, Lisa Dawson, Theresa Wagenman, All Department Heads, and all Elected Officials were present. Ed gave a preview of what is happening with the budget since the economy has taken a downturn. This is not reality because we have no way of making it reality. Theresa, budget analysis, submitted the power point consisting of 60 slides. There is some introductory information and then capital expenditures and lastly the budget for several years in the future. The forecasting objective is to help the Commissioners, Elected officials, and department heads by reducing some of the uncertainty, thereby enabling them to develop plans that are more meaningful. Some ways to control the budget is consistently monitoring, document the cause(s) of deviation and make adjustments as necessary. The projected fund balance is \$69,908,415. The decision today is to decide on a strategy – retrench and tighten our belt, or stimulate. Revenue sources include property tax of \$44.7 million. Property tax is approximately 1/3 of our total budget and 2/3 of revenue is oil and gas related. If production goes down then our property tax goes down because it is based on production. There is a noticeable drop in the number of permits for drilling. We are down to 33 rigs and soon will be down to 23. Production: Once you put that well into production and if you go from 103 rigs to 23, you will have a notable reduction in activity and revenue. The lack of oil and gas production in 2009 will not have a direct impact on the County until 2011. Commissioner Houpt – The economics have caused the wells to shut down. The issue is where they will start these wells once the economy is better. She had a discussion with Chevron and urged them not to get into a political debate. Ed said the issue is the cost of production, the uncertainty of the rules and regulations by the COGCC and the drilling. Theresa said the oil and gas industry also depended heavily on the economy and on loans. **Baseline:** It is a benchmark for measuring the budgetary effect of proposed changes in revenues and expenditures over a given period. One time revenues and expenditures are not included in these calculations such as inter fund transfers, capital revenues and expenditures and miscellaneous one-time contributions. Projections using the 2009 Baseline: Theresa gave a breakdown from 2009 through 2013 showing the percentage change in revenue from the 2009 amended budget. Compared to the amended budget for 2009, there is a 7% reduction, in 2010 a 5% reduction. Commissioner Samson – When talking about this reduction is this from the baseline. 35% from 2009 baseline. Theresa expects that this will go back up in 2013. John Gorman says 35% reduction in property tax because he is optimistic and thinking positively. Our preliminary awareness from COGCC is that we will see Garfield County has the greatest value of gas taken out of the ground in 2008 and believe that in 2010 it will be the biggest increase ever. The price of gas has fallen by 2/3rd's or more. In addition, we have more than 2/3rd's reduction in wells. We could have a 60% reduction in gas taken out of the ground in 2009 compared to 2008. This is based on a hopeful prediction that gas will be elevated and the full gas lines will be used. If it does not then that 35% will turn into a 40% reduction. There is no way to predict what will happen in 2009. We are in the tight sands formation and some rigs go from eight months to 1 1/2 years. We are headed in a very scary prediction. Chairman Martin – This gas price is also dependent upon the price of coal. Coal will go down and the price of gas will go up. Miners have been put out of business so labor will be the big issue. Theresa – The amended

budget causes us to take a hard look at what we have in the 2009 budget. Our revenue is holding but the perception that we underestimate revenue does not hold true in 2007 and 2008. The Revenue Forecast for the next 5 years indicates an increase in 2010 and then a downturn in future years. Personnel cost will create an increase from the 2009 expenditures; from the 2009 amended budget and in 2013 there will be an 8% increase. The perception is that we overestimate expenditures holds true. Our fund balance will go up in 2010 to 88.4% and then go down to 81.2% in 2011 and 77.5% in 2013 and 75.1% in 2013. **Airport:** 50% – 60 % is based on the economy. In 2009, they anticipate a 20.3% down in fees from fuel sales, landing fees, fuel storage fees, and State fuel tax rebate. In 2010, 50%-60% drop in fees due to the Airport being closed for approximately 6 months. In 2011, it is uncertain. In 2009, we had anticipated new hangars however; people are not buying airplanes and not flying. **Back to the question – retrench or stimulate.** Our 2009 Big Ticket Items: The housing project in Rifle – a meeting has been scheduled with those involved in the Rifle project. The pressure for housing has decreased dramatically. We do not have the pressure of finding housing for new teachers and hospital workers we did a few months ago. **Airport:** – The loop system is necessary to provide water to the hangars in case of fire at the Airport. This is a cost of \$1.5 million. Dale said the power line relocation at Anvil Points for \$500,000.00 is a political decision. Dale gave a dramatic analogy. BLM is pressuring us to remove that site as well, per Chairman Martin. The Courthouse building for the elected officials is doubtful for 2009. Ed said we have had discussions on where to put these offices and this will not occur in 2009. The issue at the Airport is, do we pay for it upfront or allow hangar operators lease credits and have them pay for it. **Landfill:** We need to have a new cell at the Landfill this year or there will be big problems. In the year 2010, the new cell has been moved to 2011. Kraig said our cells have been 65 feet deep. The new cell can only be 25 feet. This will be used for windy days only. The 2009 cell is half-full but they are seeing a decline in trash coming in. Kraig is in a panic mode due to the increase with the spring clean up. He feels there will be a drastic drop in the use of the landfill. Oil and gas is better than 50% for use at the landfill. It is hard to forecast due to this drop. **Jail:** We have plans to pay off some of the jail debt for \$900,000.00. **Road and Bridge:** Marvin gave an overview of the road and bridge maintenance projects. He submitted a handout showing all the roads for repairs, asphalt projects and heavy equipment needs. He explained in detail the changes he anticipates. **Parachute Interchange** – The county portion of the expense has not been determined but it can wait. The need for this was due to the increase in oil and gas activity however, since there is a decrease in oil and gas production, this can wait. This is the west interchange to add additional lanes for the on and off ramps. **Bridges:** County Road 311 Divide Creek and County Road 343 Raven Road new Bridge is essential due to the safety of the public and for oil and gas activity. County Road 306 Spring Creek project has been in progress for several years and it cost \$2.6 million. It is also a safety issue. County Road 324 Maxfield new bridge at a cost of \$1.2 million is essential for safety of the public and for oil and gas activity. Commissioner Houpt asked how we determine oil and gas assistance with these new bridges. Marvin said we have had a great deal of cooperation with the industry but it is hard to forecast what they will be doing. Last year they contributed over \$4 million for the improvement of our roads. Marvin attempts to get everyone at the table to discuss these impacts. Jake Mall said the activity has dropped and there are fewer impacts to the roads. These single lane bridges are not safe for the public and residents. Commissioner Houpt – We still need to determine the impacts of the industry compared to the activity of the landowners. **Four Mile Road:** – In our 5-year plan, we had placed about \$5 million for maintenance and now it is down to \$3 million. We hope to go in, grade and rotomil but this does not include any surface widths. The East-West Airport Access road is \$875,000.00 and Brian feels we should proceed with this project. Canyon Creek Flash Flood Mitigation and drainages as well as on County Road 311 to make it safer and gain widths so two cars can pass. In Canyon Creek, the entire hillside burned and we are trying to upgrade that road. **South Bridge:** Rebuild the south bridge is a political decision and we have budgeted \$4 million for that project. In 2012, we have the Administration West Building in Rifle and Ed wants to reevaluate this project of \$7 million. This is a place marker. Marvin is excited about the Battlement Mesa Satellite Shop for \$1.5 million to work on equipment. It is optional at this point. County Road 240 Bruce Road for \$2 million is next to City Market in New Castle. Commissioner Houpt – Four Mile is an area for future development and we may need to reevaluate this project. **Human Services Annex:** Lynn Renick presented saying given the current economy crisis we have seen an increase of over 10% in one month for applications and assistance. There will probably be a large increase and we expect a 30% increase. Some are not eligible. For the building of the annex, one of the issues is that construction costs will be lower now. In addition, construction of this will increase the work in this County. If the building is not built in 2009, we will more likely have to look at more home offices. It is also for an increase of 45 staff and it will be done in connection with the Mountain Family. **Housing Authority:** Ed said Geneva Powell has asked for a section for her staff and she can generate revenue to these costs. Garfield County has increased in revenue due to the collaborative efforts with schools, FACET, family-to-family programs utilizing team decision processes. **Additional space:** We would be looking at putting our Child Welfare Division in the new annex in the Rifle office for additional conference rooms. At the present, we use the lunchroom for large families and extended family visitation. Lynn would also like to see an outdoor area to provide limited play space for children during visits as well as adding additional parking. 1/3 in Glenwood and 2/3's in Rifle for intakes is the norm. In Glenwood, the space is limited. Over the last two-year period, we have seen 2/3's of the applications in Rifle compared to Glenwood. Ed said the possibility of moving the Commissioners room in the new administrative building would free up space in the administration building. 30,000 square foot building is what we are looking at. You can only go four floors. **Sheriff – Rifle Annex office:** Lou presented the vision as he sees it in the future and suggests we need to prepare for it now. The Civil Department is seeing more papers than ever in Garfield County. The service needs for the Sheriff's offices tends to go up during an economy downturn. Since the great depression, we have seen 17 little downturns. We did look at putting this building on Battlement Mesa property and it came in so now we are looking at the Airport property to reduce the impact on the capital. The new building will provide better training facilities, office space, private interview/conference rooms and proper evidence storage and processing which is driving the need of additional space for these various reasons. This would allow for community meetings. Currently storage of evidence goes from 1970's to present due to the new methodology of DNA. **Sheriff's Annex Substations:** We currently maintain three small offices in Rifle and Battlement Mesa as substations. The Rifle Annex would allow us to free the Airport offices for use by other County Departments in need of space. Ed commented on the physical training space in the new Rifle annex. Crime continues to grow in this County and projections of continual growth in population regardless of the economic slump in the County as well as the severity of crimes in this area. **The Victims Advocacy office:** This currently houses two employees. There are laws governing the needs of victims. **Search and Rescue:** They would like to be added in the new facility. This building is currently projected

at \$3.5 million. Lou suggested talking to the decision makers about increasing space to house the equipment needs of search and rescue. This would free up space now used in the road and bridge facility. The community room will be set up as an incident command center as well. Ed said we think the buildings will come in at a lower rate than anticipated, possibly 5% lower. Randy reminded us that we are looking at the green buildings. **2009 Motor Pool Update:** Theresa stated they have reduced the number of new vehicles to be purchased in 2009 from 29 to 18. We have moved the deadline for the Sheriff's vehicles through the motor pool to extend the life from one to two years. We have looked at extending the Sheriff's vehicles from three to 4 years and the motor pool vehicles from four to six years. **Future staffing positions:** 19 new positions in 2009 and we have filled 12 of those. **Health Insurance:** The holiday in December has been projected to be used toward the increase in the premiums for employees. We will need to flatten the personnel in the County and would rather see us retrench in personnel versus layoffs. Plan Ahead for the **Future:** Ed thinks we should change the mill levies to the general fund. Pile money into the general fund and have plenty of money available. Commissioner Houpt – We have always had healthy fund balances. What do we need besides this fund balance? Ed said there will be a derogation of revenues. Auditors like 50% of the revenues in fund balance. Chairman Martin would like to have a fund balance of \$100,000,000.00 to take care of loss of revenue. **Budget Considerations:** Take a zero approach to filling vacancies. Commissioner Houpt – This says we are evaluating every single vacancy – can we live without it or do we need to fill it. This will eliminate the fat in our personnel. Ed is looking for direction on the Human Services Annex at \$2.5 million and The Sheriff's Annex for \$3.5. **Jail Debt:** This is the first thing to do. This will save us some money. **Human Services Annex:** \$2.5 million and the question is do we go forward or retrench. All three agreed to go forward. Commissioner Houpt put a motion on the table that we approve moving forward on the Human Services Building not to exceed \$2.5 million. Commissioner Samson seconded and asked do we really need to do this in 2009? Lynn said for the first couple of months she has seen an increase in activity and we are looking at State budget cuts and now it looks with the economy stimulus package things have been taken off the table. There were many unknowns but now we are looking at the issues; we are at capacity for staff. Do we go forward now or wait. If we have the money budgeted, it makes sense to go forward. Now we are looking at a 12,500 sq foot addition. Commissioner Houpt – Question about the \$2.5; it makes sense to support the Mountain Family as well. Ed said we would provide the land and the energy efficiency. The increase in space he wants to think more about the Housing Authority housed in this annex and the practicality of the space in Rifle. Ed said they could not find space in Glenwood. They have been talking about becoming a regional housing authority. Dale thinks we need to answer the question, is it the Board's decision to stimulate the economy or retrench. The recommendations made today of retrenching in zero based personnel additions so it is a combination. The motion for the human annex is on the table. Ed said the \$2.5 annex does not allow for the Housing Authority. The question is to go forward or not. Randy did not like to have a ceiling and a not-to-exceed amount. Commissioner Houpt did want to put a not-to-exceed dollar amount. John Gorman - You are committing the general fund to support personnel and building maintenance. Reduce the demand on the general fund. Starting in 2012 when you build a building, no demand on the building for the general fund to support that building. Ed said we are a member of the New Energy Project and to fill our need is the Human Services building. We are hopeful of getting some of the \$1.6 million from this project. Commissioner Houpt – The not-to-exceed amount of \$2.5 million stands in her motion, but if there are practical reasons for coming back then we will reevaluate the need for additional funds. Commissioner Samson liked Randy's suggestion. Vote on the not-to-exceed amount in Commissioner Houpt's motion. In favor: Houpt – aye Opposed: Martin – aye Samson – aye Chairman Martin – We'll leave it in the budget. Additional discussion was held with input from the Commissioners, Randy and Ed. Commissioner Houpt did not understand where her fellow Commissioners were going in creating a plan on how to deal with revenues that are depleting. Randy reiterated these are cost estimates and would have contingencies for tap fees, etc. and if we add another portion for the Housing Authority that would be an additional 300 sq feet and the scope can change. A not-to-exceed amount limits it. Ed - What is the heartburn over the not-to-exceed amount. We are trying to put in a conservative budget, it puts more control, and we are held accountable. Commissioner Houpt – You will not know unless you put in 'not-to-exceed'. She said the message is that we are looking at the budget in a more conservative manner and there will be less money over the next few years; who knows what the downturn in the County will be. We are not at the same level of revenue. It has been very easy to start at \$2.5 and have wiggle room; she supports all of these programs but no so unless it is very specific. Unless there is the 'not-to-exceed' amount show, she will not support this. Chairman Martin – We are the best well off County in the State and top rated 35% of all counties. This is the flexibility we have given our staff and they will explore whether to decrease or increase. I think we can look at \$14 million and still keep the fund balances if we watch on priorities. Commissioner Houpt – We have a healthy fund budget and staff has flexibility, but this is a new day and how we approach budgeting. It amounts to a philosophical difference. Ed – The target is \$2.5 and the BOCC will have to deal with it if it comes in higher. Commissioner Samson made a motion to leave \$2.5 million in the budget for the Human Services Building. Chairman Martin – Second. In favor: Samson – aye Martin – aye Opposed: Houpt – aye **Sheriff's Annex:** \$3.5 and if we add search and rescue it could go to \$3.65 million. Commissioner Houpt made a motion to approve the building of the Sheriff combining the two lines items to \$3.65 and a not-to-exceed. Chairman Martin – Second, saying it is the same argument. Commissioner Samson wants to have the availability to go above the not-to-exceed amount for two of the reasons: 1) we have been blessed due to Larry, John and Tresie putting aside a large fund balance. What you have done is why the County is in such a healthy financial position. 2) He does not want to let it get out of control but wants to give the flexibility of what these people need to do. He has seen the annex but let them earmark it at \$3.6 and let them do what they need. Commissioner Houpt – We have been more flexible in the budget line items and have had a lot of money. Commissioner Samson gave assurance that we will not operate in the red. Every decision will come back before this Board; we are only giving them \$3.6 million. Don – These amounts are already budgeted and if they were presented with an increase, it would require a noticed agenda item and the Board would have to revise the budget. Commissioner Houpt wants it locked in before it has to come to us. Ed – It would. Chairman Martin – We will not spend this extra unless we have the money there. Commissioner Houpt made a motion that we retain the line times as presented in the budget. Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson – aye Commissioner Samson – Democracy works and we feel good about it.

Contingency Session

Lisa Dawson and Ed Green presented. Ed – We need more positive control over the contingency funds as it affects the way we have operated. Lisa has an alternative approach. Lisa presented a change in the contingency wage

process that will improve the process. Since we have the New World System, we have better use of technology, utilization of staff time, reporting, budget to actual analysis, position control and results that are more accurate. The result will be better budgeting. Lisa explained the old process and the new one being presented today. Currently with the contingency funds, all reviews come to the finance department after the par forms have been completed; so, the employee has been hired or added a salary increase and this comes to the Board after the fact. Therefore, the finance office makes these adjustments after the fact. It is the same for terminations. The current process does not work or can be improved. This current process is very time consuming for staff and unfortunately we do not use New World to input these changes; they are hand input separately. This is requiring between eight to ten hours per month to do this clerical work. Items not identified can be paid in the wrong set. Last year we discovered some positions that had been approved and filled that were not part of the approved budget. This process does not help us identify if the budget is adequate and there is no position control. The budget is based on a head count, we have a pay structure that we follow and it is based on the budget. **Proposed new process:** With the new process, we can project the budget accurately. The wage budget will reflect all full time employees (FTE). The Finance and Human Resource staff verifies the various position controls. We would like direction if you feel comfortable with this change. If we can move forward, Don would need to make a change to the budget resolution. Finance receives a copy of the PAR form before it is signed and approved by Human Resources. Finance will contact the department if a budget supplement is needed. The finance department will look to see if the head count is in the budget and approved; then approve it per the budget. HR looks at policy and finance looks at the budget process. Personnel Action Requests (PAR) forms would be approved and then the department head can move forward with the request. If the par form comes to finance and there is a concern with the Board of County Commissioners and/or if a budget supplement is needed, then we would inform you and the department head if you continue with this type of increase you would need a budget supplement. Theresa – Performance increases are not to put a strain on the departments but her duty is to let them know they may need a supplement to their budget. They may not need one due to vacancy savings. Lisa emphasized when we say it may work out due to vacancy savings, it still needs to work with our budget and pay structure; HR would watch carefully that an increase in pay would not disrupt the approved pay structure. If HR approved then finance would question so we have a dual system in place. Chairman Martin commented that this is returning to the past where bonuses were given. Lisa assured the Commissioners that all the changes suggested would be done electronically and not the paper shuffle. We have that capability. Electronic transmissions eliminate paper; there are a number of issues with electronically records. Our auditors do the complete audit and have converted to a total electronic system. It is possible and conversations were held with them in how to get there. Another thing to consider is the storage capacity, our goal is to go in that direction, and this will help us get there quickly. The Human Resource Department is upgrading their software so we both can focus on position control. Elected officials can also do this also electronically using electronic par forms for changes increases, promotions, etc. Ed - Vacancy savings under this new proposal would be in the wage line item. Full Time Employees (FTE) wages and that wage line item would have the budget for the full year and then we would monitor that with budget to actual analysis monthly and report to the Board of County Commissioners quarterly. It would show you how the department is tracking on a percentage basis. For instance, one department with 20% of their wages spent would reflect good control but if a department is at 30% to 35% spent at the first quarter; this is where we would project vacancy savings. Chairman Martin – Department could release this prematurely and give bonuses so under the new process you would know that immediately. Lisa – All PAR forms would be approved before the action would take place. As part of the resolution, we should have in place that you cannot change wages to some other line item. Chairman Martin – There are better ways to do things and the tools we have are available in the New World System. The contingency system worked at the time but now we can do it better. In the old process, you could move anything anywhere and there was no control. On a monthly basis, Finance will input the information from the PAR forms into an excel database and analysis the wage information for any discrepancies. On a quarterly basis, Finance will present a budget to actual wage report and highlight any area of concern similar to how the monthly financial report is presented in red, yellow and green. With this process, because it is tracked by position, we would immediately recognize if a person received a 3% and another 3% increase in pay, report this to the Board, and highlight any concern. **Improved efficiencies:** Budget to actual wage amounts are analyzed, which are currently not being done. We will indicate to the Board those departments who are over/under budget in their wage line items, and explain why. The new procedure will provide and prepare for a more accurate budget in the future as it will isolate problems, identify weak area, eliminate the “hamster-wheel” effect of moving budget between the contingency and appropriate departments, which has proven to be ineffective. **Controls in place:** The supervisor, department head, Human Resource (HR) Director and the Budget Analysis, signs off PAR forms. The HR director will ensure the request conforms to the county’s policies and review for position control. A discussion was held and questions answered as to the new proposal after which, Lisa asked that Don DeFord be authorized the amend the Budget Resolution for the 2009 budget. Don stated this was the direction he was seeking in order to amend the Resolution after which he would bring it to the Board for approval. Commissioner Samson – So moved. Commissioner Houpt seconded. Comments: These are some methods to come out of the New World System and some training sessions may be needed for the elected officials and department heads.

In favor: Houpt – aye Samson – aye Martin – aye

Executive Session:

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to go into an Executive Session to obtain legal advice, policy direction and legal advice on job descriptions involving personnel. In favor: Houpt – aye Martin – aye Samson – aye A motion was made to come out of Executive Session and adjourn by Commissioner Houpt and seconded by Commissioner Samson. Motion carried.

Attest:

Chairman of the Board

MARCH 19, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
And
PITKIN COUNTY COMMISSIONERS

GARFIELD COUNTY, COLORADO

The **SPECIAL** meeting of the Board of County Commissioners held jointly with the Pitkin County Commissioners began at 12:00 noon on Thursday, March 19, 2009 with Chairman John Martin and 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. Pitkin County Commissioners in attendance as follows: Patti Kay-Clapper, George Newman, Jack Hatfield, Rachael Richards, and Michael Owsley.

CALL TO ORDER

Chairman Martin called the meeting to order at 12:00 noon.

The following issues were discussed at length: Current economic conditions; workforce housing; update on the Crystal Trail; update on the Cold Mountain Ranch Master Plan; propane and fuel gas prices and Public Health Revitalization Act. Also discussed was regionalism – Pitkin County will work with citizens, groups, and other jurisdictions in order to identify a shared vision for the region and to promote collaboration.

A memo was distributed from Dale Will regarding Open Space Subjects Relevant to Garfield County Joint Meeting with the Pitkin County Commissioners with an in-depth review of the Crystal Bike Trail, Cold Mountain Ranch master plan and included the Cold Mountain Master Plan Study. Update of the Public Health Act Activities was submitted by Nan Sundeen, Director Health and Human Services. This addressed SB 08-194 related to the Public Health and how to move forward. This did not require any action.

Adjournment

Attest:

Chairman of the Board

APRIL 6, 2009

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 6, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were Dale Hancock, 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

BOARD OF HEALTH – PASSAGE OF BOARD OF HEALTH RESOLUTION – MARY MEISNER AND PATTY FREDERICK

This resolution is to establish the Garfield County Public Health Agency pursuant to Senate 08-194 Sections 25-1-501ET SEQ. of the Colorado Revised Statutes. Commissioner Houpt said this was a statewide effort and she thanked Mary for the work she has done. I make a motion we adopt the resolution establishing the Garfield County Public Health Agency pursuant to Senate Bill 08-194 Sections 25-1-501 of the Colorado Revised Statutes.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

The next Resolution is designating the Garfield County award of County Commissioners as the Garfield County Board of Health pursuant to Senate Bill 08-194 Sections 25-1-501 ET SEQ. of the Colorado Revised Statutes.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

This Resolution is designating the Director of the Garfield County Public Health Agency pursuant to Senate Bill 08-194 Sections 25-1-501 ET SEQ. of the Colorado Revised Statutes. Commissioner Houpt stated it designates Mary Meisner as the Director of the County Public Health Service and it designates Robert Brokering as the local advisor and acting public health officer. Patty stated that the Commissioners would need to be sitting as the Board of Health to designate her as the director. Commissioner Houpt - I make a motion we go into the Board of Health.

Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt – I make a motion to adopt the resolution designating the director of the Garfield County Public Health Agency pursuant to Senate Bill 08-194 Sections 25-1-501ET SEQ. of the Colorado Revised Statutes as presented. Commissioner Samson – Second. He asked which resolution are we working with Pitkin County.

Mary explained that was a discussion they are talking about which is part of the re-authorization bill and it talks about functional regionalization; but functional regionalization is not a formal regionalization structure. They will continue to work with Pitkin County. In favor: Houpt – aye Samson – aye Martin - aye

Chairman Martin asked if he had a motion to come out of public health. Commissioner Samson – So moved.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

RELEASE OF CONSTRUCTION LETTER OF CREDIT FOR PINYON MESA SUBDIVISION – JAKE MALL

This letter of credit (No. 0260521533) is in an amount not-to-exceed \$100,000.00. This letter will serve to secure the applicants/account party's performance of and compliance with the road right-of-way permit issued to the applicant/account party and beneficiary, dated June 13, 2006. This letter of credit expires at Alpine Bank at 3:00 p.m. Mountain Standard Time on July 1, 2009. Jake explained that the actual release of the bond would not be until June. He is asking the Commissioners to release the \$100,000.00 bond for the Mesa project.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

BOND (NO. B000955) RELEASE FOR DELTA PETROLEUM ROAD BOND – JAKE MALL

This bond is for \$550,000.00. The bond was issued in July 2004, they no longer have any holdings in Garfield County, and they will be in Mesa. Commissioner Houpt – I make a motion we release County Road bond number B000955 for \$550,000.00 held by Delta Petroleum Corporation. Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

Executive Session:

Chairman Martin stated the next item is contract negotiations by Mr. DeFord in executive session and we will

discuss this before action. Don stated on 1B concerning the agreement, he needs to provide the Board with legal advice before public action. Don also needs to provide legal advice on 1I as it concerns the energy advisory board and lastly, item 1Q, concerning a project update on County Road 300. Commissioner Houpt asked Don if he wanted 1D and E. Don stated she was correct.

TRI-STATE CROSSING AGREEMENT (NEW ALIGNMENT OF COUNTY ROAD 319, AIRPORT) – BRIAN CONDIE, CAROLYN DAHLGREN AND MARK KUBESA

Brian explained this was an agreement with Tri-State for the west end realignment of power. Carolyn explained they are looking for signature authority. Tri-State will work with us to change some of the language. There is no Exhibit E in your folders because it is for a set of Plats and Mark is responsible for getting them. On the public service document, they are looking for signature authority. Carolyn explained the last time they talked with the Board she and Brian asked if they should continue to negotiate with public service on changing some form language and they were willing to add some language. Mark stated they are looking for signature authority pending Exhibit A. Carolyn explained Exhibit A. It is permission for us to work under their lines and to re-align the road. The City of Rifle will have to have its own crossing agreement for their water and sewage. Commissioner Houpt asked if it would be coming back to them separately. Carolyn explained that it was between Mark and the engineers at Tri-State, we would rather have Chairman Martin authorized as soon as possible. As soon as Exhibit A is approved, the document can be signed and then recorded. Carolyn asked Mark if they could provide a smaller version of Exhibit A and he replied he could. Commissioner Samson asked if they had coordinated with the City of Rifle. Mark stated it is all part of the same project; they are working with the City and County. Each entity has to have their crossing license with Tri State. Chairman Martin explained this license was for permission to relocate, reconstruct, remove, operate, maintain, and repair County Road 319. Commissioner Houpt – I make motion we approve license TSL3529070723 between Tri-State Generation and Transmission Association Inc. to the Board of County Commissioners, Garfield County, pending the completion of Exhibit A and authorize the Chair to sign.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

PUBLIC SERVICE RELOCATION AGREEMENTS (WEST END UTILITY RELOCATIONS-AIRPORT) – BRIAN CONDIE AND CAROLYN DAHLGREN

PSCo shall furnish or cause to be furnished, all equipment, labor, and materials necessary to relocate or modify: Fixtures 1-5 located on the Glenwood Springs-Rifle section of the Rifle CU-Cameo 69KV overhead electric transmission line as required and Craig-CUEA Rifle 345 kV overhead transmission line relocate fixture No. 389 as required. Carolyn stated they are looking for signature authority. Public Service is willing to say that the County will not be responsible for the citizens of Garfield County for their gross negligence. You have seen this same document before. It is not clear yet if we will have to grant an easement. Mark is essentially picking up the lines and putting them in the same place. On the other one, the line is going to be moved slightly, there will be a grant of easement to Public Service when those drawings are finished. Carolyn explained they are looking for Chairman Martin's signature of the Chair, pending the attachment of Exhibit A. Commissioner Houpt – I make a motion we approve the relocation agreement between Public Service Company of Colorado, Garfield County pending Exhibit A if necessary and approval for the Chair to sign authorization. Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

HOLY CROSS AGREEMENT (WEST END UTILITY RELOCATIONS-AIRPORT) BRIAN CONDIE AND CAROLYN DAHLGREN

The estimated cost for removal and relocation of the overhead line is \$130,000.00, which is due as a non-refundable contribution. Commissioner Houpt – I make a motion we approve entering into an agreement with Holy Cross Energy to complete the overhead removal and relocation. Commissioner Samson - Second.

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

CONSIDER LETTER TO COLORADO CONGRESSIONAL DELEGATION REGARDING RULISON – JUDY JORDAN

The Board of County Commissioners has drafted a letter to delegates requesting that the DOE be required to:

1. Define the nature and extent of contamination from the Rulison blast site, not just by conducting desktop models; but also by acquiring data from the field that show definitively where the tritium exists outside the blast cavity, if anywhere, and in what concentrations.
2. Develop the approach to and execution of this investigation in a process that allows for open communication with the public regarding the techniques used and the results thereof;
3. Based on the results of a field investigation, determine a safe zone in which the acquisition of natural gas can proceed without undue risk to surrounding property owners, gas industry workers or the public;
4. Compensate all property owners whose rights have been directly affected by any contamination that has originated from the blast site.

The Board is requesting that the Congressional delegation conduct a formal inquiry to determine why DOE should not be compelled to undertake these actions, and if the inquiry reveals that the contamination is not described definitively with empirical data that you introduce legislation, if necessary, to compel DOE to do so. Judy explained there was a meeting a few weeks ago between the COGCC and the neighbors. Judy felt it was a good discussion bringing the neighbors up to speed on what the COGCC is doing. The question is what is the solution for the long term? Judy thinks the solution is that DOE should step up to the plate. There will still be public health issues associated with this. Judy feels DOE should do a proper study and determine what the limits of contamination is associated with this site and compensate those who have rights; whether surface or mineral rights. Judy explained the letter she had prepared and is recommending compensation to those affected. Commissioner Houpt said she thought it was very well articulated. She explained as a County they have been talking to the DOE for years about taking some type of approach to do a complete study and determine the future of those resources and how it will be approached. Commissioner Houpt thinks this is a reasonable request and one that is timely. Chairman Martin thinks they need to propose a letter to the Colorado Oil and Gas Conservation Commission to hold them to what they had promised. He wants to make sure both agencies are covered. Right now, he feels they are putting the entire burden on DOE; however, the permits are issued by the State of Colorado. Judy explained that the COGCC stated, at the meeting previously, the operations had expressed a willingness to not submit permits for the half mile radius. That was from the year 2008 and there has not been such a pledge since then. Judy asked if they should also ask COGCC to be looking for another pledge on behalf of the operators. Chairman Martin felt they needed to hold

the State to their original discretion, and that was that they would hold a hearing, they would notify everyone and the County's safeguard position is still in place, and we expect monitoring and the people responsible for that to be on site. He feels Judy should be asking the COGCC to live up to their pledge. Commissioner Houpt asked Chairman Martin if he was asking Judy to request the operators to put another pledge in not to submit the permits. Chairman Martin said he thinks the obligation falls on the State to ask; they issue the permit. They need to have that agreement with the operators not the County. Commissioner Samson – I move we would authorize the Chairman to sign the letter and send to those government officials, U.S. Senators, all Colorado State Representatives and the Secretary of the Department of Energy. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye Commissioner Houpt stated she would refrain from this next discussion, as the letter will be coming to the COGCC. Commissioner Samson felt they should authorize the oil and gas liaison, Judy Jordan, to draft a letter to the COGCC to reaffirm their commitment. Commissioner Samson made a motion stating, to the drilling permit adhering process as well as having an agreement in place with their permittee to drill within the area. Identify all the safeguards and the County's position on those issues. Commissioner Samson – So moved. Chairman Martin – Second.

All in Favor: Martin – Aye Samson – Aye Houpt – Refrained

1) **Bill Barrett Corporation Waiver Request – Judy Jordan**

Bill Barrett Corporation (BBC) is seeking the County's approval for a waiver from drilling and spacing orders issued by the COGCC. Specifically, COGCC Orders 191-8 and 191-10 specify drilling and spacing units that apply to current BBC operations at the Miller and Porter Federal pads and limit the development to one pad per quarter-quarter section. Judy presented maps via a power point. The order requires that there be no more than one pad for 40-acres. In these instances, the distance from homes is greater than the requirement of the COGCC. The first request is to look at this set of waivers to consider whether to re-delegate the authority to the local government designee to approve this kind of a waiver. Commissioner Samson stated the reason we are doing this is the second part has not been taken care of; but once we take care of that, in the future we will not have to do this again. Judy explained that with each election, there is now a new Board of County Commissioners and the delegation will have to be made again. Commissioner Samson said his main concern is; there are no complaints? Judy said none that she is aware of and she would not until a public discussion. The County agreed not to intervene in this particular area. In Don's letter to the COGCC, he specifically reserved the right to intervene in a future request for a waiver. As a result, the COGCC then told Bill Barrett Corporation that they needed to come to us to get approval for the waiver as well. Ordinarily it would not come to us in this way. Commissioner Houpt asked if we change the process back to having the LGD make the determination; there is no notice to the public. Judy explained there is no public notice in either case. Don wanted to make two comments based on Judy's statements with regard to his position in this matter. The previous Boards took the position that they wanted to reserve the right to intervene in subsequent filings. The full state of the geology in this area was not well understood. As Judy has noted they are outside of what used to be the moratorium area as were the orders that were the subject of our position earlier. We know a great deal more about the geology now. That was the concern of the Board; they wanted to reserve that right as more information came in. Secondly; a critical point for Don, at the last meeting you directed my office to explore the possibility of intervening on existing cases that resulted in lifting the existing moratorium; generally in the vicinity of the Divide Creek Seep and the Schwartz wells. It is critical from his viewpoint, since we have not completed the expert evaluation for a basis to reopen those cases; we not do anything at this point that would potentially injury our case if we decide to go forward. Judy has pointed out that these wells are a substantial distance from the moratorium area. It does not appear factually that our position one way or the other should affect our case. Chairman Martin said the request is to either deny or approve the request for a waiver. Judy stated the first well pad they are talking about is the Miller well pad. In her discussions with BBC, she asked why they could not go back and drill from the same pad. The answer to the question; this pad is a little closer to the property owners home and he does not want the pad drilled on again. He is requesting a different pad to be used. Attached to the letter to Judy, is a letter that BBC sent to the property of Mr. Miller requesting his permission to do a new pad and Mr. Miller has granted permission. Judy thinks this is the right thing to do and grant the waiver. In the second case, this is on Bill Barrett's own property. Commissioner Samson – I move we grant a waiver request to Bill Barrett Corporation for... Judy assisted and suggested it simply grant Bill Barrett's two requests for waivers from the drilling and spacing unit issued by COGCC for the BBG pad and the Miller pad. Commissioner Samson – So Moved. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

OIL AND GAS FIRST QUARTER REPORT – JUDY JORDAN

Judy presented charts showing the following statistics:

1. Complaints – total for the first quarter = 14
2. Drilling Activities
3. Major Meetings attended
4. Regulatory Developments – House and Senate have passed the bill that approves the oil and gas rules posed by the COGCC. The Governor is expected to sign in order to allow the rules to go into effect April 1.
5. EAB – both operators and citizen representatives have recently threatened to quit the EAB on claims of perception that other interest groups dominate it.
6. Special Reports/Studies – developing a scope of work for Phase III of the hydrogeologic study of Mamm Creek area and USGS is conducting a water dating exercise in the Mamm Creek area.
7. Rulison – the County hosted a meeting between property owners in the Rulison area and COGCC on March 4, 2009.

Judy stated there is a significant decrease in rigs operating in context that is comparable with what we have seen in terms of decline across the country. One exception Pennsylvania, with Marcellus Shale exploding right now, it is holding steady with 27 rigs. It is the peak of last summer. Most of the areas have gone down in the number of rigs particularly in the Rockies, Wyoming, Colorado, and New Mexico and so on. Judy explained where Marcellus Shale was located. It is a natural gas reserve. In the EAB meetings, operators have reported decreases in the number of drilling rigs they have operating. They are working on infrastructure types of repairs and increases so that when the gas price returns they are able to go back and resume drilling again. The drilling numbers may not be that bad either. If we continue at the same rate, as the first quarter, we will have over 2,000 well permits issued in Garfield County. It is hard to judge by the first quarter. Complaints in general are down. Commissioner Houpt said she did a nice job with the report and asked Judy to comment on the comprehensive drilling plan. Judy thinks the

new rules are appealing to the County if the operators do submit and give us a good sense of the development outlook. Most of them are trying to project out for 5 years what their activity levels will be and where and how intense in one area as opposed to another. This helps us to know what roads will be affected and if there will be drilling in a close proximity to a higher concentration of population. With the rules getting ready to go into effect before they actually do on April 1st, a number of companies are anticipating those. They want to take advantage of some of the benefits, and began to put them together. They will be issued permits faster and will not have to do much paperwork on a case-by-case basis or site-by-site basis, if they have comprehensive drilling plans. Judy went into great detail on the CDP's. Chairman Martin stated this needs to be placed on the agenda and they will advise administration to do so.

QUARTERLY WAGE REPORT – THERESA WAGENMAN AND LISA DAWSON

Theresa gave the Board an analysis of the March 31, 2009 quarterly wage report. She indicated the document given to the Board looks like the financials they receive. Theresa is open to comments or suggestion on how to improve. The report includes both wage and overtime amounts. The difference from this report, as opposed from the monthly financials the Board receives, the monthly financial will review any departments at 25% above or below the percent expected in a year. She has chosen to review every department that is 5% above or below the expected percentage of the year. There are a few departments tracking below 5% due to vacancies that have not been filled. Theresa asked the Board if they wanted her to come and present this each quarter. Chairman Martin thinks he would like to look at this and then if we have questions they will get in touch with administration. Theresa stated they generally close around the 15th so it would be the third board meeting. Lisa stated that Theresa did a good budget, actual analysis of the budget and a head count. Theresa discovered one of our 25 departments is operating with three more positions than was approved in the budget process. This department is tracking at 25% right now and it is not a budgetary concern now. In addition, with the attrition expected over the summer, they expect the headcount to go down to the budgeted amount. They will be communicating with the department and tracking with them. Lisa wanted to highlight that this would have not been discovered with any other process, it was a good discovery.

CHILD ABUSE PREVENTION MONTH – LYNN RENICK

Lynn wanted to make sure that everyone is aware April is child abuse month. The public is invited to participate today and tomorrow in an open house held at the Department of Health and Human Services in Rifle. There are many community partners helping which would include the Public Health Nurse, Youthzone, Screen Works, Rifle Police Department, Advocate Safehouse, the Family Visitor Program, Mountain Family Developmental and many other agencies. There will be many activities, refreshments and a lot of information.

DISCUSSION AND APPROVAL FOR THE CONTRACT AMENDMENT FOR THE COUNTY

VETERANS PROGRAM – MATT ANDERSON – STAN RACHESKY

This requirement was originally to include money contributed to the Veterans program for the VET TRANS program, which was approved by the BOCC. The amendment to the Veterans Officer Agreement will include a \$50,000.00 contribution from the County for various Veterans programs. Both the VET TRANS and the Wounded Warrior programs will be included on the amendment. \$10,000.00 will be added for the Wounded Warriors program and will be paid on a quarterly basis. Matt is recommending approval and authorization for signature. Stan's understanding is that he will receive a voucher from Matt Anderson to fund the program on a quarterly basis, \$2,500.00 per quarter. He explained they received a \$5,000.00 anonymous donation and the City of Glenwood Springs donated \$2,500.00 to the program. Stan has contacted the advocates at Fort Carson, Colorado and in Denver. A letter was sent to the wounded warriors only in Colorado. Unfortunately, this program is only for the Army because the other services do not have a wounded warrior program. If you are wounded in the Navy, they will take them, but they do not have a formal program. The first wounded warrior is coming to Stan's bed and breakfast. He is a quadriplegic; Stan talked to his wife and she is excited about coming to Glenwood Springs. Stan has collected the following for them: certificates for restaurants, free lodgings, only asked for two nights once a year and free entrance to the Hot Springs Pool. With the money that Garfield County is supplying, Stan is giving each veteran \$500.00 for the two days. The certificates do not actually cover the whole meal. This money will pick up any odds or ends, and it pays for their gas. One glitch; soldiers that are still active cannot accept any cash donations. Stan contacted Udall's office, Bennet's office; and he wrote a letter to Robert Gates and is waiting for an answer. In the meantime his wife said to issue the check to the wife. He does not know if it will work. Chairman Martin thinks the program itself is extremely important. He feels they need to go forward with this program. Commissioner Houpt asked if the money going to the Wounded Warrior Program will then be a grant to the Sunshine Rotary Club, and Dale stated yes. Matt explained the process. We will do an amendment to Joe Carpenters contract. That money will be transferred to his budget and each program; such as the VET TRANS Program and the Wounded Warriors Program will each have an exhibit detailing the cost, detailing how it will be reimbursed or paid on a quarterly basis. It will not be a specific contract to Stan; it will go to Joe Carpenter. Carolyn explained that VET TRANS is a separate not-for-profit entity; are you delegating your contract authority to Mr. Carpenter to enter into a contract with VET TRANS, which is a separate not-for-profit? That would be most unusual under our purchasing code. Chairman Martin stated he did not know of any other way to do it because we would have to have the whole contract with Stan and then one with Joe on a different issue. The programs are under the Veterans Administration and their format. Carolyn said it would be more direct for the BOCC to sign a contract with VET TRANS and then you administratively authorize Mr. Carpenter to deal with that contract. Chairman Martin said the way the program is set-up he does not think they could meet the requirements to do a contract and that was one of the issues. Joe would have the ability to meet those obligations and have the checks and balances through the purchasing agreement process. He is accounting for all of the monies through his program. Commissioner Houpt said she thought your department was working with Matt. We had this discussion a few meetings ago and she thought what was going to come back to us would be solidified. She would feel more comfortable if everyone was on the same page with this. She believes everyone is in support of funding the programs; but the need to make sure they are doing it in a manner that is going to work with our legal department. Matt explained that we have the AP voucher system. There are checks and balances that we have in place that will have each receipt whether the VET TRANS Program is based on reimbursement basis and they provide us with all receipts. AP vouchers will go to finance here. Carolyn said there are two different questions: VET TRANS is a separate not-for-profit entity, if the BOCC wants to take on all liability that becomes a program of the County. If the BOCC wants to contract with a separate not-for-profit entity, then you have a contract between the BOCC and VET TRANS with Joe Carpenter being the administrator of that contract. Carolyn thought that is how they left it in the last conversation. On the program that Mr. Rachesky is

talking about is the Rotary Club primarily organizing it? Stan said they are working through the Rotary; he had to find a 501C3. Carolyn said then there would be a separate contract between the BOCC and the Rotary and then Mr. Carpenter would be the contract manager for the County. That way we keep it clear that the BOCC is giving money to Sunshine Rotary to run the program. Chairman Martin explained we have a contract with Joe Carpenter to administer the Veteran Programs. This is a veteran program with the proper steps and certification of the program and of the 501C3; it should be one contract with Joe. Joe can verify the expenditures of money through his process. Carolyn said perhaps they should discuss in a legal advice executive session. By making somebody else's programs, county programs, there is a liability issue. Commissioner Houpt said she would like to suggest we approve the funding of these programs and authorize Chairman Martin to sign the contracts as soon as they have been put together in a structure that Ms. Dahlgren has proposed. Chairman Martin said we grant a contract to a non-profit, such as Human Services; they have sub-contractors; we do not have a contract with them. He feels we are actually micro-managing Joe Carpenters programs, but not the Human Services Commission. Commissioner Samson said let us talk about it in executive session; however, he sees that everyone wants to make it simple and uncomplicated. He feels Tresi's point is well taken. Because of the different professions, we have to make sure it is legal and watch out for liabilities. It is the legal staff's opinion that we need to protect ourselves. This is now on hold until executive session.

CONSIDERATION AND APPROVAL OF A RESOLUTION RE-CREATING THE GARFIELD COUNTY WEED AND ADVISORY BOARD – STEVE ANTHONY

For the calendar years 2009, 2010 and 2011, subject to "staggered terms," shall consist of the following individuals who serve at the pleasure of the BOCC and as to the municipal representatives.

Regular Members:

Kathie Barrie	Bill Gaechter
Charlotte Hood	Thad Nieslanik
Janet Olson	Maria Porter
Larry Ballenger	Wayne Ives
Tom Whitmore	Judith Hayward
Bob Elderkin	

Alternate Members

Frank Breslin
Sonny Fernandez
One not named yet

The Weed Board shall consist of fourteen members, eleven of which shall be "regular members," and three shall be "alternate members".

Carolyn stated that she and Steve went back to the files and found there was no formal weed advisory board. This Board has a different statutory responsibility; that is why it states create or recreate and it has the people you considered last time around. Steve made some decisions he would like to present to you regarding regular members and moving people around from a different class of members. Steve explained there is a quirk in the State Weed Act that provides for the majority of members at any advisory board; they have to own over 40 acres in Garfield County. If we have an eleven-member board, six of those have to own over 40-acres. That is what we have at present. They do not have a Glenwood Springs representative yet. Commissioner Houpt – I make a motion we approve the resolution creating or recreating the Garfield County Weed Advisory Board and appointing membership for 2009, 2010 and 2011. Commissioner Samson – Second. Commissioner Samson asked Steve if these members reflected representation throughout the County. Steve reviewed the members and where they lived.

In favor: Houpt – aye Samson – aye Martin – aye

REMODEL OF ASSESSOR'S AREA – JOHN GORMAN – RICHARD ALARY

John Gorman stated that shortly after taking office he found his office needed more employees; but they were out of office space. John had the authorization to hire, from the Board, and has hired more people. Last year Ed Green came up with the idea of moving functions around and Jean Alberico very graciously offered space adjacent to his office. They have found a way to make that area an extension of the Assessor's Office. The cost will be just short of \$20,000.00 and will need a capital improvement to get the project started. Dale stated the money would come from a building we will not build in the 2009 budget; there is money in the capital budget allocated to the Assessor, the Clerk and the Treasurer. Commissioner Houpt stated they have not made a decision on a new building. Dale said he is just saying there is money available. Commissioner Houpt asked if they should have something formal come before them in the form of a budget line request. She supports what they want to do. John explained that since he has not done this before he was not sure how much he needed to provide to the Commissioners. Chairman Martin explained that it is on the agenda and they could have a not-to-exceed \$20,000.00 on the recommendation of Rich and the operations director. Matt explained they held a site visit and several contractors showed up. There was good competition and all processes were followed. He felt what the Assessor needed to do was ask for authorization to award Groth Construction in a not-to-exceed of \$13,500.00. John explained he had an estimate from Climate Control, for rearranging the cooling, for \$2,000.00 and miscellaneous repairs for \$500.00. Current Solution is providing the data line for \$3,252.50. Matt stated all of those are separate; under \$10,000, which could be done anyway as long as funds are available. Commissioner Houpt – I make a motion we approve with Groth Construction in an amount not-to-exceed \$13,500.00 for the remodeling of the Assessors area. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

COLORADO ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT – JIM RADA – JOANIE MATRANGA

Jim said he believes that the Board received notification last week from the Department of Energy regarding the Energy Efficiency and Conservation Block Grant Program. There were some articles in newspaper about this funding coming to Garfield County. He met last week with Ed Green and Randy to talk about how this money might be used. As they reviewed the materials from the Department of Energy and the Governor's Energy office, it became quite clear there is a process that needs to be followed in order to receive this money. We, as a small team, decided to come to the Board and make sure you are clear on the process. Jim invited Joanie today to answer any questions the Board might have. What we have in paper is accurate in terms of the amount of funding -\$227,500.00. This is a direct grant from the Department of Energy. Additional competitive grants will be available through the Department of Energy as well as indirect grants through the Governor's Energy Office. To receive the DOE block

grant funds, Garfield County must provide the Department of Energy with a proposed energy efficiency and conservation strategy as well as file an application for these funds. The plan/strategy needs to be developed by the County by late June. The application needs to be submitted by mid-June, strategy somewhere early or late July. The Department of Energy Secretary then approves this funding by the end of November; the money will not be available until at least the end of November this year. According to the information he has reviewed the block grant funds need to be committed no later than November of 2011 and then the funds need to be expended by November of 2012. Commissioner Houpt asked as a small group did they talk about recommendations for the use of this money. Jim said they had some dialogue and Ed, Randy and he talked about the possibility of using these for energy efficiency/upgrades to new buildings being planned. Unfortunately, those buildings will be well into the works before the money would be available. He does not think the money will be available for those construction projects. They also discussed the possibility of routing those funds or applying for supplemental grants through the Department of Energy and the Governor's Office to boost the Garfield new energy communities' initiative. They will work with the initiative advisory board to see where it would make sense to put those funds. Commissioner Samson asked what the perimeters were for the use of this money. Joanie stated they are working with communities that get their money directly; like Garfield County to help you identify the opportunities to maximize this money and to influence it in with other grant opportunities. When you look at guidelines, it lines up with what you are planning to do with the Department of Local Affairs Grant funds that you have. Joanie has talked to Alice and they started brainstorming on what the additional needs might be in the county, let's say more access to help lower income people. They also started talking about how to address the high costs of propane in rural areas. She plans to go to the advisory board meeting in May and work with Alice and Jim. Commissioner Houpt stated we could use those monies in more of a granting manner where we could help supplement the costs of weatherization of people's homes or some type of upgrade. Chairman Martin asked if it was still the same; do we reimburse everyone and then we are reimbursed from the Department of Energy. Joanie said they would get a check once they submit a plan. Chairman Martin thinks it should go through the energy advisory; he does not think it needs to burden this Board. Carolyn asked Joanie; when the DOLA grant and the GEO grants were worked out, and we have created the spreadsheet about where all the different pots of money is going, can this be used in the Greening Government arena as well as an individual grant? Joanie stated, as we know more about exactly what the programs are going to be, she thinks the advisory board will be able to look at those opportunities and decide what the best use of leveraging this money is. Carolyn asked if this money would go through the same advisory board process as everything else under new energies communities' initiative. Joanie stated she would recommend that. Chairman Martin stated it is Federal money and there are so many strings attached, it drives the cost up. Commissioner Houpt thinks it makes sense for NECI to determine what recommendation to come forward on spending. Chairman Martin said it all comes back to this Board; if we agree to that, they obligate our funds and we get to pay for them eventually. Carolyn stated Mr. Rada would be your manager under this contract and will there actually be a contract document that comes back to us? Will that be a grant agreement with the Federal Government or with GEO or Federal DOE? Joanie stated it would be DOE. You will write a plan on how you are going to spend this money and what your community energy plan is. NECI already has that in process or you could adopt the state's energy plan with amendments on how you are going to spend the money. Carolyn asked if Joanie knew if we would have to publish in the newspaper. Joanie does not know but does not think that is the case. Carolyn said the whole reason is so the public can show up and say no; we do not think Garfield County or NECI can spend this money. We think someone else could do a better job. Jim explained that today's intent was to open the dialogue. Commissioner Houpt thinks it's wonderful; two counties on the western slope that received money. She feels it enhances what they can do with NECI and looks forward to hearing back on the recommendations. I make a motion the NECI board create the plan for this funding and bring that recommendation back to this Board. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Executive Session:

Dale stated he has requests from Ed Green, and with permission of the Board; he would like to proceed with one public item Don has listed. Then he would like to go back and conduct an executive session solely on the items related to the manager's agenda.

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF IGA WITH PITKIN COUNTY RE: COLD MOUNTAIN RANCH

This IGA was discussed with both county boards of county commissioners at the joint meeting on March 19, 2009. The property involved is a part of the 608-acre Cold Mountain Ranch. This IGA will accomplish the following two goals:

1. Coordination of land use processes: The IGA allows Pitkin County to apply its land use code and regulations to all of Cold Mountain Ranch, including that portion within Garfield County. It reserves to Garfield County the right to issue building permits for any residence to be built within what is shown on the Plan as Building Envelope A, the majority of which is within the Garfield County portion of the property.
2. Enforcement authority: The IGA allows Pitkin County to apply its Open Space rules and regulations on the River access Parcel, even though a portion is within Garfield County, and allows for enforcement of Pitkin County's Open Space rules and regulations by the Pitkin County Open Space Ranger, Albeit in Garfield County Court. Dale Will, Ranger John Armstrong, Assistant Garfield County Attorney Deb Quinn and Garfield County Sheriff Lou Vallario met on March 24, 2009, and reviewed the draft IGA. They discussed that the Open Space Ranger does not have arrest authority for violations of State law, nor does the Ranger have the ability to enforce any Garfield County rules and regulations that may apply to the property. Likewise, the IGA specifies that the Sheriff will have no responsibility for enforcing Pitkin County's rules and regulations on this property. Sheriff Vallario agrees with the concept of the IGA.

Dale Will and Bill Fales, owner of Cold Mountain Ranch were present. The specific rules and regulations that Pitkin County has adopted, which would be applied to this property pursuant to the IGA, were presented as Exhibit B. Deb Quinn stated this was discussed in the joint meeting with Pitkin County several weeks ago; following that meeting, Dale Will, John Armstrong, Lou Vallario and Deb met to make sure all concerns about the difference between open space enforcement and criminal law enforcement were satisfied. Lou was happy with the discussion and authorized Deb to represent to the Board that he is fine with this IGA as is. Dale Will stated this is one of three projects that came up from the Crystal Watershed GOCO legacy grant they were fortunate to receive a couple of years ago. Two of the three projects actually have fiscal involvement by Garfield County, Crystal River Trail as

well as the boat ramp, a river access area for the Town of Carbondale. This is the third one that Pitkin County open space and GOCO are the sole funding partners; but because the ranch lies right on borderlands, they felt it was best to involve the Board with this IGA. The agreement that Pitkin County has with the ranch involve creating a river access area there, and there will be a conservation easement purchase that reserves certain development rights on the 609-acres they will have. There are two existing houses and there can be two more houses on this entire place. One of the reserve development envelopes lies right on the borderlands and that is what creates the need for one of the provisions in the IGA. Dale thinks the project is a win win for everyone. Chairman Martin asked Bill in his conservation easement is the development rights being purchased; did you have a prevision in your contract to put alternative energy like solar panels in there. Bill said not really; he thinks they are blessed by not living in Wyoming. The place next to him put up a tower and they did not get anything. Solar output is good. Commissioner Houpt – I make a motion we approve the IGA between Pitkin and Garfield County with respect to the Cold Mountain Ranch conservation easement as presented and authorize the Chair to sign. Commissioner Samson – Second.

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

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated he would like to discuss those two items he noted CM2M Hill. Carolyn needs to provide some legal advice on the contract with the Vet Trans program. Carolyn needs to provide legal advice concerning the contracting. Ed asked to have him provide legal advice as well and relating to County Road 300. Don stated he would like to come out of executive session and have the Board consider all the public comments and take action as you need to. Don also has a few other items he will note later. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL INC. – BILL VANHERCKE AND BRIAN CONDIE

The scope of work under this contract is for architectural, engineering and planning consultant services for improvements to the airport. The term of this contract shall commence on the first day of January, 2009 and shall be completed by December 31, 2009. This contract may be renewed for four separate additional one-year terms. Such renewal shall be effective if accomplished before the annual appropriations of Federal and/or State funds and, if the BOCC has appropriated and budgeted sufficient funds for payment. Brian Condie, Guy Goetz, Bill Vanhercke were present. Brian stated one main contract with Professional Services; we list all the possible tasks in the next five years. The scope of work would be determined by FAA rules; once the scope of work is authorized then we go out for independent fee estimates. Negotiate the fees, if there is a big difference it comes back to the Board. Today Brian would like the Professional Service Agreement and the scope of work completed. Carolyn stated they are asking for signature authority on the Professional Services agreement with, as it is in your packet with some changes in Exhibit C. Exhibit C is the changes to our form contract, which CH2M Hill has requested. The major difference in our form contract is that CH2M Hill is asking the Board to make it a part of your construction contractor's contract; that the construction contractor has to add not just the BOCC, but also CH2M Hill as the consulting engineer as an additional insured. This would give the consulting engineer, as well as the Board, the benefit of essentially having it fenced, should there be a lawsuit. From all of the conversations they understand that CH2M Hill believes this to be standard in the industry for this to happen. Brian and Carolyn have some concern over whether or not we are going to end up with a construction contractor for our runway. If we do not find such a person, we will have to come back and amend this contract. The second one is the release of contract #1 is a different discussion. Commissioner Houpt – I make a motion we approve the purchase of Professional Services recurring or as needed engineering services between Garfield County and CH2M Hill with Exhibits A through C as presented. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye

RELEASE TO CONTRACT #1 (SCOPE OF SERVICES) – BILL VANHERCKE WITH CH2M HILL INC. AND BRIAN CONDIE

This work is to occur at the Garfield County Regional Airport under the terms and conditions of the Professional Services Contract agreement between Garfield County Board of Commissioners and CH2M Hill, Inc., signed April 1, 2009. Bill had an exhibit to show to the Board. He explained that the third piece of work has already been designed and they have a contract from the previous consultants. He talked about relocation of County Road 319, 346, the location of Dry Creek and the utilities. He got together with Brian and the FAA to see how they could best deliver this project. Olsson and Associates will continue with this work. The utilities owners of all the power and gas, Holy Cross, Xcel Energy, they will hire their own contractors to do their work. CH2M Hill will be involved with the inspections and project closeout of the project. Contract #1 is for review, approval, and acceptance of the plans that were developed in 2005 and are now being upgraded for this year's project. CH2M Hill will design the runway improvements as well as the instrument manning system, navigational aids, and relocation of all the different components that go out on this site. Some of that has to be done up front, part of the release of contract #1 is a 30% design level of this work. A weather observation has to be relocated and this contract needs to know where that will go. Brian explained that in the next year they would have release to contracts #2, CH2M Hill and to Olsson Associates. Olsson Associates will finish what they have started; they have 90% done. CH2M Hill will oversee the construction route and then the design and ultimately the construction of the new runway. Brian wanted to make sure that the Board knew who was in charge of what on the project. The airport staff, Brian and Randy will be the project managers for this project. There are three different components to this: the County, CH2M Hill and Olsson. Commissioner Houpt asked if Brian needed approval for just the scope of services today. Carolyn wanted Brian to let her know how the FAA reviews what would be an Exhibit A to this, the actual spreadsheet of money. Why have you not brought the money today to approve? Brian explained they get the scope of services and the spreadsheet is broken down showing potential costs. This is then sent off to an independent fee estimator; they come up with what they think is reasonable. They do not have what the consultants figures are; they are totally independent. When we get those figures back and if they are within 10%, we are good with FAA and we can negotiate either up or down the contract price. If it is over 10% then we have to come to an agreement of who missed what, or where the exact difference is. From there we come to the Commissioners for final approval. Commissioner Houpt – I make a motion we approve the scope of services for task one and two. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A MEDIATOR FOR ENERGY ADVISORY BOARD – JUDY JORDAN

Judy stated the EAB has been struggling; it went back and started to reexamine its purpose. They started to draft a revised resolution to come before you; she does not think this will happen until June. In the meantime, there have been quite a number of discussions about its purpose. Judy thinks everyone who sits on the Board is clear there are two things they feel are important for the EAB to do. 1) Educate obviously about oil and gas issues; and 2) Is to try to conduct conflict resolutions at those meetings. However; at the past three or four meetings there have been a number of times when there has been an individual, two, or maybe even three, who have taken up a lot of time speaking about something that is important to them; but may not actually be within the realm of what the EAB considers. It may not be what others feel should be discussed the way it was discussed. Judy has received a number of calls from industry folks who have told Judy; if a certain citizen continues to speak for a long period, without giving them specific issues they can address, they will not come anymore. That is important because naturally, when we have complaints from many different geographic areas within the County. In all likelihood, there is a particular operator who is dominating the activities in that area. If they are not there to address those issues, then we cannot really take care of that problem; we cannot conduct that conflict resolution function. Judy said they actually want the operators; each of those industry representatives to be there so they can hear whatever problem there is. If there something within their area they can take responsibility and address it. She stated a number of suggestions have been made to try to do a better job at this conflict resolution function. One was; an operator suggested that there were complaints made that were actually followed up on and getting results. They asked that the oil and gas department to maintain a spreadsheet of complaints brought before the EAB, including what the nature of the complaint was, who the person was, as a member of the EAB who was responsible to look into and resolve the problem, and then date etc. Judy said they did that, the process was initiated earlier this year. There were also complaints on the citizen's side. They felt that the industry folks were getting an opportunity to grandstand and talk about propaganda. Citizen folks, in some cases, told Judy that the balance was too high on the industry side. At the last meeting on Thursday, they discussed the notion; if you do not have industry people there, then you do not have the right person to address a given issue that is brought before the EAB. Judy thinks everyone pretty much agreed with that. With all of these happenings and conflicts outside of the EAB meetings themselves one other suggestion made, when EAB first started meeting, a mediator was brought in to describe how a board could take its function. They suggested we look at who actually did that at the first board meetings. Judy did that and found out the company was not in business any more. Still the concept that was asked to be brought to the Board was the idea of bringing in a mediator to talk about conflict resolution and to help the Board go back to what its function is as a conflict resolution type of device. Judy is asking would this Board authorize Judy as the County's liaison to investigate, identify, and hire someone to come in to attend a meeting of the EAB. Judy made a call to one mediation contractor and her sense is they are not talking about a lot of money, under \$10,000.00. Her request is the Board considers hiring a mediator to do one meeting of the EAB. Commissioner Houpt asked Judy if one meeting was enough. The EAB has been working for the past year trying to update how the EAB function is defined and she is not sure this Commission would agree with what is brought forward or not. She stated they worked hard on the original vision for the EAB and she believes there is truly a function for it. Commissioner Houpt thinks what is needed is a functional board and this does not sound very functional right now. She has seen facilitators do great things; but she doesn't know if a two-hour meeting on board development is going to accomplish what you are setting up to accomplish. Chairman Martin thinks the facilitator is only as good as its participants. Chairman Martin wants Judy to talk to the Board frankly; do you wish to have a mediator, do you wish to have it continue, if so the County will provide one. It will be up to them to make that recommendation and abide by its findings. Commissioner Samson said he does not agree with that. He cannot see spending \$10,000.00 for people who have been asked and volunteered to be on the board. He has been to the EAB meetings and has seen what happens, and most people are rational and they listen. Of course, he knows there will be conflicts; that is why the board was created. A little history, several meetings ago this Board empowered you (Judy) to clean up the membership. Is that going forward and Judy stated yes. Commissioner Samson's recommendation would be that we would have some new people sit on that Board. He recommends that the new people who come on board be educated by; assuming you (Judy) or the Board President, as to what is the purpose of the Board. Give them the resolution; he thinks they need to give that a chance. Paying a firm to come in for \$10,000.00 and take two hours to teach people to get along, he is not in favor of that. If it absolutely comes down to it, if the people on that board cannot get along; then we will have to look at another recourse. Commissioner Samson asked if the EAB had a budget and Judy said yes, a few thousand dollars. Commissioner Houpt said what she would want is a recommendation from Judy; do you want a two-hour discussion with a facilitator, or do you want to try to work it out with your new members without anyone? We did give the initial EAB more than one session with a facilitator to get the organization moving. She does not know what they have done over the past year to try to find a purpose; but it has not appeared to bring the organization together. She agrees with Commissioner Samson that it is a lot of money to spend and she agrees that every new member needs to obtain a copy of the resolution and understand the purpose of the EAB. She thinks there is great value in having a facilitator or a mediator come in and work on board development with the new board. If that were the recommendation Judy wants to bring back with this Board she would support it. Is that the recommendation from the Board right now, what is your thought on that? Judy explained what happened; some of the board members suggested that it would be worthwhile to hire the firm that originally came in and worked with the Board to get it off the ground. Judy said she proposed to the board that they could consider having an educational session. That is how it was presented and there was not a formal vote on it, it was just a question put out to the members. Would they be interested in having that type of presentation given to them in June? The consensus was yes, they would be interested. Judy stated that the Board has made some good points. One is the board who sits today; she thinks it looks very real like the original one that sat there in 2005. There are quite a number of new members, including her. There are probably only two or three who were there initially. There has been a lot of changing of hands since then. Another good point is to provide a copy of the resolution. They have lost track of who shows up at the meetings; but there are different people who have come and gone over the years and she feels it is probably worthwhile to do some educating. Commissioner Houpt thinks when you have a volunteer board; there are many positions being filled, many different stakeholders, and without one of those stakeholders it becomes an imbalanced board and it is not as productive as it should be. Maybe one of the tools we could give them may be mediation. She is a strong believer in board development, and when you throw a bunch of strangers in a room, sit them at a table and expect them to coach as a board, it might be too much to ask of people who are volunteering their time. Commissioner Houpt said she wants Judy to ask the board to give a recommendation on how they want

to build this new board. Linda Dickson stated; the first idea that this is a volunteer board is misleading. With the exception of the average citizens from the community who attend, the leaseholder, the landowners, the rest of those people are being paid. Town representatives, industry people are paid and for the average Joe to work his eight to twelve hour shift and then come to a two-hour eye-glazing meeting is a stretch. They have virtually seen no community participation; is what she is hearing. You talk to the people in the community and they say that is why; this is a time waster, an eye glazer, it is bogged down in parliamentary procedure, and bureaucratic mumbo jumbo when it is convenient, or when someone has an agenda. The night she was there; Betsy let Chris from the COGCC go on for 45 minutes, he had a 5-minute slot. Chris had already spoken that morning at the oil and gas forum, his usual bureaucratic stuff. Someone asked him a question about what authority they have had over spills and different things and he rattled on for another 45 minutes. It was also the night that Marion Wells was reading her resignation letter because apparently she has been forced out. Linda thinks that is the person that these people said they wanted off the board or whatever. She has been there consistently through 2007 and 2008. Marion had received anonymous threats at home and she detailed some of that. The EAB looks to be as it is an industry PR machine. If you want to keep it that way, do, but call it what it is - industry people and governmental representatives dominate the board. Linda said she made the point, and others have too, you cannot equate town representatives with ordinary citizens, landowners, the person driving up and down the road; you cannot equate them, town representatives with those people. Their interests are entwined with the industry more than most people. They ask the industry for things and they get them. When Silt asked for a generator, they got it. To further illustrate the point let's talk about town governments. They can annex property, they can tax, they can levy fines, they permit roads; if they do not like the laws they make new ones. They have far more power than an average citizen does. If anyone has any question about that, if Betsy or anyone else thinks that is not true, then she should talk to the people in Silt who tried to go before the Silt Town Board. They ran into a huge bureaucratic wall. When Marion and some others tried to equalize the board by showing that there were more communities than what they had originally set it up with; the industry was oh no. We (the industry) have to go back and talk about this with our people and report on it. As though they should be the ones to determine who makes up the communities. You came into our community, not the other way around. These communities already existed before you came here. She stated they needed to keep that in mind when they look at this increase on the board and she understands the newspaper articles were misquoted as saying we do not want the board to become so big that it becomes unworkable and bogged down. It is already bogged down and to her that sounds like a euphemism for we do not want to share the power here. We want to keep the dominance that we have going. Someone said it is important to have all the industry reps and she is saying what about community reps. Is it not important to have all of those? Judy said someone came to the board and said if a certain citizen continues on this board, we can't come and some people were speaking a long time without specific complaints and blah blah blah. Marion is a certified conflict, certified by the State. Linda has never seen her get sarcastic, raise her voice and I do not know how she has done it for years. The key here is that Marion has her engineering degree, so she has that kind of mind for details and she remembers things. She continues to hold the industry accountable and they do not like it. They are being taped and with the budget short falls, she thinks some of those people are worried about their jobs too. Moving on to the idea of a mediator, why do you need a mediator if you do not have any conflicts? You have to admit you have some conflicts. The night Linda was there; that morning there was an oil and gas spill. A truck spilled many gallons of condensate in Rifle. You know these people had to have heard about it. That is a PR nightmare. We are done with the forum; everyone goes to lunch. Many of the industry people were at Sammy's, at Park Avenue and there was a hazmat sitting there. You could not miss it. We go to the EAB meeting in the evening and ask about it and they all sit there silent; they are mute. We asked about other things, about a pipeline, mute, no response, no answer. These people act as if they have never heard of some of these things. So how can you resolve conflicts if the industry people are afraid to talk about anything? She thinks that is part of the problem; they do not want to admit these things are going on, or they do not want to stick their neck out. That was overwhelming and they sat there and acted as if they did not know anything about it. Then of course, the newspapers covered it the next day. As far as mediator, she guesses that people are under the impression that was part of the liaisons job. She thinks it is a little confusing because they say of the board nothing they do is binding. She thinks one thing they came up with is community counts; they have a hotline to call. To ask the board to mediate complaints to her is like asking the State of Alaska telling the citizens there when the Exxon crash, well now Exxon will mediate your conflicts. This does not make any sense; do you see what I am saying? The conflicts are with the industry, so how are they going to mediate the conflicts? Commissioner Samson said because they are part of the problem and they need to be there so people can address those problems. Linda said right; but then maybe they need to have been overseen by an impartial group of people, entity or impartial board. They have too much of a vested stake to really be impartial, and when you do mediation, you need impartial people. Commissioner Houpt said she did not disagree with Linda; but the original intent was to, when possible, have all the stakeholders around the table to address specific concerns that were coming forward. Therefore, the industry could put pressure on each other to do the right thing. If there was a company that was not following best management practices and other companies were feeling the wrath of the way they were doing business, they could be around the table and make recommendations to each other in a manner that is less accusatory. I hope that at the end of the meeting, they would all understand this might be the great direction to go. It is a good management practice and we have resources to help you understand how to move forward with that. It was not meant to be another oil and gas forum. It was not meant to be the industry mediating other parties. It was supposed to be a forum for problems to be more informally resolved among all of the stakeholders. There was supposed to be equal representation between citizens, government and the industry. You raise an important point about the difference between a property/mineral owner and a governmental representative. She would like to see what other regions they have been looking at. Chairman Martin said that is what the whole agenda was; an individual could come to that forum with a representative from their district and have the industry there as well as the governments around. That individual citizen has as much right on the floor to present the information as any member of that board. Chairman Martin thinks they need to get back to the point and that is, either define what you are going to do as a board to make recommendations, to resolve the conflicts, or get out of business. He needs that recommendation coming from the Chair of that Board and the folks that sit around that table; that make up that board, and say are we going to function or not. If we are going to function; let's make the changes that need to be done, if we need help we need to ask for it. Linda said let's take the case of Nancy Limbaugh. If you talk to her, she cannot see where the Energy Advisory Board is any use at all. What did they do? Did they make any recommendations to change the laws to get the

County to adopt a model traffic code? Here is a huge problem; she has had 15 to 20 accidents on her corner, on her road where the trucks have gone into fences, rolled onto her property. Whenever the police are called, they tell her this is a civil case; it is a private property issue. They would not be on her property if they had not been on the County Road and in some cases; they were not supposed to be on there. What did the board achieve for her? Chairman Martin asked how many recommendations have come from the Energy Advisory Board to this Board. They are advisory to us so that we can get things accomplished. The answer is; we never heard about that. We never had a request for that. We are working with the sheriff about the model traffic code; it is not as easy to say we are going to adopt it. We do not get those recommendations. After every meeting, we should have a list of issues that come from there and these are recommendations we made as a board. We do not get that we have not had that since its creation. Chairman Martin said he sat in on all those meetings from the creation and once they became fully functional; he stepped out. Linda said there was a clean-up recommendation from the Board; that is what Mr. Samson said. Commissioner Samson explained what he meant by that. There were people who were never appointed to that board and were there acting as such. There were sections, as he read the original resolution, that were to have a representative and there was no one that had even applied for it. Linda asked if he was referring to alternates serving on the board. Chairman Martin said there were people appointed who never attended a meeting and so they removed them and allowed someone else to be in their place. It is not to eliminate any individual. Commissioner Houpt said in terms of Marion's position, her name didn't come in front of us because she was someone else's alternate. For her to be appointed to the board she would need to apply for the position. Linda said apparently Marion was informed this was too frustrating of a process for her because the board needed constructive dialogue. Sounds to most people that seeing this operate that is a euphemism to not keep holding the industry accountable and do not keep bringing up issues. From talking to Marion, the by-laws were not strictly followed there either. She stated that is what she means there is a discrepancy when there is an agenda to accomplish; you can ignore the by-laws; but when you need to do something you cannot be bogged down in it. The board is losing credibility in that area too. Plus the perception from the public is like no wonder why no one ever comes to these meetings it's the most boring thing I've ever been to because you spend a great deal of time being bogged down. Commissioner Houpt said frankly that is what happened to the oil and gas forum. That is why people stopped going to those meetings and now it is predominately the industry that goes. Therefore, when we set this up we really wanted it to be a happy atmosphere where every stakeholder would feel empowered to be able to be part of the process. Everything she is hearing today; first from Ms. Jordan and now from Mrs. Dickson, is that we need a facilitator to help people understand how to work together, which is to make sure that everyone is working on an equal plain and to make sure that everyone understands the vision and the mission of this board. She would strongly support any request on how you want to do that, Judy. If it is a half day, full day, two hour, or whatever you come back with. It is important; if this EAB is going to exist, it exists to serve members of this county regardless if they work for the industry, minerals, surface rights, or a business. Whoever the stakeholder is; everyone needs to feel that this is a board that would at least try to address their needs. She feels they do need professional outside help with that. Linda said she wanted to emphasize that the reaction from the industry, when they were attempting to equalize the board and bring on more community members, in response to the unbalanced make-up of it was visible - the brakes went on; wait a minute. She thinks it is a real telling sign. Commissioner Houpt asked Judy to bring a recommendation back to this Board and the rationale on everything that was presented on the new region. Judy said there is very clear discussion and action. Chairman Martin stated yes there was and we approved that action by allowing those people to be represented and we took an action to say appoint these people for those particular areas. Judy said there is a committee that was formed to make recommendations as to whether there needed to be additional citizen areas represented. That committee began to make some recommendations and actually asked for a different map to be created that would show what citizen represented areas would be. Yes, it is true, and that committee was actually made up of citizen representatives. There was no industry representation on that committee. There was a recommendation that was brought back to the Board and Judy was there at all the meetings. Ms. Dickson unfortunately was not actually at those meetings; but Judy was there at the committee meeting and the EAB meetings. She was not at one they were actually talking about this; but she was told that happened, and having read the minutes, she was told that the industry folks said, this is the first time they have seen this map. They wanted to take it back and get a chance to look at the map and visit with their comrades back at the office. Therefore, they did; the actual action to examine that map was then tabled because Marion was the chair of the committee that actually presented it and at the last meeting, she was not a citizen representative anymore. Therefore, other citizen representatives who had not shown up at her committee meetings said, we will take up the flag and we will go back and reexamine this map. Which they are going to do today at 3:00 p.m. in Rifle; they will look at the map. Judy does not know if they will have specific recommendations or not. However, the EAB allowed this committee to reform it and they will go back to the EAB and make more recommendations about what they think. Commissioner Houpt stated you know Carbondale is missing too. Linda said if you go back and look at the minutes, that plan to redesign the board with community representation, accurate community representation or increased community representation has been passed on like five times. It just keeps being moved to the next meeting. She would like to point out that when Marion took the time to develop this she later received a call, or maybe a direct conversation, she does not recall from one of the town representatives who told her that she has gone about it all wrong and basically he chewed her out. When Marion asked what his stake was in all this, his response was "I don't have to be interrogated;" this is the kind of attitudes she is talking about. Judy stated she would like the Board to make clear to her so she understands her role correctly. She did not understand the liaison's office was to be charged with facilitating the EAB meetings. She did not think she had the authority to actually run those meetings unless you are telling me that was something that was missed in the handoff when she was asked to represent the County at the EAB. She asked if she is supposed to be a facilitator or not? Chairman Martin stated the answer is no; you are not a facilitator. You are supposed to be full of knowledge and assist and answer the questions being posed to you as the County liaison. Commissioner Houpt said in a way it is a facilitator because you also need to make sure the board stays on track and what their duties are as outlined in the resolution. Chairman Martin said that is also the Chairpersons duties. You are the back up to the Chair. Judy said that is why she is asking for clarification. Ms. Dickson raised the possibility that she viewed Judy's roles as being the facilitator and there is nothing in the resolution that designated the oil and gas liaison as being facilitator; rather my role is simply to sit as a representative as every other EAB member equal to the others on the board. If that is not the case then Judy needs additional authority if she is supposed to facilitate. If she is not supposed to facilitate, but instead she is supposed to

represents the County's interest as a representative as the other members are on the board; then that is what she views her role as doing right now unless you (the Board) are telling me otherwise. Commissioner Houpt said no, she believes that is what they reviewed her role as; but she thinks that every board member should understand that mission.

PROJECT UPDATE ON COUNTY ROAD 300 UNA-BRIDGE – JEFF NELSON & ROGER NEIL

The conceptual engineering analysis construction costs on County Road 300 have been completed. The analysis created two reconstruction alternatives and the related costs. In summary form alternative one would entail adding turn lanes to SH 6 & 24 and County Road 300 without reconstruction to the existing railroad crossing. The estimate for this alternative would be in the range of \$1.2 million. In summary form alternative two would entail adding turn lanes to SH 6 & 24 and County Road 300 with reconstruction of the railroad crossing. The estimate for this alternative would be in the range of \$1.9 million. Jeff provided drawings for the Board. Chairman Martin said we need to see how many players we are dealing with on this issue. Commissioner Houpt stated there were a couple of things: 1) this does not change any applicants' responsibilities or district responsibilities for what is going on right now. The staff, she believes, is working a policy report from Fred Jarman. Independently of that, Ed or administration take the lead and figure out this whole area. They have the district that was put together by Travelers landowners; we have the Strong's that have an application with a condition that they get a CDOT access permit, we have this study and she is still not clear on how we got that conducted; and we have the railroad interested and she doesn't know where CDOT stands on any of this. She would like staff to pull together everything that is going on in that area, who the players are and what this means. This means nothing to her right now, because they have many different things coming forward. She stated her motion would be that the administration takes the lead and bring a report back to the Board so that they have clarification on what is going on here. Commissioner Samson – Second. Jeff asked whether he puts out an RFP for a transportation study. Commissioner Houpt said no RFT; all she wants to know is what the districts are working on, what the Strong's are working on, and where they are with their conditions of approval; who from the Railroad called and said they have money, and what kind of money were they looking in investing in this area; where CDOT stands on this. Commissioner Samson said, in short we need to know all the players. Commissioner Houpt said she does not want any more studies conducted, because we as a County have not committed to anything. We have a transportation policy coming forward, proposed policy coming forward to begin to address where the County may get involved with intersections where County roads meet. Our policy right now is that it is the applicant's responsibility. What she is asking for now, something on paper that tells her what all the side discussions are that are happening – everything. In favor: Houpt – aye Samson – aye Martin – aye

CONTINUED DISCUSSION AND APPROVAL FOR THE CONTRACT AMENDMENT FOR THE COUNTY VETERANS PROGRAM – MATT ANDERSON – STAN RACHESKY

Don would like to suggest if the board would be willing to consider authorizing the Chair to sign two agreements on this. One for Veterans Transportation and the other with the Sunshine Rotary, this one to assist the wounded veterans are both in the nature of human service grant agreements and will be run through the administration, the Board of County Commissioners budget. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Don said he does have additional executive session items under his time.

APPROVAL OF FIRST AMENDMENT AND SUPPLEMENT TO THE 2009 BUDGET RESOLUTION – THERESA WAGENMAN

Don stated this was published timely and correctly in the Citizens Telegram. Don wanted to note that this publication reflects both the budget supplement and a resolution amending the text of the previous budget resolution. Chairman Martin swore in the speakers. Theresa summarized the changes; they eliminated the personnel contingency, reallocated those expenditures and they have added some language, an additional section stating there will be no transfers allowed between the capital funds and all other funds. No transfers will be allowed between wage line items to operating line items of individual departments and offices. All wage expenditures be consistent. Commissioner Samson – I move we close the public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Samson I make a motion we approve the first amendment supplemental with the 2009 budget resolution. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

REPAYMENT AND ABATEMENT OF TAX LIEN SALES CERTIFICATES AND ABATEMENT OF TAXES FOR: TAX LIEN SALE CERTIFICATE #2005-0143 ASSESSED TO WESTERN TELE-COMMUNICATIONS, INC. CERTIFICATE HOLDER – BOB RULON, TAX SCHEDULE #R070063; TAX LIEN SALE CERTIFICATE #2004-0139 ASSESSED TO WESTERN TELE-COMMUNICATIONS, INC. CERTIFICATE HOLDER – JIM DROLET, TAX SCHEDULE #R070063; TAX LIEN SALE CERTIFICATE #2004-0140 ASSESSED TO WESTERN TELE-COMMUNICATIONS, INC. CERTIFICATE HOLDER – EQUITY TRUST COMPANY CUSTODIAN FOR BRUCE NEUMANN IRA, TAX SCHEDULE #R210375; TAX LIEN SALE CERTIFICATE #2004-0099 ASSESSED TO MOUNTAIN MICROWAVE CORPORATION. CERTIFICATE HOLDER – EQUITY TRUST COMPANY CUSTODIAN FOR BRUCE NEUMANN IRA, TAX SCHEDULE #R040228; TAX LIEN SALE CERTIFICATE #2002-0109, ASSESSED TO MOUNTAIN MICROWAVE CORPORATION CERTIFICATE HOLDER – LINDSEY PASSMORE, TAX SCHEDULE #R040228 – GEORGIA CHAMBERLAIN AND VICKIE COX

Georgia stated notification was completed and published with the agenda. Chairman Martin swore in the speakers. Georgia explained these are property tax abatements, which they realized should not have gone to a tax lien sale. She explained they would have to refund the investor for all they paid at the tax lien sale plus interest. Georgia went over all procedures for these liens. Georgia also included the assessor's memo stating these should not have been taken to tax sale. Commissioner Samson – Move to close public hearing. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Samson - I move we approve the repayment and abatement of sales certificate number 2004-0140 for \$322.43 along with \$127.08 in interest. In addition, sales certificate number 2004-0099 for Equity Trust Company Custodian for Bruce Newman IRA in an amount of \$501.88 and \$193.51 in interest. Sales certificate number 2002-0109 Mountain Microwave Corporation in an amount of \$232.94 and \$140.18 for interest. Sales certificate number 2005-0143 for Western Telecommunication Incorporated in the amount of \$1,543.50 and \$475.16 in interest.

Commissioner Houpt stated the last is sales certificate number 2004-0139 Western Telecommunications Incorporated in the amount of \$397.00 and \$199.80 for interest. Second

In favor: Houpt – aye Samson – aye Martin – aye

Executive Session:

Don stated he needed an executive session to provide legal advice concerning the LoVA Trail license; provide legal advice and potentially publically receive direction concerning the application of Amendment 54; the County Manager Ed Green would like the Board to discuss and provide direction concerning property acquisition for property in the vicinity of both Glenwood Springs and Rifle for the benefit of the County; and provide direction on contract negotiations with RFTA and LC Marketing. Commissioner Houpt – I make a motion to go into executive session and discuss the items mentioned by our County Attorney and Commissioner Samson seconded. Motion carried. Commissioner Samson made a motion to come out of executive session and Commission Houpt seconded. Motion carried. No action was taken.

CONSENT AGENDA

- a) Approve Bills
- b) Inter-fund Transfers
- c) Changes to Prior Warrant Lists
- d) Authorize the Chairman to Sign the Special Use Permit for a 24-inch Pipeline – Applicant; EnCana Oil and Gas (USA), Inc. – Fred Jarman
- e) Authorize the to Sign the Special Use Permit for a Storage and Material Handling of Natural Resources – Applicant; EnCana Oil and Gas (USA), Inc. – Fred Jarman
- f) Authorize the Chairman to Sign the Amended Final Plat for the Silt Heights Subdivision – Owner Terri Patrick – Fred Jarman
- g) Authorize the chairman to Sign the Plat for the Kuersten Exemption – Applicant; Fred Kuersten – Fred Jarman
- h) Grants – Sales Tax Recovery Distribution for March, \$51,658.53 – Georgia Chamberlain

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - h; carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THREE (3) LAYDOWN YARDS TO BE OPERATED BY ENCANA OIL AND GAS (USA) INC., NORTH OF THE TOWN OF PARACHUTE – ALL THREE (3) LAYDOWN YARDS WILL BE SITED ON PARCEL #2135-273-00-015, LOCATED ALONG COUNTY ROAD 215 NORTH PARACHUTE RANCH AREA – APPLICANT; ENCANA OIL AND GAS (USA) INC. – SCOTT HALL

Scott Hall, Deb Quinn and Jason Eckman from EnCana were present. Deb 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 Houpt felt it was necessary to tell EnCana they should recognize that the entire piece of property should have been noticed. Chairman Martin swore in the speakers.

Planner Scott Hall 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 – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 200 as Amended; Exhibit F - Application materials; Exhibit G – Staff memorandum; Exhibit H – PowerPoint; Exhibit I – Review Agency Form from the Garfield County Road and Bridge dated February 18, 2009, from Jake B. Mall and Exhibit J – Memorandum from the Garfield County Re-vegetation dated March 10, 2009, from Steve Anthony.

Chairman Martin entered Exhibits A – J into the record.

Planner Scott Hall explained: Specifically, the applicant is proposing to construct laydown yards for storage of equipment and supplies pertinent to its drilling and completion operations. Currently, Laydown Yard #1 is used for the storage of pipe, along with transportation and construction equipment. There is no proposal to construct any building of need on this location. Currently, Laydown Yard #2 is used for a storage area and a water filling station consisting of a portable pump and a standpipe for filling water trucks. In addition, there is no proposal to construct any buildings at this site. Proposed Laydown Yard #3 will be used for the same storage and drilling operations activities with no plans to construct any buildings on this location. There are no anticipated power needs for any of the NPR Laydown Yards and the Applicant expects to meet any future power needs with diesel and/or natural gas-powered generators.

STAFF RECOMMENDATION

Staff recommends the Board approve the Special Use Permit for the “North Parachute Ranch Laydown Yards #1 and #2” for EnCana Oil & Gas, (USA) Inc. *Staff also recommends the Board approve the Special Use Permit for the “North Parachute Ranch Laydown Yard #3” for EnCana Oil & Gas, (USA) Inc. if the applicant applies for a grading permit through the County Engineer and the permit is approved by the County Engineer.* Staff suggests the following conditions for all three laydown yards:

- 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 facilities be done in accordance with all applicable federal, state, and local regulations governing the operation of these types of facilities.
- 3) That these facilities are for the sole use of the Applicant/Operator. If any other entities were to be added as users, then they would be subject to an additional SUP as well as rules and regulations as administered by the COGCC.
- 4) 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 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 any reasonably foreseeable natural causes or forces may transfer them off the property.
 - 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 lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
- 5) The Applicant shall provide its "Landscaping and Reclamation Plan" that has been approved by the County Vegetation Department prior to the issuance of a Special Use Permit.
 - 6) The Applicant shall file its Spill Prevention Control and Countermeasure (SPCC) plan with the County and have a copy on site for spills that may occur from vehicles / machinery in the area.
 - 7) The Applicant shall obtain driveway access permits from the Garfield County Road and Bridge Department and shall adhere to conditions specific to the driveway access permit. A stop sign will be required (if not already installed) at the entrance to CR 215. The stop sign and installation shall be as required by the MUTCD (Manual on Uniform Traffic Control devices).
 - 8) Should dust become an issue from the staging area, a dust control agent shall be applied to the staging area.
 - 9) No development activity shall occur at Laydown Yard #3 until all of these conditions have been met and Garfield County Board of County Commissioners has issued a Special Use Permit.

Discussion:

Commissioner Houpt said she did not track staff's conditions of approval with what Scott has in his report. Scott said the conditions were established after the fact; a review of the staff report was done prior to submittal, last Thursday. Commissioner Houpt asked; Scott your conditions of approval, are those the ones shown in the power point plus the ones in your report and Scott stated yes. Commissioner Houpt asked how this came forward with two laydown yards already in place. Jason stated when they bought the property from Tom Brown they had been used so Jason started using them. This last fall they realized these did not have permits on them. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. Commissioner Houpt – I make a motion we approve the application for a Special Use Permit for the north Parachute Ranch laydown yards 1, 2, and 3 for EnCana Oil and Gas with staff recommendations as presented in the staff power point on April 6 and from the staff report dated April 6, 2009. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Deb stated that Mr. DeFord indicated that the BOCC should probably continue this meeting to 9:00 a.m. tomorrow, April 7, 2009 for the workshop.

Commissioners Reports:

Commissioner Houpt had an I-70 board meeting cancelled because of weather, the Rocky Mountain workshops, twice cancelled for weather and a collaborative effort team cancelled for weather. Scheduled for tomorrow is the workshop, an I-70 Collation and Rocky Mountain on Thursday. Commissioner Samson stated Chairman Martin covered a meeting for him and Chairman Martin explained that meeting on the 25th. Chairman Martin said they spent more money; hired a new consultant, rehired director, Karl, for computer programs, the following day, the 27th they did senior programs, and at 9:00 a.m. they covered a contract for food service as well as the RFTA contract, transportation costs and they did work on the by-laws, memberships, reports from senior matters to nutrition program. On the 3rd and 4th he had a Club 20 meeting. He dealt with hundreds of calls from the Garfield County Administration. Commissioner Samson asked if he had anything to report on Club 20 and Chairman Martin said they had many debates and a lot of dissention. A CEO was there giving his opinion on oil and gas rules and regulations, the economy and how relationships in the State of Colorado are going. He was not favorable on any issue; he felt if it was reversed, we need to work on relationships again. Commissioner Houpt asked what other types of discussion there were. Chairman Martin stated land discussion, transportation, agricultural; several other steering committees met and had discussions. Commissioner Samson asked if there was anything that he and Commissioner Houpt should be aware of. Chairman Martin stated it is all going down party lines. Pretty much the same issues and pretty much the same results. He said we need to find common ground and right now there does not seem to be a willingness to do that. Chairman Martin reminded everyone on Thursday, April 8th meeting with the City of Rifle Community Corrections, Mr. Udall will be there, and Community Corrections is on the 9th at 12 noon. Commissioner Samson said he would be attending AGNC in Grand Junction on Thursday. Commissioner Samson met with Dave DeVanne with Battlement Mesa SA Trails Committee and he will put on the agenda for the 13th to discuss. The trail is complete from the library to the bridge, very wisely, the County Commissioners back in the '70's build the pedestrian across there; it does need cleaned. The northwest side has a very big crack where it abuts up to the bank and should be checked out structurally. He assumes that is the States responsibility. Chairman Martin stated if it is an issue then we need to contact the engineer who will bring the inspector. Commissioner Samson stated they also needed some paving from the end of the bridge to the County Road and up to the Lyons

property, who said they would work with us. In the interest of safety, we need to look at what we can do to help those people. Chairman Martin stated we would continue our meeting until 9:00 a.m. tomorrow.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

APRIL 7, 2009

**PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The continued meeting of the Board of County Commissioners began at 9:00 a.m. on Tuesday, April 7, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Attorney Don DeFord and Jean Alberico Clerk and Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 9:00 a.m.

EXECUTIVE SESSION

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

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

ACTION TAKEN

RESOURCE ADVISORY COUNCIL (RAC) – BLM

Chairman Martin explained that former Commissioner Larry McCown had agreed to continue being the representative for Garfield County if the Board so chose. Commissioner Houpt made a motion that Mike Samson’s name put forward for the RAC member. Chairman Martin seconded the motion.

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

INDUSTRY REPRESENTATIVE ADVISORY COUNCIL (RAC) BLM – NWRAC

Chairman Martin stated that David Cesark was the current representative and was still interested in servicing. This would be for the Northwest RAC. Commissioner Samson made a motion to support David Cesark as the re-appointed industry representative for the County. Commissioner Houpt seconded the motion.

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

RESOURCE ADVISORY COUNCIL – NEW BOARD

Chairman Martin explained this was a newly formed board, a 15-member board with members from the state, elected officials, environmentalist, etc. This board decides how money is spent on Forest Service projects. Commissioner Samson voiced an interested in serving on this board as well because he felt the two would blend. Commissioner Houpt also expressed interest. Don DeFord suggested this should be an agenda item and discussed publically. John Martini said he gave a packet of information on this subject when he returned from Washington, D.C. He gave a packet to legal, finance and administration.

Executive Session:

The Executive Session was rescheduled for Monday, March 13, 2009 at 1:15 p.m.to follow the Building and Planning items on the agenda. This will be direction and discussion by the legal staff to the Board.

Adjournment

Attest:

Chairman of the Board

APRIL 13, 2009

**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 13, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

BIKE TRAIL AT BATTLEMENT MESA – MIKE SAMSON

Commissioner Samson and citizen Steven Meyers, who is a newcomer to the community having moved during the Thanksgiving weekend to this area. Steven is working with the USDA Conservation District covering a territory of Utah to Glenwood Springs. He offered his assistance to work with the County Commissioners. He lives in New Castle and works in Glenwood Springs. ***Bike Trail in Battlement Mesa*** – Commissioner Samson met with Dave DeVanney and showed them the trail. Mike said he noticed that the sidewalk goes from the Library toward the intersection and then over the bridge build in 1970. Battlement Mesa was definitely thinking ahead when they built this trail. However, there is currently no safe method of traveling between Battlement Mesa and the Town of Parachute for pedestrians and bicyclists and non-motorized travel along County Road 301 between the Colorado River Bridge and the shoulders. With the volume of heavy truck traffic on that route, any pedestrian travel is with great peril. Incidents of mothers with strollers and toddlers walking that route have been observed and raise the question, “How long before a tragic accident?” Those who try to avoid that stretch by using the side road (County Road 300/Gravel Pit Road) to reach Battlement Mesa are actually trespassing on private property owned by the John Lyons family. The Battlement Mesa Trails System, the Battlement Mea Service Association created the Trails Committee two and a half years ago. This group of volunteers has been working to develop a safe alternative route. The John Lyons family is willing to grant an easement across their property by use by the “Library Trail.” The easement would follow the north boundary of their property and be adjacent to the Crown Peak Baptist Church property. The Town of Parachute engineers and Garfield County engineers are involved in an easement of pedestrian trail that would be part of this Library Trail. Current plans include working with the town and County to

develop another pedestrian trail on the other side of the bridge that would extend from the east side of the bridge to the turn-off to County Road 300/Gravel Pit road. From that intersection to the Lyons property, the easement trail would use the existing County road. The Battlement Mesa Service Association (BMSA) would assume responsibility for maintaining the trail across the easement land. The total budget for all segments is \$383,224.00. The BMSA has been awarded a small planning grant by the Mount Callahan Community Foundation. This was accomplished by the assistance of Cindy George and the Big County RC&D. Additional grants are being sought. Any assistance that Garfield County could provide, in the areas of engineering, surveying or funding, would be greatly appreciated. In addition, any help with right of way easements, road crossings and curb ramps would be helpful. Jeff Nelson and David DeVanney – Battlement Mesa resident attended while this was being discussed. Commissioner Samson - This is important and if we are going to be a partner, we need to commit additional dollars to make sure it is completed. Dave– There is engineering accessibility but he was not sure of the utilities, water lanes and other kinds of utilities across the bridge. Commissioner Houpt said one of first things is the numbers on what the expense will be. She supports the lending of some expertise but since we are not sure of the cost, this needs to be identified before finalizing the project. Dave– The easement is not a problem; the Lyons family will grant the easement – they are very community minded. They know people will use this easement off their property. John Lyons is currently moving dirt and we would obtain the right-of-way. Don – Look at the backend of the project; there are ownership issues and maintenance issues for the County. If the County has to obtain right-of-ways then we would be held responsibility for the liability. It might be better to have the County control the entire trail. An area map was submitted along with the verbal presentation depicting, in different colors, the proposed Library Trail, the existing Battlement Mesa Trail and the Lyons property line. Commissioner Samson thought it would be best to construct the trail from the bridge to where it hits County Road 300 from the Lyons Battlement Parkway; this is feasible and a good idea to give that right-of-way to Battlement Mesa Association; give it to them and also the responsibility to take care of maintenance and maintain it. Is this an option? Don – Jeff knows more about this; however, the bridge is part of the County road system. East or south, you will need to be part of the County right-of-way. Segment C – Along County Road 300 to the easement on the Lyons property. This segment is on an existing lightly used County road and has no budget to improve it. Future plans call for requesting the County to re-pave the road. Commissioner Martin noting the County has donated these trust funds for the Crystal Trail, RFTA, etc. mentioned the conservation trust fund dollars. Commissioner Houpt felt we could also identify other funds for this trail. We need adequate numbers for the different steps needed to be accomplished and have a clear understand of the easement, where we use County right-of-way and private land. Ed said we would have approximately \$125,000.00 for seed money from the Conservation Fund dollars. Dave – Cindy George is going after grants and we are certain that we will get some money. The BMA has committed to be responsible for the trail on private property. Commissioner Houpt wondered do we want to split or contract responsibility. Steven – BMA is committed; they would like to see this trail built. This is a serious concern and they want to get it done. Commissioner Samson made a motion to direct the legal and engineering staff to work with the Battlement Mesa Association (BMA). Don - The BMA is negotiating those rights-of-ways across the Lyons property: who will be the owners? Chairman Martin – We need to sit down and decide these main concerns; the commitment across the bridge because we hope to tie this into the trail. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson - aye

COUNTY MANAGER UPDATE: ED GREEN

REAPPOINTMENT OF JUDY JORDAN AS OIL AND GAS LIAISON

Ed Green presented this issue. Commissioner Houpt so moved to reappoint Judy Jordan as the Oil and Gas Liaison for Garfield County. Commissioner Samson seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye Ed's **Executive Session Item** - Contract negotiations regarding the elevator in the Courthouse.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario presented an overview of how he has been reviewing his budget and trying to consolidate and be fiscally responsible. They plan to offer training to other agencies to be held at our jail. Another issue this will address is to cut back overtime. He is not planning to add any new positions; he is still looking at grants available now through the COPPS program. He is still committed to middle school Resource Officers and they are looking at putting one in St. John's Middle School in Battlement Mesa. He is using the New World System for the animal control, which will provide a \$12,000.00 savings. They are looking at the capital expenditure of the new Sheriff's facility in Rifle and will be including Search and Rescue. As to the bonus program, this is now an employer's market and he will no longer offer bonuses in the recruitment of new hires. He said they are better staff wise than ever in the past. **Training:** His department is revisiting transport and exploring the possibility of using private services due to staffing issues and the overtime issues. Sandy, the chef is also looking into food purchases and possible ways of cutting back. A possible increase in Revenue is through implementing the Model Traffic Code and Lou wants to move forward with Don; grants have been discussed. Defer the painting of the jail; that has an amount of \$100,000.00 set aside and we can pick that again next year. They are looking into a video advisement program to save money and time. There is also a safety concern in moving people around. We have the equipment in place but due to the budget cuts, which are the courts concern, they have no funds to buy their share. We are looking into a grant process for courthouse security. He wants to wait until the Sheriff's conference scheduled for the June 10 – 12th in Montrose. There is also the concept of the elevator issue and the question that remains a concern, do we want to open the second floor, possibly reconsider and discuss the plan as set out now. Lou would like to wait until the conference in June regarding courthouse security in Montrose, June 10-11-12. Next week Lou and his staff will present a 15-minute power point on TAG (Threat Assessment Group). They have been giving these presentations to the community; the presentation to Youthzone will be this week. These presentations are related to gang issues, they are doing an assessment of where it is, and things we are seeing in the county. Commissioner Samson responded that he saw a large tag on the underpass at Midland Avenue coming in from Rifle. This needs to be taken off and assumed it would be handled by the City of Glenwood. Lou said if you see a tag, please call and let us know so we can remove it. Chairman Martin noted the huge cost of the property owner to remove the graffiti. Lou asked if the Work-enders or community corrections could assist in removing the graffiti.

Jail Inspection and Lunch

Commissioner Samson brought up an issue that Don had called attention to, as Commissioners, one of our functions was to visit the jail. Therefore, he would like to schedule a time and tour the jail. A decision was made to have staff schedule this during the lunch period and eat at the jail. Lou mentioned that Sandy is retiring in June so they were looking for a new chef.

COUNTY ATTORNEY UPDATE: DON DEFORD

APPOINTMENT OF SUCCESSOR TRUSTEE – Valley View Hospital Association Bond Issue

Don DeFord submitted the agreement dated December 30, 2008 and explained the agreement and the Successor Trustee. The Valley View Hospital, Bank of New York Mellow Trust Company and Wells Fargo Bank will be the “successor trustee.” Commissioner Houpt made a motion to approve. Commissioner Samson – second.

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

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don said he needed an executive session to discuss the aforementioned item of Ed regarding the contract on the elevator for the Courthouse, potential litigations; Lisa Bracken’s COGCC issues; and the liquor license hearing scheduled for later today for The Realm of Caring. Commissioner Samson moved to go into an Executive Session; Commissioner Houpt seconded. Motion carried. Commissioner Samson moved to come out of Executive Session; Commissioner Houpt seconded. Motion carried. Action taken: Discussion on the elevator occurred.

Chairman Martin wanted to go ahead with the second elevator. The use of the building currently warrants a second elevator. This is a historic building built in 1920 and an elevator to the second floor is justified for the American Disability Act (ADA). He also felt the public needed to have a voice since it was taxpayer’s money. Commissioner Houpt preferred to wait until after the Sheriff’s conference in June and see the requests from the judges regarding security. Her direction was to wait and revisit after the Court Security Conference in June.

COMMISSIONER REPORT:

Commissioner Houpt – Senator Bennet will be at the Glenwood Community Center at 5:00 p.m. today; COGCC hearings; Wednesday at 12:00 p.m. a meeting at the City Council chambers to meet with Valley View Hospital to work out issues regarding the building of a new administration building for the elected officials; Wednesday from 3:30 to 5:00 p.m. regarding transportation with RFTA at the Community Center in Glenwood Springs. Ruedi Water and Power meeting; CCI meeting on Friday and informed the Board she would be out of town all next week and would miss Monday, April 20 BOCC meeting. Commissioner Samson had a good meeting with the AGNC in Grand Junction this past Thursday. The Energy Summit, which also includes the AGNC coal conference to be held in Craig on Thursday and Friday, May 14th and 15th. He is planning to attend; they have a list of possible speakers. He encouraged the other two Commissioner to attend. How will the current energy resources affect our local economy, is Colorado’s regulatory climate checking energy production, can Colorado produce enough energy to get off foreign dependency; why have not renewable energies exploded in northwest Colorado. Chairman Martin stated he would be there. Commissioner Samson continued his report saying we went over some legislative updates. There were some things they talked about we might be interested in Senate Bill 218 with the federal leasing, that is a concern and we are keeping an eye on that bill. Senate Bill 212 which is vendor fee retention and sets the limits and fees but then you have Senate Bill 272 that if passed would eliminate the fees.

Chairman Martin said because of the Tabor issues not to be able to ask the questions of raising taxes to the citizens but to pass on fee increases, which is interpreted as not being a tax. States can increase fees to cover their shortfalls in revenue. Commissioner Samson – This is not the Bill that addresses the urban renewal authority. Dave Norman reported the Area Aging on Aging gave a report quite concerning; they had a \$1million dollar reduction in their budget. I gave a report on the Northwest Oil and Gas Forum. We had a report from Brian Meinhart regarding the Census. Ed Green thought Rob Hykys should be the one to take the lead on the Census. Chairman Martin said he is receiving various reports and taking these back to Rob; we are working with them and have for twelve years. Commissioner Samson said Brian Meinhart is saying this census is really going to take place between April 1 and July 31, 2010. Chairman Martin - Two items, one along with fueling costs in reference to a proposal that was a local energy issue in trying to create jobs, use alternative energy as well as the present energy in place which is too expensive to transport out of the area and that is to create electricity in small generators, putting it on the grid using something like the GoGen plants, etc. and the local vendors such as Holy Cross, Xcel Energy are not required to give 20% of their green power; this would supply that particular percentage but it would take land use permitting process in Garfield County; we would be able to go ahead and use the Energy Money to do the feasibility study, \$260,000.00 plus dollars, a portion of that to be able to put it on paper and to make as a shovel ready project. I think there are plenty of investors including the energy companies who are trying to supply that to the grid as well as the vendors who are very hungry to get 20% of renewal energy on the grid to meet their requirements. This would be a win win situation all around and we proposed this to the NECI Board to be able to do it. It also creates a revenue stream, which would then fund other projects into the future. This is something that NECI does not have and if they get in on the ground floor of this particular issue, discuss it with the proposal, use that money for a feasibility and a game plan, they would have a funding source they could look at as well. Commissioner Houpt – Not quite understanding what that project would be. Chairman Martin – It would be creating alternative energy which is solar because the feasibility shows there is no dependable wind power in Garfield County from one border to the other that would be sustainable. There is solar and that study needs to be put together with the backup of the low cost natural gas. You would alternate back and forth creating a certain amount of electricity to put on a grid on a constant basis. At \$4.00 per thousand cubic feet, you cannot make any money by shipping it out into the gas grid but you could create electricity and actually make more money by using the low cost gas and solar power to put green and renewable energy into the grid and then selling that meeting the requirements of the power companies. It is an interesting approach, the gas, sun and the investors are here. We would be ahead of any place in the state by creating more green power than just the big solar arrays that are down in Alamosa. Solar alone does not produce enough constantly, because you lose it at night, so therefore after the sun goes down you don’t have enough energy storage capacity to put constant electricity into the grid once you have committed to green power if it’s just solar. So if you had that backup generators for evenings or bad days that generator would be able to produce the same amount of electricity day and night alternating back and forth therefore saving fuel and using green power to sell to the grid. Carolyn asked would these facilities or installations be on residential buildings or commercial buildings. Chairman Martin – They could be on both depending on where you would want and who was the investor. These are small enough that small towns could use them and create their own electricity and you could do it commercially and/or individually. It is the feasibility and the study and approach that we need to look at, propose this to NECI and let them look further into it and see if it is not a renewal revenue source to keep them in business. I suggest we look into this, propose this, and submit a written proposal. Commissioner Houpt – We have handed off the decision on how to use those monies. Commissioner Samson – But it’s a \$262,000.00 grant. Commissioner Houpt – We gave that off to them last week. Ed corrected - \$227,000.00. Chairman Martin – They are also looking for projects to invest

in and I think a feasibility on that with the proposal that's already written to consider. Ed gave a copy of this to Jim Rada. Commissioner Houpt – Rifle is a great example of towns using their solar fields. She wanted to see the written proposal that John was referring. Commissioner Samson is really excited about the proposal for a couple of reasons: I think there are some possibilities included and this would be new jobs that will come into this sector; and the using of solar as well as the plentiful use of natural gas here that doesn't have to be shipped out thousands of miles away as a commodity. We will use it right here in Garfield County. Chairman Martin – Actually green power is more expensive than regular power in the coal fire plants at this point; but what this does is create electricity locally by using local resources and at that point, who controls is, a private entity or a public entity; or combination of the two that would have to come through the process on who controls it. Carolyn – Is this gas out of the ground or is it gas that has to be refined. Chairman Martin – It's already here, it would go through a cleaning process like anything that's ready to be shipped but the cost is too low to make any money, so therefore they cap it and don't process it. This would allow them to actually make more money by producing electricity and using 50/50 and creating the solar power. This is the feasibility group – government, special district, private industry, individuals, etc. Carolyn – Once NECI is here we can discuss that state authority that has a mandate to deal with these kinds of energy projects as well as NECI wants to talk to you about the formation of a local district. Commissioner Houpt – This is a private energy company that has proposed this notion but they are not anticipating that they would necessarily be the party behind this. Chairman Martin – Correct. That would have to go through the process and through RFP's. It depends upon who is involved and who is going to be the financier. Ed's on the board and he has a copy of this so they can think about it. Ed said he gave it to Jim Rada and asked him to evaluate it first and then at our next meeting we will present it. Chairman Martin – The NECI have requested projects to come forward to be sure they are able to move forward and meet their requirements of having projects and making decisions. The other one is the new federal legislation, which nationalizes the food industry and everything from confined feeding to vegetable growers; it also has a different layer of bureaucracy and inspections and hands down the unfunded mandates to states and local county officials in reference to USDA requirements, inspections, food as well as a bunch of other things. It is devastating to small businesses; what it does is totally take all farming and all food productions into the corporate world and control under corporate law. It will put the small farmers out of business. We need to look at that and one of the unfortunate things is Ms. Dianne DeGette is number one in supporting this and that's one of the federal legislators that we sent to Congress. It scares me in reference to this type of approach and deals again with chickens, corn, fruit, horses, mules. It is an overreaction to create a second government within the government and creates oversight within four different agencies of the federal government that already had oversight. It is an 85-page bill; Senate Bill 835. I have sent this to CCI in reference to agricultural steering committee; they may be surprised at what they are going to be facing into the future if this passes. This is before Congress. The Secretary of Agricultural is not behind this now; it does create a completely different nationalization of agricultural production. Commissioner Houpt – I have not read it. Chairman Martin – I've read it three times and I see one I'm going to be out of business in reference to just the reporting requirements not to mention the inspection requirement and shipping requirements and everything else. This is corporate and you must follow all corporate law. Commissioner Houpt – Even if you just use the local farmers markets. Chairman Martin – Yes; you have to have federal inspections and certificates as well as reporting processes on through. It is the same as the ear tags and following of the animals on a federal level, that goes to the County, and state fairs and you had to tag those animals including the microchips etc. on every animal that you bring through the food chain so that it is traceable back and forth. This is a very big issue in reference to 4H and the auctions. It was defeated but this is the same with now with agricultural; we need to watch it closely.

Consent Agenda:

- a) Approve Bills
- b) Wire Transfers
- c) Inter-Fund Transfers
- d) Changes to Prior Warrant List
- e) Hotel & Restaurant liquor license renewal for Aspen Glenn Club, Carbondale and a Bed & Breakfast liquor permit renewal for The Lodge on the Roaring Fork, Carbondale – Jean Alberico
- f) Consideration and Approval of Contract Amendment with Summit Ministries Resources, Inc. – Lynn Renick
- g) Pinyon Mesa Phase 1 Subdivision - Request to release two financial securities related to a grading permit and infrastructure improvements – John Niewoehner
- h) Grants - Sales Tax Recovery Distribution

Commissioner Samson asked for clarification on the Aspen Glen liquor license. Jean explained the renewals process and stated the one with Aspen Glen was due to a change of manager. Commissioner Houpt made a motion to approve the Consent Agenda as submitted. Commissioner Samson - Second.

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

UPDATE ON THE LANDFILL IN GLENWOOD SPRINGS – CRAIG CLERKIN, HEARTLAND ENVIRONMENTAL SERVICES

Craig Clerkin and Dorothea Farris, Consultant, Community Affairs Representative presented. Heartland Environmental Services, LLC has operated in Colorado for the past ten years. Dorothea is representing them in the County. It is a company that provides energy efficiency, environmentally sound and financially effective management services for landfill operations. This is accomplished through reclamation, recycling and environmentally sound waste management practices. These normally include landfill operations, improved recycling activities, recovery and reuse of aggregate and Construction and Demolition (C&D) waste, and production of compost and soil for resale or reuse on site for cover. Dorothea came before the Board to invite the Commissioners to consider the possibility of a landfill management plan that suits the needs of Garfield County, improve the current operation and become a financial asset. Dorothea continued giving illustrations of how a landfill could resolve environmental and BLM issues. In Glenwood they use plastic to pellets for the construction debris however, this is 2020 thousand yards just burning but not using it as fuel. She said they have had some contact with oil producers and have invited Marvin Stephens to see the benefits of this new process and he went with us to Cheyenne and ran through some of the technologies. Chairman Martin stated it has the potential and he would be looking forward to the July demonstration. Commissioner Houpt said, since you have talked to Marvin perhaps this will create a new plan for our landfill. Marvin has been in conversations to talk about the entire regional and partnerships with the

other Pitkin, Eagle and Glenwood landfills. Dorothea – This effort will help in getting trucks off the road to avoid destruction of the roads. Since she has been hired as a consultant she will deal with the municipalities.

CREATION OF CLEAN ENERGY FINANCING DISTRICT – ALICE LAIRD

Michael Hassig, Mayor - acknowledged the County staff and Ed's and Carolyn and Jim Rada and Lisa Dawson. Thanks for providing these staff for the effort. Shelly from Glenwood springs, Alice Laird, Jim Rada, Heather McGregor were present and before the Board today with recommendations from G-NECI Advisory Board regarding exploration of a Countywide Opt-in Clean Energy Financing Fund includes a feasibility study on implementation of Colorado HB 08-1350, concerning the facilitation of financing of renewable energy. Alice Laird - This program only benefits those who chose to borrow from it. Only borrowers will pay the special assessments and they are the only ones who directly benefit from the energy improvements. Any property owners who do not borrow from the loan fund that would probably still be the best, the majority of our property owners will not carry any tax burden from this program. Right now, there are some barriers mainly financial reasons why people are not able to make their energy efficiency improvements. One is limited capital and the other is upfront costs. We have to do quite a lot of energy efficiency improvement and renewal energy installations over the coming years to meet our statewide energy goals. This is going to cost a lot of money to mobilize all those projects. This is one way to start to get at that need. Conventional financing for projects like this carries a few problems, it's got a fairly high interest rate but more importantly bank loans for a home improvement loan like this would be 3, 5, 7 years in length. For most projects the homeowner may not see enough in energy savings on a year to year basis to offset those loan costs stretching the loan repayment out over a longer period of time, usually meaning the energy savings will more than pay for the offset of the increased tax assessment. The other barrier is anticipated sale of property. Few of us can say that we are going to own our property for a long enough period that we would see the payback. Life is uncertain. With this mechanism, the assessment stays with the property even when it changes hands so the new owner gets the benefit of the improvements and continues to pay off that assessment until the term is finished. Boulder County is serving as the state's guinea pig on this project. They placed the question on their November 2008 late ballot and it passed with a 2-1 margin. Voters authorized \$40 million dollars in bonds and that included \$14 million in tax-exempt bonds. The bonding authority for this measure was a cooperative effort from Boulder County, City of Longmont and City of Boulder. Loan sizes for residential and commercial property owners can range from \$3,000.00 to \$50,000.00 but be no more than 20% of the property's value and in Boulder; they chose a loan term of 15 years. The pie chart shows the distribution of the way the \$40 million is divided up between commercial, residential, and residential income qualified funding from that the tax exempt funds. This first round of offering in Boulder County has just been for residential borrowers. Mandatory workshops were held all over the county in March. 1,700 people attended those workshops and folks paid a non-refundable fee of \$75.00 to submit an application. After going through those mandatory workshops, people were pre-qualified for the loans and learned about all the paperwork they would need to submit in terms of project bids from installers, etc. then the loan application period was opened up from April 1st through April 10th. As of the time it closed on Friday afternoon, they had received 517 applications and a total of \$9.5 million dollars in loan requests. These folks will have 180 days to complete their projects. The income qualified aspect of this pretty neat. That is funded by the tax-exempt bonds offered to households earning up to 115% of the AMI. Those loans themselves are limited to \$15,000.00. That money will largely be focused on energy efficiency improvements, which bring the immediate payback for your investment and includes things like insulation, new windows and doors, sealing up the home, replacing an old furnace, etc. Interest rates for the special assessments for all parties will be set by Boulder County when it sells the bonds and Boulder County reserved the ability to add up to 1% additional interest rate on the actual special assessment repayment over and above the bond rate. Therefore, they will be going into that phase next. The borrowers still qualify for their utility rebates such as the Xcel rebates for insulation and solar installations and for the federal tax credits on solar and home insulation. They presented a flow chart that Boulder County developed, Climate Smart is their energy climate program that has been in place for a few years and they developed this very clear flow chart. It is on the brochure they put together for consumers. There is a clear process for people to go through. It lists the efficiency measures that are eligible, the ideas that non-portable items, such as light bulbs and washing machines that you could take away are not covered under his program; they are looking for things that are actual property improvements. Renewable measures as well as the wood pellet stove eligibility are only for folks who live in all electric homes. Applicants need to do some homework, they need to submit a project bid from licensed contractor along with their loan application and then also give Boulder County the ability to take a look at their before and after utility bills. This is important because Boulder County wants to be able to measure success from this program and one measure of success is loan repayment. However, another clear measure of success is people saving money on their utility bills and overall energy saving and reduction in consumption of fossil fuels. Economic benefits: Something that we are all tuned into right now, a \$40 million bond issue is going to result in \$40 million dollars in work in that county. Skilled workers, folks being put back to work, electricians, plumbers, etc. industries that are going to benefit include insulation contractors, window manufacturers and installers, home energy audits, HVAC, and then the solar industry as well. Many people would be put back to work with \$40 million injection into the private sector economy. That is what we are talking about when we use the Clean Energy Economy. Some quick math comparing Boulder's County population to Garfield County's population, if we were to do something, comparable to their \$40 million dollar program, here would be \$8 million dollars. In Boulder, the money on the backend, the money is flowing this way, company called renewable funding out of California is handling the loan origination, they got started with this in Berkeley, California and since they kind of know how it works they're setting up a small office in Boulder to help Boulder County with the loan origination. The finance department is also adding a staffer. That \$75.00 non-refundable fee paid by the applicants is covering all that work in those two bullet items. UMB out of Denver was the only bank interested in handling payouts on this; it is not really a great moneymaker for banks so you have to find somebody who is community minded to do that. The payment goes directly from the bank to the installation contractor. Property owners don't have to pay upfront and there's no slow down for the installer to get paid as soon as they submit their invoice and the property owner signs a letter saying, work has been done, then Boulder County wires the money to the bank and the bank issues the check to the installation contractor. Therefore, this comes down to now what are the set-up costs that might be faced in Garfield County if we were to consider doing something similar here. We do not have price tags for very many of these things, Jean can help figure out what the election cost would be but even that is a moving target. So, as you can see there is cause for establishing a local improvement district for developing a proposal for putting the question on the ballot and then campaign cost would be borne by a different organization,

community folks I suppose. Then program administration and finance processing fees. This is the timeline for placing the question on the ballot this year, which if we follow this time-line and presuming there would be a successful result on the election then funding could be available to commercial and private property owners in Garfield County by about this time or early summer next year. The Garfield New Energy Communities Initiative Advisory Board met last Wednesday in Rifle, heard this presentation, had a very thoughtful discussion on it and decided to come to you folks with these four recommendations. In order to accomplish the goals this advisory board would like to do which is:

1. Ask staff to look into the legal questions related to creating a local improvement district and placing the question on the ballot;
2. Ask the BOCC to seek a professional opinion on the County's bonding capacity;
3. Ask staff to develop a cost estimate of what it will take to develop this proposal, and determine how much of these costs could be reimbursed by the DOLA grant. Jack Kirtland from the Department of Local Affairs was at that advisory board meetings and gave a positive assessment of that question No. 3 for at least some of the costs if not a great many of them; and
4. If timing is right and other conditions are right and get positive answers and green lights from this investigation that we do in these first three preliminary steps then their recommendation is go forward to create the local improvement district and move forward on this opt-in clean energy-financing fund.

Michael Hassig said he was here to answer any question you might have. It is not usually common that we think well they did it in Berkley and in Boulder, so next they are going to do it in Garfield County. Chairman Martin – What is the involvement of the Assessor in reference to this project since he has to make sure the assessment and taxations are meeting the requirements of the assessment of the property as well – does he have a cost – does he have a role in that or not? Heather did not know the exact answer to that question but we can certainly find out. There is a role for the Assessor and Treasurer. Chairman Martin – The Treasurer would set up the account and go from others for payments. Of course, the bonding cost is there also. Carolyn – Do you happen to know who served as Bond Counsel for Boulder? Alice can forward that to Carolyn. In terms of question No. 1, we have all the documentation that Boulder put together. Resolutions all the initial memos, everything we collected and can get it to your legal staff. Carolyn – And they did both taxable and tax-exempt bonds? Alice – Yes. Chairman Martin had a small conversation with the Assessor and it might be a nightmare for record keeping in reference to the Assessor's office and they are a little bit concerned about how it's going to work so they're also willing to sit down and work to explore that possibility because it does deal with property and the tax on property and also the records keeping on that. Commissioner Houpt – Looking at the various items you have asked us to consider doing, what kind of timeframe do we really need to look at it. Chairman Martin - May and June is the formation of that. Commissioner Houpt – In relationship to your meetings, you've asked us to get pretty specific information for you, there's a short timeframe; how do you want us to coordinate that information with your regularly scheduled meetings so this is a feasible time-line. We may not be able to accomplish all of this by your April meeting so it may have to be your May meeting. Alice – The Advisory Board meets the second Wednesday of every month. May 8th would be the next meeting. There was a sense of urgency of wanting to know whether it is at least feasible this year because time is passing quickly. The actual timeframe of the logistics is not that complicated. Improvement District formed then the spring, May or June, towns decide whether they are going to participate in some way and by May 8th, I think that the advisory board will know. Michael Hassig – What we found particularly compelling was really working it backwards and saying if we press aggressively as possible this year, we might have the program together in a year and the prospect of pushing that out a whole year seemed disappointing. Commissioner Houpt – The benefits of putting people to work and accomplishing some renewable and responsible energy opportunities for folks this year makes a great deal of sense to me. I think that you have brought forth a very reasonable place for us to start as a County in determining feasibility of moving forward on this. Don DeFord – Asked them to back up one screen and the memo items 1 & 2 as they relate together. To get this off the ground we really need to get direction from the board to retain bond counsel to provide advice on financing, it may entail an underwriter's representative as well but I would leave that up to counsel initially. You need to get someone with that background on board right away so that their expertise and professional insurance stands behind their opinions. The formation of the district and the issuance of bonds have to work hand in hand. One has to be supporting the other in terms of legality. So, the experience we've had although not real extensive on local improvement districts but in the past bond counsel has acted to establish the district so that they know that its properly done and that's why I wanted to bring this out because many times you will find bond counsel and underwriters will initially do this at no cost to the local government on the assumption they will be the representatives on the issuance of bonds, where they will generate some substantial return. However, they take the risk too, that has happened in this county on bond issues where they have put the work into it, then bond issues failed, and that is their problem. But, I would suggest that if you want to move forward that you give my office direction to start that process right away in the hopes that we can meet the May schedule, that might be optimistic but we can try and see what we can do. Commissioner Houpt – Start the process of hiring bond counsel? Don – We need to get someone on board and then get started on generating the opinions and recommendations being asked for so we can get back to both boards in May and we need to do that right way if you really want to meet this May timeline. Carolyn – Wanted to remind the Commissioners and the NECI Advisory folks that are here, DOLA does not require you to form this district; their DOLA grant requires you to look at the feasibility of forming the district; you do not have to do it this year or next year under your DOLA grant. This is a question; do you want to do it? It sounds like your advisory board is advising you that you should. Chairman Martin- They are advising that we should look into it. Don – The professionals will give us that opinion as well, what the feasibility is for Garfield County. They have to sell the bonds. Chairman Martin – Also need to get the Treasurer and Assessor input, as they will be affected. Carolyn – One of the things in line with what we are just talking about, the Boulder attorney said a front-end study is very important; not just we think it might work. I would want to get on the phone with Larry and find out what that was all about. In addition, I was surprised that your screen says borrowers also qualify for related utility rebates and federal tax credit, because Larry pointed us to an IRC, anti-double dipping provision that says that you do not get the federal tax investment credits if you have done your renewable energy installations in quote-subsidized energy financing. Therefore, somebody has to track that down. Citizens need to understand this going into this front-end. At least in terms of some of the bonds, they will not get their federal tax credits. Michael Hassig – I can tell you that on both the commercial and residential side are

slightly different; but on the commercial side the installation my company did on our building received rebates and renewable energy credits and in fact were allowed to take the investment tax credit on the retail value of the system. Carolyn – But this did not have to do with the special tax district. Michael Hassig – Is it any different from going to the bank. Commissioner Houpt – The question is, is this just for the tax-exempt bonds or for all of the bonds? Carolyn – This is another level of information and needs to be answered before we can get there. Commissioner Samson - Advisory Board recommendation No. 3; estimate the cost of developing the proposal. What was that estimate for Boulder County? Alice Laird – We do not know but they were the guinea pig so a lot of the questions we have had they have had to work it out. They spent extensive legal time, financial time and their on-going sustainability coordinator time. It was very significant. Here in the valley we held off this last year and let them figure it out and then we'll move forward, so No. 3 is to say they've figured this out, the last week was the first round for their loans, let's figure out if we can replicate it here in Garfield County pretty easily. Commissioner Samson – Reimbursement costs for DOLA, are we looking for a matching grant or where are we headed with that? Alice – This topic was of great interest to some of the towns that participated in the initial grant proposal so it was included in the grant. DOLA and GEO staff was very interested in this because it was a way for the grant to live on beyond the actual two-year implementation. We think that many of these proposals costs can be covered by the grant. Michael Hassig asked how much money was budgeted. Alice – That section - sustainability team financing is \$430,000.00; we reserved a lot of money for that component because there were so many unknowns. Ed – Don, your motion, would you propose retaining both Blake and Allen? Don – Use those positions, not sure if for this type of proposal we would use our normal bond representatives, we will see who Boulder used because this is a specialized issue. It would probably be part of both; that is what we have done in the past. Carolyn asked if they had been working with the sustainability coordinator in Boulder. Alice – Ann has committed to coming up here in May. Ed – Item 2 – The reason I asked about Allen is that he has familiarity with our past. Don – Agreed, we would go right to them but it may make a difference if we are talking about tax-exempt bonds or non-tax exempt bonds. Carolyn – Trying to find out our bonding capacity because this is the same pot that we use for affordable housing so I am not sure the bond counsel that you are talking about; there might be other people that we need to inform. Ed – Roughly, \$14 million left in COPPS, then there is the hospital, and we back bonded and were assured when that was done those would not count against us but.... Chairman Martin – That is \$7 million right now. Carolyn – It depends upon whether the federal government considers that a private activity bond and I do not know. Chairman Martin suggested that we want advice from people who work in this because we need these answers. Michael Hassig also pointed out that when Boulder County encountered the problem they turned to the cities – Longmont and Boulder who contributed some portion of bonding capabilities to this fund. One of the things that's time is of the essence if in fact that turns out to be the case then it may be a fact where they County Commissioners turn back to the municipalities and say to what extent are you capable of adding to this fund. Carolyn – How did they do that when the cities and counties cannot go across each other's jurisdictional lines to create LID's? Commissioner Houpt made a motion that we move forward and approve the NEIC Advisory Board recommendations to explore legal questions; and in addition, allow our legal staff to move forward on the hiring of bond counsel and whoever else is necessary in consulting on this preliminary information and recommendations 1 – 4 as presented. In addition, I would like as much information as possible to come back to us on May 4th so that we have some kind of response for the NEIC Board meeting on May 13th. Commissioner Samson – We need a recommendation to the BOCC by 11 May. Commissioner Samson seconded. In favor: Samson – aye Houpt – aye Martin - aye

CDOT ANNUAL CITY/COUNTY UPDATE – WELDON ALLEN, JOE ELSER, PETE MERTES

Doug Aiden, Weldon Allen, Joe Elsen and Pete Mertes were present.

Weldon stated how he considered the County a value partnership. He noted a change in staff: Pete Mertes has been promoted to traffic engineer for the region, which includes fourteen counties. Doug– \$43 million is the lowest amount of money for CDOT since the early part of this decade and it has the purchasing power of the mid-1980's. No money available for the 7th pot, which includes the I-70 mountain corridor. Joe and his folks do not have any money for local projects. The TPR is to establish priorities. Street programs: Less than 25% of surface treatment would be done in 2009. Challenges: The State's budget is tight and we are not likely to see any general funds to come to CDOT. Senate Bill 1: HB 10 and SB 228 are of interest. There is a 6% cap on the general fund if it passes, which will decrease funds in the long-term plan. CDOT is opposing SB 228 in its current form. There is a bright spot – the Faster Bill passed and will become effective in July 2009. This is regarding vehicle registration for CDOT, which will provide additional funds to allow us to work on bridges that need repair and safety improvements to the system. This will be phased in over 3 years. There is \$255 million statewide and it is allocated as \$31 million to counties, \$25 million to municipalities; and \$188 million to CDOT, which will all go towards Bridge replacement. The other thing is the federal stimulus, \$500 million to Colorado under this plan. Weldon said \$300 million is under CDOT control and we have identified projects. \$100 million of that will go to large metropolitan areas; Dr. COGG, and \$100 million to transit; and to operators \$13 million. For any state that does not meet these goals, the funds will go to other states. Colorado may receive additional funds depending upon the time it takes to get the bulldozers moving. Congress needs help to understand. Weldon Allen – What does this mean for Region 3? There is a hiring freeze in the state and in engineering, there is a 20% reduction, we can hire maintenance workers. Workers for snowplow and patching fences are still being hired. These projects are the ones Joe will submit and our forces will staff these. There will be no outside consultants; we hope for a few recovery dollars. Workload analysis: Move engineering forces from region to region and keep people busy. Travel restrictions are in place; we do not send maintenance people however, they are spread in this region. Senate Bill No. 1 will provide some help and it means we do not have to shelve projects. We are going to work though that and keep projects but there will be substantial cuts. CDOT did not prioritize projects; the planning folks did this. Coming up: Engage the planning for the possibility of redistribution but; they need to know so they do not have to wait. If we were to get redistribution, then what projects? Therefore, we are asking the Chairman of Commissioners and once again have our planning staff and the TPR to prioritize B and C lists. There is something in the ARRA requirement maintenance of effort however, we are not holding back on projects we have on the books. We feel we can accomplish these projects with normal funding in addition to the stimulus funds. Many of B list and some on the C list would be readjusted. Give everyone an opportunity to look at and reprioritize. Commissioner Houpt – Her understanding is CDOT did not feel the Parachute interchange was a priority since the reduction of oil and gas activity in this area, is this correct?

Weldon – We can look at these projects: West Parachute and Main Parachute interchange. West Parachute is a 1601 local project and not on the CDOT list. This was not anticipated; however, we could re-engage the C list and place it on the C list. That will come into discussion and it will be at the discretion of the TRP. Doug was in Parachute this past Friday and met with Mayor Roy McClung and Bob Knight. Doug said he understands the frustration of the town to deal with this need and as part of this program; it would be a grant process. He does not know all the rules of the process. First, billing for dissertation of the Secretary of Transportation and assuming Parachute would qualify for assistance from DOLA to see if some funding would be there. Many other projects in Colorado they will apply for those funds as well. Commissioner Houpt asked about trails; is there a separate pot for trails? Weldon referenced the Enhancement pot of funds and in the handout on page 15; it explains the breakdown. This is the breakdown: 1) in the process, he said the TPR felt it was important if funding came available and 2) enhancement funds are \$1.7 million and asked to advise us regarding the enhancement list. Page 16 and 17 includes all planning partners in Region 3. The \$1.7 is divided to the four TPR's. The C list not on this. There is a laundry list in Region 3. Pages 16 and 17 list projects we think will be funded. Doug said a project could fall off the B & D list, those projects in the wind if something falls off or funds from the redistributions list. Hwy 13 connecting to south of Meeker another six miles is planned and he provided an overview on a separate sheet. Doug said on pages 18, 19, and 20 explains the Faster Bill Legislation. At the bottom on page 19, it shows the increase of fees based on weight and how it phases. One can tell by looking on the inside on their vehicle door tag to see how much your vehicle weights. On the last page, it shows how it phases in over the three years. We will be meeting again this week and go over the plans in place when revenues flow to start spending. For 2009-2010, we have \$6.1 million. The Constitution restricts HUTF funds based on lane miles must go into the Road and Bridge funds.

Jean commented on the Faster Bill. Weldon – There are 125 structurally deficient bridges, very few in Region 3 and the one for this area is the Grand Avenue Bridge, and it needs some work for rehabilitation. The Eagle Bridge is another. Denver and Pueblo have the majority of those projects. Safety: There is a 60% allocation for safety projects for 14 counties. This is not a great deal of funds. We will pay for this over the next 4 -5 years. Pete Mertes gave a traffic overview-referencing page 22 of the report. He referenced the web links to find some good information and brochures. A list of the first three projects in 2008 completed; was the Buffalo Valley signal light, and some minor construction on Hwy 6 at Silt. The roundabouts in Silt and Rifle have eliminated congestion and are great for safety and access. Rifle won an award for the concrete work. State Hwy 82 has some new fencing for wildlife protection. That fencing cost \$1 million dollars. The Rifle access, access control plan and GARCO participating; both will be worthwhile when completed. Weldon – Rifle funded their roundabouts; they are to be commended. Same for Silt, it was frustrating working through the bureaucracy and the federal requirements with CDOT requirements. Copious amounts of paperwork. Joe Elsen referenced page 28 for the ITPR projects and page 27 for the Garfield County/ Parachute ramp - widening all from local dollars. Later this fall they plan to pave Hwy 82 and will be using a contractor to do whatever is needed to keep it held at a cost minimum. They will improve the on and off ramps at Exit 116 by doing a lot at night westbound and eastbound work. There will be a dual right turn at 6th and Pine and a new signal. Some system quality improvements on Grand Avenue Bridge. Chairman Martin – Thanked CDOT for the project in Carbondale; this was a great effort. Weldon gave an overview for maintenance needs and how the funds were spent. Chairman Martin said, excellent job and if they need help, they ask. Commissioner Samson asked about the Parachute Trail across the Colorado River for the path to the south side saying there are massive cracks on the north side. Weldon responded that bridges for pedestrians are inspected every two years; he would check but this is probably an expansion joint. Commissioner Houpt questioned the fact that we are working on trails for Glenwood west with the LoVa folks and have some negotiated language with CDOT. This project is on the C list and we are trying to accomplish that and get those contracts back in place as they have expired. There are some funding issues and would have expected this to occur in 2007 and that was not the case. Licensing agreement: Weldon will check. This administration supports trails. Adds an extra layer and has to have federal language but Weldon will check. Commissioner Houpt – Thanked CDOT for the partnership. Weldon said we are here to serve not as an organization contrary to the growth of Garfield County. Chairman Martin – We are looking at policy changes. Take on access review process. Doug said he appreciated staff and the elected for transportation planning and active participation in the TPR; this is not always the case for all the counties. It makes a difference.

EAB – DISCUSSION OF CONFLICT RESOLUTION ISSUE WITH NANCY LIMBACH – SCOTT BRYNILDSON AND LESLIE ROBINSON

Betsy Suerth – Town of Silt was introduced. Today we are here to acknowledge the advisory board and to provide conflict resolution and we are before you with a case presented at the last advisory board meeting that we cannot resolve and are here to ask for help. Leslie said she represents the Grand Valley Citizens Alliance and was approached by Nancy Limbach's who had the problem with her house being electrocuted several years ago. Leslie explained how an I.E. Miller Services truck hit a Holy Cross Energy electrical line, causing it to contact a 69,000 – volt transmission line that led to a surge in the Limbach's home. She also included that Nancy had their fence and irrigation ditch along County Road 346 also damaged about 14 times by energy trucks but no one has ever been given a ticket including the driver that caused the accident. I.E. Miller Services was acting as a contractor of EnCana Oil and Gas when this occurred. We cannot solve the problem and today we are here asking Garfield County Commissioners to become involved regarding "who's to blame and who should pick up the costs." Betsy Suerth - As board members of the EAB, it is not fair for one of our residents facing financial ruin because of a mishap with a contractor for an energy company. EnCana has taken the position that contractors are required to have their own insurance and are responsible when accidents happen. The problem with the insurance company is there was no ticket actually issued to the driver and this is one of the requirements for insurance payment. The question posed to the Board of County Commissioners was to take the \$10,000 offered to have a mediator, come to the EAB to mediate and facilitate a meeting on how the board could better interact and resolve issues, give this money to the Limbach's to help them in this time of crisis. Nancy is about to lose her wildlife sanctuary; Paul and Nancy have a honey farm and they need assistance. Don DeFord said the county has no legal standing in this matter, but the county is in a good position to ask the companies to appear before the Commissioners and ask what is going on. The quickest way to a resolution if the companies were not responding would have been for the Limbach's to sue everyone involved but he understands that it requires a financial commitment. A motion was made by Commissioner Houpt to invite the companies to an upcoming meeting on May 4, 2009 to discuss and possibly resolve the issue. Commissioner Samson seconded the motion saying he is hopeful that the companies will resolve this before May 4. In favor: Houpt – aye Martin – aye Samson - aye

DISCUSSION OF THE FOURTH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 4TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN - LISA DAWSON

Lisa Dawson submitted the Resolution with the attachment Exhibit A and Don verified the proof of publication and Chairman Martin entered it in the record. Chairman Martin swore in the speakers. Increases and decrease to the 2009 budget in Exhibit A. Commissioner Houpt made a motion to close the public hearing. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt made a motion to approve the 4th Supplement to the 2009 approved budget and the 4th Amended appropriation of funds and requested the Chair be authorized to sign the Resolution. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin - aye

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Jim Golden – Rifle Village South. He voiced a concern for the number of individuals living in this subdivision who have suffered from cancer. The rate of incident is too high for this small population. He was requesting that Garfield County do an epidemiology study to determine if this is a health risk from pollution caused by the oil and gas industry. Chairman Martin – St. Mary’s did an analysis from Carbondale to DeBeque. There is nothing related to air quality and the impact of human health from the industry. It took 8 years to see if there was an increase in air pollution and there is nothing they can pin anything on. Commissioner Houpt thought it might be worthwhile to consult with Jim Rada. An epidemiology study would be worthwhile if there are external issues. This is a valid concern and we will contact Jim Rada and see what more we can do. Chairman Martin and Commissioner Samson agreed.

CONSIDER THE CITIZEN APPOINTMENTS AS ASSOCIATE MEMBERS TO THE GARFIELD COUNTY PLANNING COMMISSION – FRED JARMAN

The interviews were held on March 16 for Lauren Martindale, Kevin Wamli, Bethany Collins and John Kuersten as associate members for the Planning Commission. Fred presented a handout saying the last time we met was the last meeting in March where the Board asked for the candidates to come in, meet with them, and have a discussion. The final step is to bring it back for the Board to make the appointments. The Commissioner had a discussion of whether to add diversity or fill in the gaps in the County. Commissioner Houpt was impressed with all four candidates. She sees a professional cap on this commission and made a motion to appoint Bethany Collins and Laruen Martindale as members. Commissioner Samson thinks we need geographical balance, as there is not one person serving on this commission from the Rifle, Parachute or Battlement Mesa area and does not think that is right. Western Garfield County has more than one-half of the population. He wants John Kuersten to be appointed asking Tresi if she would do a friendly amendment taking out one of these women and adding John’s name.

Commissioner Houpt decided that she would prefer Laruen Martindale because of the work she has done professionally; she added John Kuersten to her motion and removed Bethany Collins. Commissioner Samson amended the second. Chairman Martin said he wanted to see John on there as well; however, he was leaning toward Kevin Wamli because of the answers given. In favor: Houpt – aye Samson – aye Opposed: Martin.

REQUEST FOR A SPECIAL EVENTS LIQUOR PERMIT FOR THE REALM FESTIVAL SCHEDULED FOR JULY 3-5, 2009 AT 1777 COUNTY ROAD 241 IN NEW CASTLE. THE APPLICANT IS D. CHRIS DAVIS FOR THE REALM OF CARING INC. – JEAN ALBERICO

Jean Alberico and Chris Davis were present. Jean submitted the application, narrative description of activities with this event, a site map and layout, lease agreement, incident reports from the August 10, 2008 event, and several petitions in opposition to granting this special even permit, consisting of 46 signatures. Chairman Martin entered the exhibits consisting of the original application and all that relates to a liquor application for a Special Events petitions in opposition, and the sheriff’s 2008 calls for various conflicts. Jean notified those who signed by mail. The property was posted and the public was notified as well as the applicant. Don determined the two elements have been met and the property had to be posted as well as the process of notification to all who filed a protest. Chairman Martin – Swore in the speakers. Jean gave the presentation saying she provided the completed application from Realm of Caring sponsoring the festival giving a narrative of the procedures. This is a non-profit entity and submitted a copy of the Tax ID number. She also submitted a copy from the Treasury Department Fed ID number, site description and explained the lease agreement. The other thing she reiterated was this is the third year of Chris applying for this festival and special events liquor license. Investigation includes local law enforcement and previous years of the activities. She submitted the report from Sheriff’s office and the packet of opposition to this event being held at this location. The County’s Land Use Code changed so a Special Use Permit was not required for past years but the threshold has changed from 500 to 250 participants. This SUP has not been approved yet. Applicant: Chris Davis stated this was year four and considering this 2009 event is different, he had prepared a brief presentation to respond to his position and community. He presented four points: 1) Klein Ranch is the best place for this event due to the beauty, 1000 acres camping facilities, 2) the ability to share and save this wonderful piece of land. Hay farming is not that profitable. They are trying to provide the community with a wonderful event, 3) legislation was created in the “leave no child behind act.” There has been a decreased emphasis on art and music in the schools to the tune of about 60% – 70 %; this entity wants to promote awareness; and how to raise money for after school hours and raise money for instruments. They have planned events in Eagle, Lake and Garfield County. It is a two-day and two night event and promotes workshops, bluegrass music and food; 4) they want to generate revenue for Garfield County and how to do this is to use local providers for ice, hotels, and bring in the patrons that use all these retailers as well. The Realm of Caring Attorney, Kristen from Avon read a letter from Beverly Klein and Chairman Martin entered it as applicant’s exhibit 1; page 3 of the exhibit is the attorney’s letter. The four points were again reiterated. Dr. Paul Carsons, a local business owner and owner of a home in Silt attended last year and heard it was challenged this year and he needed to speak as a business owner and resident. There are not many opportunities for this unique and amazing type of an event on such a beautiful ranch property that suits the Festival. For Camping it is a peaceful area and he is looking forward to attending it this year. Appreciates the homeowner’s feelings – but at the same time this is a unique area and part of what draws people to this is the countryside. Experience this part of the County and enjoy the event. There is only one other event, Strawberry Days that draws such a crowd to this area. These are the kind of things that are a good revenue source for years to come. People may schedule vacation around the Realm festival. The county is experiencing reduced taxes from oil and gas and we should not snub our noises at a source of revenue.

Chris submitted another Exhibit 2 from Jerry Ryan, front desk manager at the Quality Inn. He read the letter into the record describing how this event does attribute to the economy. Then, moving to the red tab in the booklet handed

out he said we do understand this event, for the last 3 years, created two incidences in the report. No one was injured majorly; they had a bad contract with the security staff and yes, some alcohol was brought it from outside the boundaries. However, this year they are using CSI security, which was the recommendation from County Sheriff. He submitted letters of recommendation. Bret Jaguar – Citadel Security spoke giving a synopsis of how they provide security and have a record of no incidents. He explained how security begins from the moment you enter the event. He has plans in place to avoid fireworks being brought on site. Bags would be searched and illegal outside alcohol would be confiscated. They will enforce drinking and protect private property for neighboring properties and anyone attempting to leave the boundaries and sneaking in will be dealt with these accordingly. Safety is primary and all his crew are first aid certified which adds another added piece of security. They will coordinate with local law enforcement and establish protocols. Commissioner Houpt asked how they plan to keep people who have too much to drink and try to get in cars. Bret responded if they are noticeably intoxicated he strongly encourages them not to drive and injury someone. They would not allow that person to leave the premises. This year they will provide security for Strawberry Days. They have experience with all kinds of events including nightclubs so his crew is very good at addressing alcohol issues. He would enforce this by blocking roads until the law can get there to take it one-step further. Commissioner Samson referenced other cases and how they would deal with it and as an example say, checking bags and they find cocaine. What stops them from leaving? Bret said a security officer could detain them professionally; every event has management, owners and investors in the event. They err on the side of caution. Chris explained two points: They will initiate a zero tolerance and 2) this event is scheduled for the 4th of July. He has been in Colorado for 20 years and realizes there will likely be a huge fire ban this year. This event is a great family camping alternative. Zero tolerance on fireworks, huge signs will be posted; they will have art and pointed out once again they are working with local law enforcements and plan to have DUI checkpoints. The attorney for the Realm, Kristen reiterated that the Realm is a non-profit organization and have submitted their 1023 application to the IRS and it is still pending. She has been working with these people and lived here from 1993 and 1998 in Garfield County. Now she lives in Avon. She wrote the brief and gave the highlights denying there were any grounds for the Commissioners to deny this special events liquor license. The grounds has been met by the non-profit and added the “additional facilities are needed, not a set license, acknowledges they need to come and ask for a permit.” On a denial, you have three grounds – 1) issuance would be injurious by nature of special events. This is not injurious; it is an arts and music festival. This is a quiet camping area. Do not see anything wrong with this festival; 2) location of the festival – it is located in a secluded area with one road in and the benefits outweigh the limited access. Camping is available and they will have cabs and shuttles to accommodate the crowd. This is one of the least populated areas in the County and the location of the sound stage cannot heard by the neighbors further referencing they have had no noise complaints; 3) Ground for denial would be a failure of the applicant to conduct the event in compliance. There is no wrong appearing of the violation of the SUP event license. There are four points opposing this event: 1) claims that this is an event for profit and unjustified. They are registered as a non-profit and filing an IRS tax return. They have letters from the IRS stating, “Experiencing delays” non-profit will be retroactive, 2) State that the Realm has not donated to public schools. They are still small and trying to turn a profit. They are a non-profit and hire people that are costly, so this has not happened yet; 3) No showing of land use permit. Jean addressed this and Realm is well aware of it and the permits will be forthcoming; 4) generally unlawful use of property related to traffic, dust, and she has no knowledge of the specifics as there was no backup information. They have represented today how they want to deal with the concerns. Chairman Martin asked if they had a contract for wastewater. Chris – Yes, with a shop called United, who is a nationally known company. Chairman Martin said you are anticipating 350 to 400 per day and he would like to get it less than 1000; therefore, for Friday and Saturday big days and back down to 350 on Sunday. Also, is United providing the drinking water? Chris – Yes. The crowd, they have two parking options. They have left 10 acres available for campers, camping, and parking, no problem with overflow parking. Chairman Martin –Do you have a contract with an ambulance service? Chris – They will look toward Bret to provide if needed; they do have an EMT that walks consistently on the grounds. Chairman Martin – Source of power and how supplied? Chris – Generators come from Rifle Equipment. Chairman Martin – Permanent stage stays in place; a 20 x 20 and understands you have been working on it for 3 years. Did you have a building permit and was it built to standards. Don called attention to a technicality on the application that contradicts to what was testified. The permit is for 2 days; the application and testimony today is for three full days. Chris – 3 days, he was counting the event hours. The event starts with music on Saturday, but they need Friday to set up. Jean said they have a short video to present and Fred can speak to the SUP. There is also a representative from the Sheriff Office if the Board has questions. A video provided by Fox news the Realm of Caring was shown produced by Adam Anderson. Fred Jarman talked about SUP and change in the land use code. This use is a public gathering and requires an administrative review as of Jan 1, 2009 by Fred’s office and certain applications have been tendered to us. A decision was made and if the Commissioners choose, they can have a general call up for it to come to them if they want to see the decision Fred made or the neighbor’s feedback or Fred could call this up to this Board. It is a rather protected 30 – 90 days process depending upon how pieces fall together. No application has been made. Sheriff Representative – Curt Coward on Security presented. There were problems and issues in the past and better onsite security would eliminate those. The use of Citadel Security impressed him. Question on security: He talked to staff and there were some noise complaints but he did not have the numbers; he also said the call record indicates a response. Curt could not provide a specific number of calls. Curt said there were issues with no parking on county road, extra traffic and one traffic accident was directly related to the festival. Chairman Martin inquired about Vendors for the events and how they would check on licenses. Chris said their vendor was High Point Brewery and yes, they had certified servers. Curt – No issues with vendors; many events like this have beer gardens. Chris explained the defined area pointing it out on the map as well as security points within the stage area, bathrooms barricades and orange tape marking off the area. Chris said he is personally on the site the entire 3 days. Kristen added they have radios at the box office and radios all over. They have adequate staff that works with Chris and security. Commissioner Samson said you must have a special use permit and this has to be addressed as well as what happens if fire breaks out; is this covered in the SUP with that many people. Fred – This will all come out during the SUP process and includes how response might work. Public Testimony: The following individuals provided direct testimony against the event naming noise, fireworks, lights, alcohol use, traffic, road not appropriate to handle this much traffic, blind spots, narrow curves, 4 hidden driveways, more people, neighbors held hostage in their own homes for protection of property, no funds given to benefit the “no child left behind programs,” camper trailers, camping available but applicant says it promotes business for hotels, attendees wading in the creek, beer

cans out of the creek, residents are familiar with the road but not for a whole bunch of drunks camping right up to his back fence and up against his back door and fireworks at 2 am. Matthew Van Hoose, Craig Bruner, Bob Hooker, Rick Swallow, Nate Luellen, Russ Marsh, Jim Vondette, James Golden, Kirk Swallow, Craig Brenner, Terry Broughton, John Neal, Don Marshall, Rosie Ferrin, Brian Hopkins, Pat Fuse, Kim Potter, Fred Davidson, and Milt Blakey. Those testifying in favor of the event - Tim Warren. In response to all the concerns, Chris says they learn from past errors and their goal is to improve. Commissioner Samson made a motion to close the public hearing. Commissioner Houpt seconded. Motion carried. Commissioner Samson made a motion in light of what we have heard today, to deny the request for a Special Event based on the facts that I believe it would be injurious to the health, safety and welfare of Garfield County residents due to the nature of the road and the potential for disaster; the road was not intended to take this kind of traffic. He also mentioned the nature is to hold a festival to contribute to under privileged kids but he does not see they have met their purpose and moved for denial. Commissioner Houpt – Second for discussion. This is certainly not a place for this type of event and the way of planning for this event has so many concerns; we do not like the affect is has on areas like this one has. She applauds their effort to raise money for children and remarked that she sat on school boards and is definitely aware of the schools loosing opportunities for kids. She encouraged them to take a good look at how you accomplish what your goals are and to look at other locations that can provide for this realistic number of people. This site is not suitable for those traveling back and forth on this County road. She did applaud a new security company and this kind of event. As you move forward in planning for fund raising, opportunities keep these concerns in mind. Commissioners Samson and Houpt suggested the County fairgrounds and other places that would probably love to have something like this event, and it would be a better venue and better set up. She is hopeful that the applicant understands his idea is a good one and she is not necessarily against the event, just the location being suggested. Chairman Martin – There are those who definitely go for the music and alcohol to let your hair down; but his concern is with the violations and reflects on the past event. This is not in the best interest for the County as he addressed traffic, trespass and other water violations, the creek that is an essential water system for over 1000 people and the land use code has not been met; these are just some of the issues. Liquor hearing and a special use permit would have to be approved, the liability insurance. Therefore, he and his fellow Commissioners are voicing their conscience. He definitely feels this should be denied.

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

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THE HOOVER EXPRESS COMPRESSOR STATION AND RELATED PIPELINE IN THE RESOURCE LANDS ZONE DISTRICT, WEST OF PARACHUTE ON HWY 6 & 24. APPLICANT IS WILLIAMS PRODUCTION RMT – DUSTY DUNBAR

Dusty Dunbar and Jimmy Smith of Wagon Wheel Consulting, representing the applicant, Williams Production RMT were present. Don reviewed the noticing requirements for the public hearing and advised the Board they could proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar 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 (Zoning Code); Exhibit D –Application; Exhibit E - Staff Report; Exhibit F – Staff Power Point; Exhibit G – Email, GARCO Planning Department Project Engineer, John Niewoehner, PE dated 3-30-09; Exhibit H – Letter, Garfield County Road and Bridge Dept., Jake Mall, Administrative Foreman dated 3-5-09; and Exhibit I – Letter, Garfield county Vegetation Management Dept., Steve Anthony, Director dated 3-20-09. Chairman Martin entered the exhibits A – I into the record. Dusty stated this is request to install a natural gas compressor facility with two Caterpillar model 3512 gas-fired compressors that will gather, compress and dehydrate natural gas from an existing low pressure pipe system to the east then discharge it into the existing Williams 20’ high pressure pipeline. Dusty provided a power point explaining in detail the application. This travels under the old code as it was deemed technically complete before January 1, 2009. This is an 18-acre parcel. Dusty stated the applicant requests a SUP for the installation of a natural gas compressor facility with two (2) gas-driven compressors and 1.4 miles of pipeline to gather from an existing low pressure system to the east, compress/dehydrate then discharge into an existing 20” line connecting to the Williams Parachute Plant. Dusty proceeded to go over the application and presented a power point allowing her to show the parcel of land, layout of the facilities and the pipeline.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties,
- the remote location of the property,
- the proposed is required to operated within compliance for noise and mitigate glare and other emanations,

Staff recommends the Board approve the request for a Special Use Permit for the Hoover Express Natural Gas Compressor Station and related pipeline 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. 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 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.
7. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes, COGCC

Series 800 and noise attenuation measures shall ensure that the recommendations of the wildlife study and sound study are met.

8. No storage of heavy equipment or materials is proposed or permitted.
9. No human occupation of this site is allowed at any time.
10. A qualified wildlife biologist shall provide an assessment to determine that no active raptor nests are in use as nest sites within the stipulated distances from the construction of the compressor site and pipeline. Should an active nest be found within that distance determined to be a disturbance for a sensitive species, construction activity shall not take place during that time defined in Table A of the Wildlife Study, page 15.
11. Any lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
12. 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.
13. The general Storm Water Management Plan and Spill Containment & Counter Measure Plans for this site shall be appended with site-specific plans. This plan shall include adequate design for the spill containment basin for the produced water tanks on site.
14. Two (2) compressor units shall be installed on the site under this Special Use Permit. Proper building and grading permits are to be obtained prior to the issuance of a Special Use Permit.
15. Three (3) additional compressor units may be installed at a future date. Proper building permits to be secured prior to the installation of the compressor units and the enclosure that will provide noise attenuation for all five (5) compressors on this site.
16. An estimate for site reclamation of the compressor site shall be provided the Garfield County Planning Department Project Engineer to determine the required security amount, and that security must be in place prior to the issuance of the Special Use Permit.
17. A reclamation security of \$4000 per acre shall be submitted for the 4.9-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a compressor plant is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
18. Securities for re-vegetation as per the Garfield County Vegetation Management Director shall be required to be in place prior to the issuance of this permit.
19. Recommendations for vegetation management from the Garfield County Vegetation Management Department for pre-treatment of tamarisk shall serve as a requirement, and documentation shall be provided the Garfield County Vegetation Management Department prior to construction.
20. Dust mitigation on the sites and access roads must be performed to prevent fugitive dust.

Jimmy Smith stated there is no human habitation as noted in Condition No. 9. He discussed Condition 10:

- “A qualified wildlife biologist shall provide an assessment to determine that no active raptor nests are in use as nest sites within the stipulated distances from the construction of the compressor site and pipeline. Should an active nest be found within that distance determined to be a disturbance for a sensitive species, construction activity shall not take place during that time period defined in Table A of the Wildlife Study, page 15” and Conditions

Jimmy also discussed conditions 14 and 15:

- Two (2) compressor units shall be installed on the site under this Special Use Permit. Proper building and grading permits are to be obtained prior to the issuance of a Special Use Permit.
- Three (3) additional compressor units may be installed at a future date. Proper building permits to be secured prior to the installation of the compressor units and the enclosure that will provide noise attenuation for all five (5) compressors on this site.

Dusty said this permit is under the old code. Don DeFord clarified that all five of these compressors are being permitted at this same time. Dusty – Yes, sir, we are asking that all five-compressors be approved with conditions and the applicant does not have to address this with any kind of amendment. Staff moves to approve this with conditions 1-20. Jimmy stated that once he received the conditions from Dusty he spoke to Williams Production RMT and they know and understand the conditions that are being proposed and are willing to comply. The reason this did not fall within the administrative permit was that the pipeline was too short and too small. He also complimented Dusty on the good job she did in defining the application. Commissioner Samson made a motion to close the public hearing. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin - aye Commissioner Samson made a motion to approve Special Use Permit to allow the installation of Hoover Express Natural Gas Compressor Station and related pipeline with the conditions provided by staff. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A TEMPORARY PRODUCED WATER TREATMENT FACILITY IN THE RESOURCE LANDS ZONE DISTRICT, NORTH OF DEBEQUE ON COUNTY ROAD 211. APPLICANT IS CHEVRON USA, INC. – DUSTY DUNBAR

Dusty Dunbar, Tim Barrett, Sally Cuffin URS, and Roland Middlerod, Julie Justice was present.

Don reviewed the noticing requirements with Sally Cuffin for the public hearing and advised the Board they could proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar 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 – Staff Power Point; Exhibit G – G – Email, GARCO Planning Department Project Engineer, John Niewoehner, PE dated 4-01-09; Exhibit H – Letter, GARCO Road and Bridge Dept., Jake Mall, Administrative Foreman dated 3-9-09; and Exhibit I – Letter, GARCO Vegetation Management Dept., Steve Anthony, Director dated 3-20-09; Exhibit J – Email GARCO Environmental Health Manager, Jim Rada, dated 3-20-09; and Exhibit K – Letter, Colorado Division of Wildlife, Area Wildlife Manager, J.T. Romatzke, dated 3-19-09. Chairman Martin entered Exhibits A – K into the record.

Dusty provided a power point and explained the application in detail. This request proposes to install a temporary produced water management system to transport produced water into a COGCC-approved disposal well for approximately 12 months, after which time a permanent management facility is anticipated to be constructed. This is on property owned by Chevron. This permit has a date of 12 months from the date of issue.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties,
- the remote location of the property,
- the proposed is required to operate within compliance for noise and mitigate glare and other emanations,

Staff recommends the Board approve the request for a Special Use Permit for Chevron USA's Temporary Produced Water Treatment System 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. Vibration generated: the Temporary Produced Water Treatment System 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 Temporary Produced Water Treatment System shall be so operated to comply with all Federal, State and County air quality laws, regulations and standards.
6. Emission of heat, glare, radiation and fumes: the Temporary Produced Water Treatment System 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. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes, COGCC Series 800.
8. No storage of heavy equipment or materials is permitted after the construction period.
9. No human occupation of this site is allowed at any time.
10. Any lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
11. 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.
12. Prior to the issuance of the Special Use Permit, a plan that includes adequate design for the spill containment basin for the produced water tanks on site shall be provided to the Garfield County Project Engineer.
13. A maximum of ten (10) frac tanks may be installed on the site under this Special Use Permit.
14. Prior to the issuance of the Special Use Permit, a reclamation security of \$2500 per acre shall be submitted for the .86-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a water treatment system is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
15. All equipment on the site shall be painted with non-reflective paint in neutral shades of desert tan or beetle green to make the site less conspicuous.
16. Dust mitigation on the sites and access roads must be performed to prevent fugitive dust.
17. Prior to issuance of the Special Use Permit, written confirmation by a certified wildlife biologist shall be provided to the Garfield County Planning Department to ensure that no active nest sites are within a distance considered by the Colorado Division of Wildlife (chart, page 19 of the Biologic Survey section) to be adversely affected by human activity.
18. Bear-proof refuse containers shall be required on the site.
19. The Special Use Permit for temporary produced water management system shall expire twelve months from the issuance of permit. (This is what the application is proposing.)

Dusty provided the Board with a power point and discussed the conditions. She recommends approval with Conditions 1 – 19. Dusty highlighted No. 12 and 13 and number 19 was added after the staff report was generated. Commissioner Houpt – Our EIA officer Jim Rada posed some questions in a letter that is part of this packet and wondered how Dusty responded to those regarding the conflux of two creeks in that area. Dusty stated it is; there is no floodplain mapping in this area. We have trouble requiring any kind of floodplain permit for management of this area. The site is elevated from the conflux and one thing Jim had addressed was the management of liquids on this site and was one of the reasons we wanted to see an appended and site-specific spill containment explanation to satisfy the concerns. Commissioner Houpt – Jim was also concerned about the general nature of the storm management plan and was wondering if there were any specific terms that would need to come forward for this particular site. Dusty recommended that this site was not particularly flushed out for site specific information and so we asked the applicant to complete a small site specific plan that is to the satisfaction of the project engineer for this spill containment operations and fail safes will be in effect for this particular short term. Commissioner Houpt – So, it will contain more than just spill containment. Dusty – Generally, those plans deal with off flow of water, just general water on the site; spill containment or anything that is managing liquids on the site that may flow off the site. Commissioner Houpt – What about Jim's question about VOC content in the produced water. Dusty – If the water is contained adequately, my understanding that it comes from a container into the system and then is loaded, the applicant would have an engineer on their staff, and a field specialist might be able to explain this. Applicant:

Tim Barrett – Project Manager, on behalf of Chevron clarified the intent on the temporary facility. At the time of application, that was our expectation and we fully expected to have this completed in twelve months. However, with the regulatory changes that are going through the County, and as we discussed the floodplain issue and trying to define what our floodplain is, we are going through some internal processes to get the floodplain defined, it is reflected on the drawing that Dusty provided in her power point. We would ask that our permit not expire after twelve months to allow us to adequately get this facility in place and to properly plan and construct our permanent facility. Our permanent facility has not been applied for and the initial intent was that our permanent permit was going to be applied for earlier in the year so that we could stay within that twelve-month timeframe. With the way the process is today, we have not made that application and we would not have that approval and would not have our permanent facility built until after the expiration of this date, so if we could get some relief on those twelve months or some kind of approval process, we would like this to be amended. Dusty – Recommended that we have been doing things that may come under consideration, bridging the old and new code could have a condition added that modifications to this permit may be considered under a major impact review rather than having to submit an entire thing because a SUP doesn't have a mechanism to extend itself. Tim Barrett – That was part of our intention – we could not submit a supplemental saying we would like to go beyond the twelve months at the time we made our submittal. Chairman Martin – We will consider that in our motion. Tim – The second question is regarding the water and the VOA, we have an air permit that addresses these criteria to the State of Colorado and is part of our application. Our understanding from the regulatory standpoint is the VOA; we are under the limits based on the air permit requirements. These are open containers and they do vent to the atmosphere. Sally Cuffin – Mentioned there are separation processes that occur prior to the water being delivered to this area, so it is not as if you are getting water coming directly from the well. It is processed to some degree to knock down the VOC content. That is why after they did the calculations; we are under the thresholds per the Colorado Department of Health. Tim – As we expand, we are looking at larger air permits for the entire project that will be a Title 5 full air permit for this project rather than these site specific areas. Speaking directly to your spill containment, if that is a requirement we can absolutely provide whatever is necessary to meet your criteria. We had that established. Then again, the application specifically calls out 10-frac tanks and again at the time of the application, there was not an amendment process and we understand that this application is for 10-frac tanks and in the hearing we are not asking to increase that but how would we do that in the future. Would we fall back in the old or under the new code and amendment process where we have the opportunity based on our other project being delayed? Chairman Martin – Under the same terminology in reference to expanding that particular one on a review process. It would be a review process amendment. Tim – We would accept that if we could have those clarified for us it would be very helpful. Dusty – Actually, it was an interpretation based on the Planning Director's Administration to try to bridge the differences between these two codes. Tim – Floodplain: this facility is not within the floodplain based on the Chevron known data we have today, we are outside the floodplain and at some time will share our floodplain with Garfield County since there is not FEMA map and get a formal hearing on where the floodplain is since there is located. We do intend to meet the requirements of Garfield County in that regard. Julie Justice – One of the conditions, 14 and 15, these are rental tanks they are the same frac tanks that you see all over the red and blue on the power point. Tim – Was it the requirement to have these tanks painted. Chairman Martin – That is the recommendation in neutral shades, desert tan or beetle green (BLM colors). Tim – This is a temporary facility. Chairman Martin – This is for a permanent facility. Tim – We have the intent for our permanent structures to be painted in colors for Garfield County but we are asking for some relief. We just need to know to what level of extent we are going to have to paint. Chairman Martin – It's a matter of pride in reference to the rental tanks and it's a company logo and standards which are approved to be used in a temporary facility. Tim – Would like this clarified to say permanent installed equipment otherwise it could be broadly interpreted that we need to paint all. I am sure Rain for Rent would like to get a new paint job but we would like to minimize what we are being required. Commissioner Houpt – Is there anything in this application that will be permanently installed? Matt – At this location, much of the equipment that is there will be moved to the permanent facility and then the facility will be reclaimed back to the well pad. At some point in the future, this is going to be a producing well pad, right now, this is an available staging area in a temporary fashion so we can manage our water from the CPF and inject in into the 8-1 location. Chairman Martin – This way they are not setting up a new well pad and disturbing the surroundings. Testimony: Tom Vondette – My only thing to address to the floodplain, to some degree; but living in this country all my life and seeing what quick rain storms do, been on this site and in their facilities and they are close to a stream and concern for quick flash floods, how are they going to protect this pad at the bottom of this draw from flash floods that come up in a quick summer rain. I have seen this country go from nothing to two feet of water in a heartbeat coming off those shale cliffs. I have been in this area, not particularly in that location, but in their facilities up there and they are close to the mountain stream that is going into DeBeque and the Colorado River. That is my only concern – the location of it for the quick flash floods. Applicant: Tim Barrett from Chevron responded and referenced the floodplain map. We are representing the 100-year floodplain in the pale blue line. Chevron is going to large strides to come up with a defined 100-year floodplain following FEMA standards. Today, this facility, based on the best FEMA information and FEMA model we are using, is located outside the 100-year floodplain, which would alleviate the comment about a flash flood. In a flash flood event, this elevation is high enough and the model is showing that the drainage would be away from this site and would not be impacted by any flooding. Based on information FEMA has shared with me today. Sally Cuffin added, the CPF location he was also concerned about, the Conn Creek Floodplain, that has also been modeled and the site was designed to mitigate floodplain in that area. Therefore, the Conn Creek does not add anything to this 35B location. Tim Barrett – The CPF facility was designed at an elevation and the water was channeled and we have increased the culverts to allow the water to drain without holding anything up to go around, and our modeling today is showing that the location, the 35B well pad is outside the floodplain. Chairman Martin – This is all in the water management plan that you have in part of your application. Commissioner Houpt – What is the elevation of those?

Tim did not have the specific information today but will share it with the Board. With the flash flood, I understand about this issue and concern, but in today's modeling, we have to go with the best available information. Our elevation is high enough that we are outside of the 100-year even.

Sally Cuffin – As I recall the visa tag was at least four or five above the floodplain elevation.

Tim did not qualify any elevations without having the physical drawing in front of them. However, as we share the floodplain data with Garfield County it will be evident that we are clearly outside the floodplain.

Chairman Martin – The information does show you are outside the floodplain as designed in the studies.

Tim – Again these are not FEMA's, they have not been approved by FEMA at this point, Garfield County has not accepted them. This is clearly our internal review based on best modeling engineering practices signed and sealed by a professional engineer in the State of Colorado. Don – Just comment on the one thing that Dusty mentioned; the reason I asked her to put in the language on the temporary permit was because the applicant had represented it as a temporary facility and my thinking was, if it truly is temporary it should not just be an open ended permit that could on theoretically forever. In addition, since the applicant had represented twelve months that was the time I landed on. Tim Barrett – If you want to bring it to closure, if we could tie the closure to the installation of the permanent facility, then this facility would go away. The expectation has always been twelve months. I do not see this going beyond twenty-four months but based on when our regulatory comes forward and based on today's information, it may be greater than twelve months. My hope is that is it not greater than twelve months but our facility shuts down if we do not have access to this facility. Don – Twelve months was not critical for me it is just when we pulled that out of your application. I thought a temporary facility we should define what that meant.

Chairman Martin – Once the permanent facility is in place, the temporary goes away and that is what was testified and that is what is expected. Commissioner Houpt – Dusty, in your report your qualifying statement was that it was a temporary facility and so if there isn't some date attached to this, you really never have to build a permanent facility. If these conditions allow you to have this temporary facility in place forever, do you have a comfortable period? Tim – Suggested similar to what we had for our man camps and for our Hiner Gate Office that you put a one-year renewal where we come back and ask for a one-year renewal. In addition, if at that time we need it, we accept it, if we do not we will not ask for it. If approved today, after 12 months to see if it needs to be continued.

Chairman Martin – Clarified the twelve months and if a continuous were approved, it would be extended; if not, it goes away. This puts them on the review process. Commissioner Samson – But the temporary allowance would be defined as twenty-four months total? Chairman Martin – It would be defined that next hearing as they have twelve months to get everything in line and then a grace period to come forward and define additional time, then it goes away and accepted by this Board, it could be six months, three months, thirty days, it could be up to one year if we so choose. It would be twenty-four maximum.

Tim – The permanent facility permit application should be coming into your office within the next two weeks. That gives good faith that we are moving forward to a permanent facility. Dusty asked for clarification on our process for changing a SUP, if we write the conditions in here as the conditions that it can be revisited after twelve months to a maximum extension of twenty four months and we include this as a condition of this particular permit, it carries with this permit once and then we do not have to try and modify something that is not modifiable. Don – Right. Dusty - So would it be best to add the condition to Number 19? A one-time application that does not have the amendable capability, as under the old Code, so we need to come up with a permanent language that says what it needs to do so that it carries with this permit. Don – The discussion was good on that, it would be reviewed at the end of 12 months and may be renewed for 12 months after which the permit would expire. Then the new permanent facility will come in as its own application. Commissioner Houpt stated we will add that language if we decide to allow that to happen, it is very appropriate to add that in the conditions. Commissioner Samson made a motion to close the public hearing. Commissioner Houpt- Second.

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

Commissioner Samson made a motion to approve the Special Use Permit to allow the installation of Chevron USA temporary produced water treatment plant with the conditions provided by staff and add number 19 “the special use permit for the temporary produced water treatment plant shall expire from 12 months from issuance of the permit subject to the 12 month review. Chairman Martin – are we going to allow it to expire after twelve months or are we going to go back to the testimony that we had of a possible extension. Commissioner Samson, yes I would.

Commissioner Houpt - Condition15, would you be willing to change that language to say, "all permanently installed equipment on this site shall be painted?" Commissioner Samson – Strike Condition No. 15. They are going to do their best to have a nice color. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin - aye

SPECIAL USE PERMIT FOR AN ALTERNATIVE WATER TREATMENT PLANT IN THE ARRD ZONE DISTRICT, SOUTHWEST OF RIFLE ON COUNTY ROAD 321. APPLICANT IS ALTELA, INC. ON BEHALF OF LARAMIE ENERGY II, LLC. – DUSTY DUNBAR

The applicant proposes an installation of a small demonstration water treatment plant that utilizes patented AltelaRain system to treat/purify produced water. It is on less than one acres of a parcel consisting of 41.926 acres with access from County Road 321.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties,
- the proposed is required to operated within compliance levels for noise and to mitigate glare and other emanations,

Staff recommends the Board approve the request for a Special Use Permit for the Altela, Inc. alternative water treatment plant 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. Vibration generated - the alternative water treatment facility 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 alternative water treatment facility 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 alternative water treatment facility shall 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.
- 7. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes and COGCC Series 800.
- 8. No storage on the site is proposed or permitted, nor is human occupation of this site.
- 9. Any lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
- 10. Prior to the issuance of the Special Use Permit, the Applicant will append the general Storm Water Management Plan and Spill Containment & Counter Measure Plans for this site with site-specific plans. This plan shall include adequate design for the spill containment basin for the tanks that serve both Laramie Energy II and Altela, Inc.
- 11. Those recommendations by the Rifle Fire Protection District for labeling tanks, operating the facility within industry standards and limiting the operation on this site to its present level and connections shall be a condition of approval.
- 12. Prior to the issuance of the Special Use Permit, the Applicant shall provide written confirmation to the Garfield County Environmental Health Manager from the Colorado Department of Public Health and Environment (CDPHE) APCD that this system does not exceed air quality emission levels subject to reporting and/or permitting.
- 13. Prior to issuance of the Special Use Permit, a reclamation security of \$2500 per acre shall be submitted for the under 1-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a alternative water treatment facility is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
- 14. All securities for revegetation as per the Garfield County Vegetation Management Director shall be required to be in place prior to the issuance of this permit.
- 15. Dust mitigation on the sites and access roads shall be performed to prevent fugitive dust and a shake screen or cattle guard shall be placed on the access road to reduce mud being dragged onto Garfield County roads.
- 16. All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors (desert tan or beetle green) to reduce glare and make the facility less conspicuous.
- 17. A safety plan to protect the wellbeing of children, wildlife and errant livestock shall be developed by the Applicant and submitted to the Garfield County Planning Department prior to the issuance of the Special Use Permit.
- 18. The Special Use Permit shall be limited to the specifics presented in the application, including location and processing volume. Amendment to this permit may be considered under a Limited Impact Review Amendment.

A power point presentation was given by the applicant and available in the Clerk’s office by request. Commissioner Houpt commented, not to discourage this technology and applaud you for bringing this in however, the concern regards the disruption of the character of the neighborhood. We deal daily with rural residential areas and we do not often make decisions to protect the character of these rural areas. She said she likes the technology. Commissioner Houpt made a motion to deny this request as it is not compatible with character of the neighborhood. Commissioner Samson - Second. Then he would echo everything that Commissioner Houpt said. Sometimes there are good points on both sides. He would like the applicant to go away knowing there is not a permanent ‘no’ for this technology within our County. The sore spot was that you want to locate this within a rural residential area and it is in the wrong spot and at the wrong time. In running for County Commissioners many people voiced their concern that they were not happy with Laramie and had a lot of drilling in south Rifle and you have backed off on most of that drilling. To both of you of all the companies presenting here, this has been the most professional presentation. The discussion has been pleasant and you have tried to do the best you can in a tough situation. Do not give up come back with a better location. Chairman Martin –Did not agree saying the location is more impactive if you have trucks haul out the water for some 20 years. They are not going to go away and you are making more of a problem for the neighbors that this would ever be. Commissioner Samson – They have the technology, it is working, and we have asked the industry, use the frac water, and use it for the benefit of Colorado. Congressman Salazar has moved it forward this morning to do the same exact thing. We were all smiles about the technology; it is in the wrong location. Chairman Martin - Why should we have to relocate it; it is going to be there and the trucks are not going away and this thing with benzene is not going away. The neighbors are definitely going to see a negative impact. Commissioner Houpt – This one is when a special use permit comes in and is not already in place. Commissioner Houpt - Remove the question from this discussion. We need to make a decision of it is already there and it is a well site that may never be drilled. All trucks gravitate to the location. Chairman Martin – Reiterated that you are going to see greater impact of truck traffic than you have now. The answer you are seeking is acceptance for this process. If we vote it down, the impacts will be greater and in the short and long run, it is a disservice to the residential area. In favor: Houpt – aye Samson – aye Opposed: Martin - aye

Adjournment

Attest:

Chairman of the Board

APRIL 20, 2009
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 20, 2009 with Chairman John Martin and Commissioner Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioner Hought was not present.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 a.m.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Divide Seep – West Divide Creek – East Mamm Creek Field Area

Lisa Bracken presented to the Board her request for a temporary delay in EnCana's hydraulic fracturing operations, which could be accelerated ahead of the review. This delay is requested in the interest of preserving the status quo of the region's hydrogeology due to the fact that circumstances are currently under review by the Garfield County consultant Dr. Geoffrey Thyne. Why would the County or EnCana frustrate an attempt to gain scientific insight, so purportedly valued by EnCana unless it is to undermine such scientific findings? Although the Director of the COGCC has deemed hydraulic fracturing an activity somehow apart from drilling, that argument is not sound. His assurances that bradenhead monitoring will be sufficient to protect the endangered and already impacted aquifers are unsound and have already failed as an indicator of adverse impacts. Hydraulic fracturing is intended to severely disrupt and degrade geologic formation of which ground and surface waters are a part. If the County feels insufficiently confident to in the least formally request the COGCC to issue a delay order, then Lisa asked the Board to pursue injunctive relief and allow a judge to decide. Don responded that he had not yet received a report from Dr. Thyne but anticipates it shortly. Don had a discussion with Mr. Neslin of the COGCC and they would not act before the first meeting in May. Don stated he would like to discuss this issue in Executive Session.

COUNTY MANAGER UPDATE: ED GREEN

FINANCIAL REPORTS AS OF MARCH 31, 2009

Theresa Wagenman, Budget Analyst submitted the financial reports, an analysis of the March 31, 2009 reports for the Board's review.

DISCUSSION OF THE EXTINGUISHMENT OF DEBT FOR THE COPS 2006 SERIES – CATHLEEN VAN ROEKEL

Cathleen submitted a memorandum to the Commissioners requesting a proposal for early extinguishment of debt for the COPS 2006 series. Based on the present economy, George K. Baum and Company, investment bankers, informed the County the opportunity to purchase the last three years of maturities of the 2006 issue at a discount. Commissioner Samson made a motion that we instruct the staff at George K. Baum regarding the 2006 series and cost saving 84% 1.5 million savings for 3 years. Chairman Martin seconded.

In favor: Hought – absent Martin – aye Samson - aye

TAG PROGRAM PRESENTATION – LOU VALLARIO

TAG program Presentation – Garfield County Sheriff's Program

Lou explained this was the Threat Assessment Group (TAG) formulated to address the gang activity seen in this valley. Deputies McCune and Miller are in charge of this TAG program. This is identifying and sorting any kind of information. A Power Point was given showing tattoos and gang graffiti. The officers explained the issues currently in the valley. The Mission Statement is to maintain safe and secure operations for staff, volunteers, and inmates. The origin of TAG started as a group of detention deputies in the Garfield County Jail. Graffiti, drawings and tattoos have been seen in our facility and on the bridges. Lou explained where the various photos of the graffiti had been located. How we got to where we are today – the Public Information Officers were walking in the school and began to recognize gang members. Lou stated there are many gangs identified as they pass through the jail. There has not been a rise in the White Supremacist groups. Most are from the prisons and they joined while serving their time. There is a presentation developed by TAG that is one and one-half hours long that has been circulating in the County to make individuals aware of the issue. The TAG program has identified 45 gangs within Garfield County. Word on the streets from a local gang member warning there is an explosion waiting to happen. The gangs teach hate and you are a puppet. They own you whether you know it or not. They are like predators out for the prey. The best advice is to stay clear of it. Lou commented that we need help from the community. The schools are involved and looking for signs; we need them to join and help us catch kids at first level. Before this Task Force was implemented, it was more structured than we thought in the valley. We are working with other police departments in the County and we hope to nip this before it becomes worst. Commissioner Samson commented, how do they approach the kids? Lou replied, recruiting is not a crime and neither is gathering and organizing. Gang members wait off school grounds and lure the kids with promises and then the crimes begin. Kids in the schools have been successful in recruiting others. He gave an example of a sophomore in high school that came from California wearing a bandana across his shoulder to indicate gang membership. There is nothing specific in their recruiting methods. Commissioner Samson encouraged the administration of this new program; he would like to have Lou keep the Commissioners addressed of new issues. Lou said the school resource officers have some training; but due to a lack of understanding from the teachers as to the difference in artwork versus gang drawings and symbols, it has been difficult to get teachers to realize the difference. The focus is on notebooks and watching out for signs of gang involvement. It is a matter of subjective interpretation. If they see kids doodling, they need to gain knowledge of gang signs and understand a gang is three or more people engaged in criminal activity. We have done some presentations for the schools. Chairman Martin recounted seeing a recruiter at City Market; gangs have been here for a long, long time. Lou said we must be careful and not cross the line by infringing on an individual's constitutional right of free speech. We know they are here but it is a fine line to break into and sometimes is it only when they commit a crime the problem is a reality. Chairman Martin would like the adults to keep in contact with the teenage world. People look the other way and some adults are naive about it. Lou said they are focusing on adults to be more aware.

DISCUSSION OF LITTLE BRITCHES RODEO – MIKE SAMSON

Commissioner Samson asked if it would be possible to waive the stall fees for the Little Britches Rodeo. The kids will be willing to clean the stalls. The estimated cost would be about \$1,000 and Commissioner Samson

acknowledged that he is aware we cannot give people money all the time. This is for the Rodeo and 4H kids. Dale issued a caution in giving general waivers. We already accommodate them with a structure and the fees are discounted now; he sees this being a continuing request. This makes it tough for the County as well as the Fairground supervisor. He receives these kinds of requests daily. Therefore, it is a supervision issue. We charge \$10 to \$15 per day for the stalls. Little Britches are a huge user of our stalls. We need to treat everyone the same. Commissioner Samson wanted to talk about it. There are three events but the main one is in June, so we have time for Dale to come back and give us the details on cost.

FAIR BOARD – MOU BETWEEN FAIR BOARD AND EXTENSION OFFICE

Commissioner Samson said he was trying to resolve some issues with assignment of duties and asked what kind of framework is there between the two. Carolyn responded that the Fair Board is an advisory to you. They do not have contract authority. Dale thinks this issue does not rise to the level of this Board. They need to work this out for themselves. They are not spending County money; it is money in the Colorado State University budget. There is a tendency to get the Board involved. CSU has a budget and they should do this from their fund at the Fair. Commissioner Samson wants to ask Bill Erkerson from Extension to come before the Board and provide updates every two months. He asked Dale to pass the word. Dale said the Advisory Board is waiting on documents.

DISCUSSION AND DIRECTION ON ADMINISTRATIVE BUILDING

The Commissioners, Don DeFord and Jean Alberico were present. The issue to address; what to do for plans on either building a new administration building or a new courthouse for the courts with all the modern technology and security. This was in connection with the discussion with Valley View Hospital and the City of Glenwood a few weeks ago. Commissioner Samson made the statement that we need to get off dead center; we need to decide on a land purchase and the kind of building. We need a new administration building to move the Assessor, Treasurer, and Clerk & Recorder out of the court system. What are we doing? Ed Green stated there is no contract with Sopris Architecture. He projected the need to be a 4-story building 30,000 to 35,000 square feet. Chairman Martin summarized, we could spend money on three options: contract with Sopris Architecture for a building on property we own on Pitkin Avenue, the Petre building and/or property we own at the Airport. At our meeting with the City of Glenwood Springs and Valley View Hospital, the City was firm in what they needed from the County and they will make no decision until they see some kind of an idea. Ed said from a County perspective, it takes a long period to get the approvals from the City. There is also the building on Midland that the elected officials looked at and said a definite no to that location. If we build, we would hope to keep the cost in the \$9 million range. Chairman Martin said the US Bank building is as an option. That building has a parking lot but the cost to refurbish it would be around \$11million. Commissioner Samson wants to look at this. Don said Sopris Architecture could give us a conceptual design within the scope of what you are considering. Jeff agreed a rendering in general within the scope of what the Board is wanting then he could give this to a general architectural service. Chairman Martin agreed we need a visual aid for the City. Jeff stated the current contract with Sopris Architecture is only until June of 2009. The Board made the decision to renew the contract for 6-months at the beginning of the year. Don stated there is no amendment to the current contract. Jeff – We will go out for re-bid in June however, we can look at it and amend the contract, go to a one-time licensed sole source firm. We can make it happen. Don – If it exceeds cost estimate to do this, what then. Chairman Martin – It would have to be a not-to-exceed amount. Don, would you include in that cost estimate the rendering? Chairman Martin said, we need get this project going. Don – Would you need to have a cost estimate to build on the various parcels? Chairman Martin – Cannot exceed that cost. Take what we have which is \$9 million for the Petrie's building; \$10 million at the airport; \$11million at the bank on Grand Avenue. Commissioners Samson agreed we need to do something. Get a conversation started; obtain a cost estimate. He is trying to get a conservation started. He asked Jeff how long the process of obtaining a basic rendering without engineering, Jeff said two months. However, it all depends on how many people are involved, what type of rooms and he will check into it. We could expedite the process. The Airport option was mentioned and noted that 60% of our employees live in the west part of the County. Don suggested a meeting with the elected officials for 2:00 p.m. today to have input and potentially make a decision.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don requested to go into an executive session to discuss the following items: Ed has requested legal direction on County Road 306; Commissioner Samson would like to discuss buying property; Don said he needs direction and also to provide legal advice concerning the litigation on the Divide Creek gas seep issues; direction on the drafting of contracts for acquired property from Valley View Hospital; update on the Limbach issue discussed last week; and update on a pending Human Services issue regarding a child protection case. Motion made by Commissioner Samson to go into an Executive Session. Commissioner Chairman Martin stepped down to second. In favor:

Samson – aye Martin- aye Houpt - absent

Motion made by Commissioner Samson to come out of Executive Session. Commissioner Chairman Martin stepped down to second. In favor: Samson – aye Martin- aye Houpt - absent

Action Taken:

Don stated we do not have a report back from Dr. Thyne and understands he is still investigating his findings.

Chairman Martin said he is looking at the evidence and we are relying on Dr. Thyne's report. Correspondence is going back and forth and it is a very emotional issue but we need evidence. We will be waiting for Dr. Thyne's findings. Commissioner Samson agreed we decided to do that and need to wait on Dr. Thyne's report.

Chairman Martin – As to standing in court we have none without Dr. Thyne's report and what that report finds.

Lisa Bracken – Thanked the Board Chairman Martin – This is a very personal issue and we have put the urgency on Dr. Thyne.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. To authorize the Chairman to sign the Special Use Permit for an Accessory Dwelling Unit for James and Maria Gornick. – Fred Jarman
- f. To authorize the Chairman to sign the Final Amended Plat for the Creek Side Estates, Lots 3 and 4 for Tom Heuer – Scott Hall

- g. To authorize the Chairman to sign the Final Amended Plat for Block 5, Travelers Highlands Subdivision, Parcel "H", for Parachute Commercial, LLC – Scott Hall
- h. Springridge Reserve PUD, Phases 3 and 4. (1) BOCC is requested to sign amended SIAs that will: (a) extend the completion deadlines for Phases 3 and 4 and (b) reduce the financial securities for Phases 3 and 4 to reflect work already completed. – John Niewoehner
- i. Aspen Glen Clubhouse Lots 1 and 2. BOCC is requested to sign the Mylar plat approving the relocation of the lot line between these two lots. – John Niewoehner
- j. To authorize the Chairman to sign a Resolution approving a Special Use Permit for the Conn Creek II Compressor Station on a COGCC-approved well pad in the Resource Lands Zone District north of Debeque off CR 213. Applicant is Oxy USA WTP LP – Dusty Dunbar
- k. To authorize the Chairman to sign a Resolution for a Special Use Permit for the Conn Creek II Compressor Station Control Facility in the Resource Lands Zone District, north of Debeque on CR 213. Applicant is Oxy USA WTP LP – Dusty Dunbar
- l. Renewal for an optional premises liquor license for Ironbridge Club – Jean Alberico

Commissioner Samson made a motion to approve the Consent Agenda items a – i. Commissioner Chairman Martin stepped down to second. In favor: Samson – aye Martin – aye Houpt - absent

HUMAN SERVICES COMMISSION:

AGING COMMUNITY – MILDRED ALSDORF

Mildred Alsdorf, Senior Transportation, Hans Lutgring, Columbine Home Health, Karen Meier-Binde, Garfield County Human Services, Judy Martin Garfield County Senior Program Director, Mickey Neal Emergency Services and Lynn Renick were present.

Mildred was requested to bring some information the last time she met with the Board. She had input for the presentation they are giving today to the Board. We talked to some of the seniors. Hans went through the handout "*Seniors in our Mountain Communities.*" He gave an example of a senior citizen.

The Aging Community organization submitted a presentation regarding the *State of Seniors in Garfield County 2009* and provided the Board with a general summary in charts and data to support the following information:

- Increase in request for assistance and support related to coping with life crises and challenges;
- No affordable dental and vision coverage for seniors;
- Services that senior are requesting are increasingly not covered by their Medicare or insurance benefits;
- Due to the economy, seniors are facing a decrease in the family's ability to financially or otherwise contribute to the clients ability to remain independent; and
- Increase in multigenerational households.

Health care costs are unrealistic; this senior in the illustration has \$34.00 a month for other expenses. Hans thinks this is a scary snapshot of a senior in this valley. Mildred – This is what is happening to seniors in this valley. According to the 2007 population and poverty guidelines, 55,000 people live in Garfield County. We figure seniors are 12.6% of the poverty range and there are people out there who are receiving social security. When they go into senior housing, they take 30% and then medical. The lease rent at the Minors 6 is \$25 a month. She asked about a waiting list. Manor 1 has six on their waiting list and Manor II Sunnyside 10. Assisted Living in Battlement Mesa does not have a waiting list. They are looking at getting a van of their own. It is difficult to find assisted living with vacancies. Hans – By the time they are ready to move to senior housing, there is always a waiting list. **See – State of Seniors** included in the packet. We need an increase in support and there are not enough caregivers in the County. They need help in cooking a meal and help with showers. Some would love to help but the liability keeps them away. It is hard to cope with crises. Many seniors are proud and they do not want to ask for help and do not ask. There is no dental coverage for seniors, however; Judy is looking into this. In addition, seniors have no money for repairs. Medicare does not cover many of the things the seniors need. They go into senior housing and they have to reduce their assets down to \$2,000. They have worked all their life and cannot keep any money for their retirement. Many families have been laid off and cannot help with this effort. We are seeing multi-general households and some live off grandma's social security. More and more have huge medical bills. This leaves them in a difficult situation. If they do not ask, we cannot help them. She wants everyone to keep their eyes and ears open. Transportation and food – if we know seniors cannot afford these things, we make sure they can. They are proud and do not want people to know they cannot afford trips or food. These are just some of the things we found. Some of the baby boomers are not going to retire – this includes those born between the years 1946 – 1964. The first ones will be 65 years old next year. Commissioner Martin – Baby Boomers who turn 65 do not want to retire. Seniors in mountain communities was also a factor and the Rural Resort is doing this survey; they are looking at seniors this year. Hans stated we have more people living in crisis and they need more help. Ed asked if these seniors were eligible for food assistance. Hans – Not to his knowledge. They could be but they do not want to seek out resources. Mildred – They receive \$16 a month in food stamps when they do apply. Chairman Martin –We all need to be sharing what we have extra in our crops, etc. and a take different approach. This for a good cause and it is very important to help. Chairman Martin said he is in the category of the last one to ask and the first one to share. Whatever I have I will assist the seniors. We all need to take on a new attitude. This comes from the heart. Mildred said we need to look at all these things and wants everyone to be aware of their neighbors. Chairman Martin knows that Commissioner Samson shares the things he grows in his garden. These are the kinds of neighborhood programs we need to focus on. The next generations need to learn the same and participate. Mildred asked the Board if there was anything else to bring back or information they needed. Commissioner Samson would like to compile a short, brief list of affordable housing where it is located and how many units so he can refer to it.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR MARCH 2009

Judy Martin and Diane Watkins were present. Lynn Renick submitted the EFT/EBT disbursements for March totaling \$583,625.10 and requested Board approval. Commissioner Samson made a motion to approve the EBT/EFT disbursements for March 2009. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt - absent

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

Diane Watkins submitted consideration and approval for the following:

- Provider, El Pueblo Boys and Girls Ranch, ID number U199468 in the not-to-exceed amount of \$18,075.000. Lynn requested Board approval.
- Provider, Gateway Youth Services, ID number G633796 in the not-to-exceed amount of \$15,646.20. Lynn requested Board approval.
- Provider, Gateway Youth Services, ID number S498120, in the not-to-exceed amount of \$14,205.65. Lynn requested Board approval.

Commissioner Samson so moved. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt - absent

CONSIDERATION AND SIGNATURE AUTHORIZATION FOR CONTRACT WITH YOUTHZONE FOR FACET COORDINATION

Diane Watkins presented the contract for Youthzone in a not-to-exceed amount of \$24,000 for coordination of the Family/Adolescent/Community Engagement Team (FACET) in the Collaborative Management Program that provides youth and families who are at risk of multi-agency involvement an opportunity to receive services and assistance. Garfield County received over \$117,000 due to the success of the program in 2008. This year the project has expanded to include all school districts and the FACET process has merged with the existing Community Evaluation Team (CET). Lynn included a scope of services in the packet submitted to the Board and requested consideration and signature on the contract. Commissioner Samson made a motion to approve the Youthzone FACET for \$24,000. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt – absent.

CONSIDERATION AND APPROVAL OF SFY09-10 GRANT APPLICATION THROUGH THE AREA AGENCY ON AGING FOR CAREGIVER SUPPORT AND SENIOR EQUIPMENT AND SERVICES

Judy Martin submitted the grant application and requested the Board's approval and signature on the State Fiscal Year 2010 Application for the continuance of the Caregiver Support Program and Senior Equipment/Service Program. The amount requested totals \$130,748, an increase from the current year in order to serve an additional 10 seniors under each program. Commissioner Samson made a motion to approve the contract for the area agency for equipment and services for \$130,748. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt - absent

CONSIDERATION AND APPROVAL OF SFY09-10 GRANT APPLICATION THROUGH THE AREA AGENCY ON AGING FOR SENIOR NUTRITION SERVICES

Diane Watkins submitted the grant application and requested the Board's approval and signature on the State Fiscal Year 2010 Application for the continuance of the Garfield County Senior Nutrition Program. The application, budget information and associated Assurances are required for continuing funds for nutrition services through the Area Agency on Aging. The amount requested totals \$174,772, however the funds received in the current year are approximately \$127,000. Commissioner Samson made a motion to approve the contract for the grant application for the area agency on aging for the senior nutrition services for \$174,772/ Commissioner Chairman Martin stepped down to second. In favor: Samson – aye Martin – aye Houpt - absent

CONSIDERATION AND APPROVAL OF THE 2009 IGA WITH ROARING FORK TRANSPORTATION AUTHORITY FOR TRAVELER SERVICES

Judy Martin stated the Department requested and received approval on this IGA in February 2009. Additional language changes and additions were required to finalize this agreement. Major changes included defining that the payment of revenues received by RFTA for services included in the contract. Lynn included the revised contract for the Board's review. Commissioner Samson made a motion to approve the contract for the 2009 IGA with RFTA for travelers not-to-exceed \$400,000. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt - absent

CONSIDERATION AND SIGNATURE AUTHORIZATION ON THE FFY09-10 APPLICATION FOR THE COLORADO DEPARTMENT OF HUMAN SERVICES' RESPONSIBLE FATHERHOOD INITIATIVE GRANT

Steve Aurand stated the Department requested funds through the Colorado Department of Human Services Responsible Fatherhood Grant in the not-to-exceed amount of \$50,000. The Department received funding to implement the program in October 2007; however, segregated TANF monies have been utilized to continue program services in 2008-2009. The Board's approval and signature authorization on the grant application is requested for possible funding beginning in October 2009. The submission for the grant is at the end of April. This is the third year of the program and it will serve approximately 150 clients. We also work with mothers, if they call, and we try to work with both parents. Steve said we did not get the grant last year. Commissioner Samson made a motion to approve the Chair to sign Colorado Department of Human Services' responsibilities for the Fatherhood Initiative not to exceed \$50,000. Commissioner Chairman Martin stepped down to second.

In favor: Samson – aye Martin – aye Houpt - absent

BRIEF PRESENTATION ON THE DEPARTMENT'S RESOURCE CONNECTION AND FATHERHOOD PROGRAM

Karen Meir-Binde stated the Department recognized the need to create a new division incorporating the Family Connections and Fatherhood Program with other community initiatives, including the 2-1-1 program, providing grant and other community-wide support to the Human Services Commission. Staff completed a business plan outlining the services provided through this programming. It is in the packet submitted for the Board. Three staff members comprising this division are located in the Henry Building in Rifle. Staff gave a brief overview of the program's services. We had 289 calls last year. This is a nice resource and this is provided as a free service or they can use the database on-line. Chairman Martin – It was a challenge to set this up. Karen is trying to get all the resources to sign up and then give information. Karen said the connections are to Human Resources to locate grant opportunities and provide assistance to put their proposals together. She provides a lot of support. We are making effort by connecting people with resources.

PROGRAM UPDATES

Diane Watkins submitted complete reports for the Board's review.

- The Child Care Provider Appreciation Brunch – Sunday, April 26 at the Hotel Colorado to recognize the licensed home and day care center providers for their work and dedication. From noon to 2 p.m.

- May is Foster Care Appreciation Month. May 16, Garfield County Foster and Adoptive families will be honored at this event. Johnson Park in Glenwood. Saturday.
- On April 24, the State's Prevention Leadership Council will be facilitating a meeting in Glenwood Springs with interested stakeholders to seek input on the State Plan for Prevention, Intervention and Treatment Services for Children and Youth, ages 0-25. This meeting will be held in the Commissioner's Meeting Room.

REPORT FROM SUMMIT PRE-SCHOOL – LORI WAGNER

Lori Wagner gave the report and submitted photos and a brochure. See the brochure for information. The service is for children ages 1 – 12. We are licensed up to 155 children and 10 infants. The day care is operating inside the Fellowship of the Rockies Church. We purchased our current facility in October. This was a successful owner/finance project; and was formerly a garden nursery. It is located out in the rural part of the county where it is safer and quieter. They have planted gardens and playgrounds. Temporarily we are in a modular and have added infant care to our school as well as before and after school programs. We opened January 26 as Summit Preschool and Childcare Center. Next week there will be between 7 and 9 parents who will lost their jobs; this is devastating and since they are– unemployed there is no longer a need for the children to be in daycare. Several have said, “Sorry we cannot pay you.” This industry is difficult to keep the parents paying. Lori said this hurt Summit; the County gave us a grant through the Department of Human Services and we paid off the largest majority of the construction costs. Otherwise, they would not be able to survive. These were CCAP funds and without those funds available, when parents lost their job we would have been devastated. Now we are getting about five calls a day. None of the jobs are high paying. We currently have 115 students; however, we should be back to 165 in the summer due to children out of school. Summit is open from 6:00 a.m. and provides breakfast, lunch and snacks. We know these children are receiving at least two good meals per day. We hope to have an open house. We service children from New Castle to Parachute. Commissioner Samson – Was unaware that the County gave them a grant of \$236,000. Lori said \$40,000 was for fencing and playground equipment and 50% percentage was for salaries and modular's. Chairman Martin – This was from Social Services and we were able to give it. This is a success story – looking at a heartfelt need and we came together as a community and fund resources. This is occurring everyday and has a part of the awards process. It is just not the equipment; it is the bonding that these daycare facilities feel they are supported families. Summit employees 25 staff full time and part-time. We do grant writing and are finding that Foundations are good about giving out money. Prior to the move in October, we tried to get property financing with the banks. We went through 3 or 4 different properties. This one came up at the 9th hour. Chairman Martin and Lori put their heads together. This was important to have this childcare available. Carolyn – It was TANF money; federal money and it may not be available next year. Chairman Martin said we never know how much money we will get next year. Don, Lori's husband and her daughter Jessica were in the audience. Jessica has helped all 7 years that we have been in this business.

UPDATE ON COLORADO RIVER DISTRICT – DAVE MERRITT

Dave Merritt, appointed member on the River District provided the update. His last day on the Glenwood Springs City Council was Thursday, April 16th. Dave gave the agenda and information on policies to Jean. This is the re-draft consistent with the Board's January directions of the two policies under consideration in 2009 prior appropriations and Federal Reserved Water Rights. Recall that under our adopted process, policies must be on the agenda for at least two quarterly meetings before taking final action. Therefore, both policies are eligible for final action at the April meeting. Dave said he would like to make this a regular occurrence, perhaps coming on the third Tuesday of each quarter as the meetings of the River District are scheduled on the first Monday of each quarter. The Colorado River District has a meeting tonight and one with the Northern Water District on Wednesday morning. Our Colorado River District has been in existence for over the 72 years with some cooperation and some antagonism with the other districts. We have the largest headwaters. The focus is to develop water for Colorado and not overdevelop; it is a common issue to address down the road. The question is can we maintain the current? How to respond to a compact call in the future? How much water is available on a long-term basis? The last snowfall was significant. How much water is available? He continued saying we are dealing with policies and they review these every year. There are federal water rights and appropriation doctrine. We have always been strong on prior appropriation. Keep in mind the compacts of both 1922 and 1948 were an attempt to recognize the prior appropriations. The Colorado River Compact of 1922 and the Upper Colorado River Basin Compact of 1948 to modify application of Colorado's Prior Appropriation Doctrine in order to ensure equitable allocation of future water development potential among Colorado River basins within Colorado. He stated that in the lower basin there was controversy it never gets better than in 1922. It was divided in absolute numbers. 1948 – Four upper basin states were divided proportionally. We may need to look at reserving water in each basin. Dave is the first chair of the roundtable and Louis Meyer sits on that Board for the County. We had a big discussion talking about the solution of water as well as endangered fish. All the agreements that came out of the 412-acre feet; no basis in reality. For the past decade, the west slope has provided for the interim solution. The Front Range is served out of the Granby reservoir. Cooperation is needed and we may come to the counties. Ruedi water is more expensive due to the obligations. The water has not been marketed but the cost is \$70 per acre-feet up to \$220 per acre-feet so nobody is purchasing much. Insulating water uses have been successful; the average water users have not borne the impacts. Chairman Martin asked Dave about the Oil Shale reserves. Who is holding those particular water rights, Roaring Fork or Colorado River? The other questions is the impact on the Cameo and Shoshone call – what policies are in place and the positive and negatives? This big issue; polices to talk to Dave about and what positions we have taken and he is looking at a financial expenditure. We need to back up and take another position – what do we need? He realizes this is asking a lot of Dave. You are an engineer and have been with the district for some time; we need to back you. Chairman Martin – The Federal Water Act and navigational water. We need to tell the public what is going to happen. CCI and NACO are involved and this has been devastating to case law and how to administer water rights. Dave – Make this aware to our congressional representatives that it needs to be done properly. John Salazar has not been in favor; he is very aware of the change and has fought to keep it the same. It has been 35 years since the Clean Water Act was implemented. Agricultural activity is important to keep in balance. Cameo call will stay in place and the Shoshone is keeping things running and in balance. There was some unnecessary concern raised on oil shale water rights. Many of those water rights were reserved but some have been abandoned. These are not even conditioned water rights.

Chairman Martin said this goes back to Washington with the Department of Interior; it is a big issue above the development of oil shale. Dave is well backed and we will do our function as a Board. Dave requested support in the joint application for the Silt Water-West Divide Grant submitted to DOLA to study above Silt Mesa from the Harvey Gap Reservoir. That needs an irrigation improvement. Commissioner Samson moved that we direct the staff to direct a letter in support for an assessment of the joint application for Silt Mesa and support for the DOLA grant application. He asked Dave if he was asking for a financial request of \$50,000. Dave said if the County so moved, he would delight in support of \$50,000 at this point. Chairman Martin – You are not asking for support at this time. If this grant is successful, that request will come later on. Dave agreed. Chairman Martin seconded.

In favor: Martin – aye Samson – aye Houpt - absent

Efficiency and Conservation Block Grant (EECBG) - Meeting

An e-mail from ACR was submitted on a session for Energy Efficiency and Conservation Block Grant (EECBG) Program. This is a public meeting to be held at the Hotel Colorado at 9:00 am on Tuesday – Thursday, May 5 through May 7. A copy is attached to the BOCC email.

COUNTY TECHNICAL SERVICES INC. LOSS ANALYSIS REPORT – TED LINDTVEIT

Ted Lindtveit submitted the Colorado Counties Casualty Property Pool, Loss Ratio Report as of December 31, 2008 showing Garfield County had a decline in CAPP loss ratio from 2007 (42%) to 2008 (19%); Casualty & Property Pool loss ratio from 2007 (88%) to 2008 (50%); Colorado Workers' Compensation Pool from 2005, the highest (189%), 2006 (95%), 2007 (77%) and in 2008 (53%). He submitted a handout showing the CWCP Loss Ratio on graphs. Ted stated Garfield County actually performed better than other counties. For the past 5 years, Garfield County has been better. Ted brings a report every three months. Along with the graphs, Ted submitted the department breakdown and the number of claims and dollar value. This report shows where the money goes. Vehicles are a big consideration; he invited drivers to come to classes when they hold them. Worker's compensation has looked good. He showed a 5-year comparison. This is about half of what was expected for a work group of this size. The No. 1 injury was slips, trips and falls. Ed stated we are including a training facility for the Sheriff in our new building at the Airport. Board of Directors needs members and would like to know who wants to sever on the board. Out of 64 counties, CTSI has 52 enrolled.

CLARIFICATION OF PLAT FOR COUNTY ROAD 162A AND STIRLING RANCH PLANNED UNIT DEVELOPMENT (PUD) – ADRIENNE CROUCH

Chairman Martin – Alright, we have Adrienne. Adrienne you are on the agenda and this is for Clarification of the Plat for County Road one sixty two A (162A) and Stirling Ranch PUD, is that correct?

Adrienne Crouch – Yes. (Trouble with the microphone). Chairman Martin – We tried to upgrade; it's not that big of a club. Adrienne Crouch – Trouble with the microphone – I could never get it turned on. Chairman Martin – If the light is on, it is on. Adrienne Crouch – Thank you for hearing me on this day. I have several things that...

Chairman Martin – You have some items to handout? Adrienne Crouch – Yes, a letter and some exhibits.

Chairman Martin – Jean will need that. She will keep that for the record. Adrienne Crouch – And I have some additional material. Chairman Martin – Did you say you wanted to hand this out so we could read it?

Adrienne Crouch – No, I did not, I want to read this letter into the record. “Dear Commissioners, County Road one sixty two A (162A) is still on my property. When will you be moving the road off my property? There have never been road construction drawings or drainage drawings associated with County Road one sixty two A (162A). This is a requirement of the Stirling Subdivision Improvement Agreement (SIA). In addition, a title policy or chain of title was never accompanied with the Henderson/Stirling Plat, number four four one four four one (#441441), in November nineteen-ninety-two (1992). And my parent's property is not shown on the plat. I did not join in on this plat, even though my property is in the North East, North of the North West of Section twenty-nine, seven eight seven five south (29, 7 875S), sixth (6th) PM. In addition, I have never been notified of the Stirling Subdivisions, including but not limited to the Sun Mesa Subdivision, the Henderson/Stirling Subdivision, the Ruth Stirling Subdivision, or the Stirling Ranch Planned Unit Development (PUD) or any of the re-subdivisions of the lots in the Stirling Ranch Planned Unit Development (PUD), including Lots twenty-three (23) and Lot twenty-eight (28). The notification of neighbors is required by Statute and also by Garfield County statutes. You are out of compliance with your own Garfield County Subdivision requirements. The title policy that I received over County Road one sixty two A (162A); I received it in December of two thousand eight (2008) with a cover letter from Mr. Don DeFord explaining that the review of the final report from Commonwealth Title is only a review of one sixty two A (162A). That chain is not a complete chain of title of ownership, it is not correct. I have done a complete chain of title and these are very significant documents to be looked at on the chain of title and the ownership of that property is not correct. Who actually owns that property, it was not legally transferred. Mr. Martin has been extensively briefed for years and said they were working on these issues. Please see my recorded document. I've been coming in front of the council since November of two thousand three (2003) and I've yelled, screamed, I've been angry, I've been lackadaisical, but always with the intent to see what is happening with my particular problem. Because I've never been notified of any of the things going on around me whether it's digging ditches, whether it's moving roads, or whether it's law suits to say that the road is on or not on my property. On my own, I've done my own research and I have had innumerable surveys done as well as chains of title and deeds and I do know if there is a correct chain of title. The topic really seems on what are the rules with Garfield County on properties, subdivisions, vacations, subdivision notifications and on plats themselves. You approve and you have not asked for chains of title for the reviews. Commissioner Samson – May I interrupt you for a moment. Adrienne Crouch – Sure, sure, because I know this is long. Commissioner Samson – When did this happen? In October of nineteen eighty-three (1983), in other words I know you say, that it's on your property. Adrienne Crouch – Actually, no sir, a quick history, my family moved here from Texas in the nineteen seventies (1970's) and all the people in Snowmass and then the bankers and surveyors knew my father for a number of years and they had asked him to buy a ranch up in Missouri Heights. Well my father was from Arizona and had been familiar with ranchers in West New Mexico and Arizona, that was his dream to own land in Colorado and so in June of nineteen eight-two (1982) my family bought the four-hundred (400) acre Barnes' ranch after various searches of title, title commitments and title policies. My dad was an attorney and also had a very large title company in from Texas and so he knew he needed an extended policy. So, I am privy to title policies and have done extensive title searches, etc. So, we just you know, looked at the surveys and monumentation, and where the monuments were supposed to be located. So, I went back to, I know you don't want me to bore you with all the details, but I went back in two thousand four (2004) to the Barnes' attorney, Mr. Cohen, who sold us the ranch in nineteen eighty-two (1982) from Denver to his law firm in Denver and said, look I've got

many problems over here and I can't understand, do you have plats, you know I have all these guarantees from the Barnes, all these letters, all these documents that are on water rights, land rights, claim rights, all of this and we're having to survey the property over and over. Actually, this is from Mr. Cohen and he was the lawyer for the Barnes. They gave me this letter that I've included today. And, the reason it's significant is one (1), I had never seen it before Mr. Cohen gave it to me; and, two (2) it shows a lot of the questions on the chain of title for the Stirling property as it relates to my families property which is next to the Stirling. What's significant is starting on June eight, nineteen ninety two (6-8-1992), I have thousands of documents today based on my research on what's happened up there on Missouri Heights. On June eight, nineteen ninety two (6-8-1992), my family contracted with the Barnes for their ranch, including multiple water company shares and all the wells on the property. I have the original contracts. Commissioner Samson – The quick claim deed that you are talking about here. Adrienne Crouch – Yes, this is the letter. Commissioner Samson – You have here June eight, nineteen ninety two (6-8-1992). Adrienne Crouch – Well, this is why I wanted to go to the letter. You can see at the top of this letter that this is a letter from the Barnes lawyer to John Stirling directly. Why it is significant is this is what Mr. Cohen gave me, but if you look, this letter is dated June fourteenth, nineteen eighty-two (6-14- 1982) and my parents signed the contract with the Barnes to buy this ranch on June eight, nineteen eighty-two (6-8-1982). So, when my parents signed the contract with the Barnes on June eight, nineteen eighty-two (6-8-1982), then the Barnes wrote the neighbors six (6) days later and said, hey John, by the way you did these quit claim deeds to the Barnes' back on June eight of nineteen seventy-nine 6-8-1979) and they were not correct. Now we have done a complete chain of title search for the Barnes' sale to the Crouch's and the chain is not correct as it pertains to the chain of title. Quit claim deeds exchanged between you, John Stirling and the Barnes'. John Stirling signed the quit claim deeds his parents owned the property, and if you read the letter you can see that. On the second (2nd) page it was copied to Stewart Title in Glenwood Springs, the Crouch's have a title policy with and who was paid to handle the title work for the closing of the land. This is a very significant document in that, while a lot of exchanges were going back to nineteen seventy-nine (1979), John Stirling made incorrect quit claim deeds and quit claim deeds were recorded in nineteen eighty-one (1981). That I don't know, the Barnes did not know about these recordings. But; this off the subject. This is basically to show that the Barnes and John made a deal over fence line adjustments in nineteen seventy-nine (1979), but John didn't own the property then or in nineteen eighty-two (1982). So, this strip of land, one of which is one sixty-two A (162A), and the strip on the south side of my property were exchanged in those documents but were not signed or recorded until nineteen eighty-one (1981). I'm getting a little bit off track here but I have shown the actual document for John Stirling giving the land back to his parents in nineteen sixty-six (1966), which the letter talks about. So that's kind of where that goes, but the title policy that I received over County Road one hundred sixty two A (162A), which John Stirling built in about nineteen ninety-two (1992) and the County did not build that road was never there before. I mean it was never there and I had moved and was working in nineteen ninety-two (1992). When I came back, the road was there. I did not think anything about it, you know, I was assuming by the property survey plat that was not our property. I believe it is now very much my property or my parent's property. Okay. There are many flawed statements in the title review and I believe you guys received that from Don DeFord; I know Mark Bean, who is no longer here made many flawed statements in the review and the plat also shows land in Section twenty seven eighty seven South (20 7 87S). Stirling never owned land in Section twenty (20). So the Henderson/Stirling approval plat recorded in nineteen ninety-two (1992) for Ruth Stirling that was not necessarily signed by the owners of the land in nineteen ninety-two (1992). In addition, the nineteen eighty-three (1983) plat is not correct; she did not own this land as I see it, according to state statutes and shows the land by County Road one zero two (102). That nineteen ninety-two (1992) plat shows an encroachment. Yet, that plat was approved by the County in nineteen ninety-two (1992) without my notification. The reason that is significant is, let's just take the forty (40) acre piece. John Stirling said according to this letter in nineteen eighty-two (1982), he owns the property. I don't know who owns that, but he went in front of the Commissioners and said the Resolution of nineteen ninety-three (1983) showed that he owns land then this supposed plat, now it's in the county planning department's file for Ruth Stirling that I got that specific file because the title policy that Mr. DeFord got on one sixty two A (162A) said, that John owned the land. Well, historically I cannot understand this ownership because I have done chains of title in the research, a significant amount of land and Land Title have insured this 40-acres area. I figured it out. On my own, I might add. This is really significant. Chairman Martin – Sitting at your kitchen table pondering all of those documents. Adrienne Crouch – Well I have about forty (40) boxes of research, legal descriptions, you name it. But, what's really important is that - does John Stirling's family owns this property? The complete chain of title is required for subdivision approval. What is so important about this, it was done in July nineteen eighty-four (1984) but where they have drawn John Stirling's property and I finally figured it out they cut off this property by one zero two (102) Road. John Stirling's property is about half a mile (.5) to the south of one zero two (102) Road and so when you get into the planning department file, which I did make a copy of, the Resolution of approval of Ruth's Stirling property is not in compliance with the State Statutes and shows the land by County Road one zero two (102). Ruth Stirling did not receive the land from her divorce decree from John Stirling until October nineteen eighty-three (1983). The Resolution was passed in September nineteen eighty-three (1983). This Resolution says she owned the property for five years. That is not true. He does not even own it now, but there was an approval process done for John Stirling for Ruth Stirling's property. And that's why I said, surveyors are required to put a seal on their plat to show the aliquot parts versus the land itself, etc. Okay, so when you get into Ruth Stirling's approval, which by the way that property – I don't know – John doesn't own either, but here's what they did they go back and they show the property here, it's not here, but down here. but look they show one sixty-two (162) and the road going there as part of the plat. Well, I finally figured it out one sixty two (162) Road doesn't exist, there's the nineteen thirteen (1913) road, you can see in this drawing it goes right into my property so that every time I went for a split over there, there's really no legitimate way of figuring out where the Stirling property is versus the Crouch property until now. So, what's happened is you do have to go all the way back and to tell you the truth, I had to go back to nineteen fifty (1950) and nineteen sixty (1960) to really tell you the history. But I'm only focusing on my property, not my parent's property but my property, my thirty-six (36) acres. So first, John Stirling had some land somewhere; the chains and deeds are not correct but assume he does own land somewhere. He got a divorce from his wife. During the divorce he does all of this work beforehand and I also have the divorce decree and it basically says Ruth, you get forty (40) acres minus the quit claim deed of the Crouch property. So, it is not shown on the plats. Approvals were not done by state statutes for nineteen eighty-three (1983) and they were changed in nineteen eighty-four (1984). Crouches have never been notified. Chairman Martin – The only thing is Adrienne, the

court decree did not go through the County. Adrienne Crouch – It went before the County in September nineteen eighty-three (1983) and it says in the Resolution that Ruth Stirling owned that property for five (5) years that was one of the requirements to split the property. That has proven not true because when it came to the divorce, John Stirling did not own that property either, so they are presenting things in front of the Commissioners that may or may not be true. So, she gets the split and she's going to split it into two (2) – twenty acres (20) pieces but she only has a thirty (39) nine acres, not (40) forty. I brought that plat today. This plat is according to State Statues and shows that County Road one zero two (102) goes into these request numerous times. The County okayed either Kinder Morgan putting a gas line in my ditch and Kinder Morgan did not tell me of the problems. I can name five (5) surveyors who have done Stirling's survey's to accommodate one sixty-two A (162A) – I believe the surveyors may be trying to accommodate the County. In addition, here it is, this seems to happen a lot I believe. Garfield County is ignoring the State Statutes as they relate to subdivision approvals and notification. Anyone can plat land, as long as all of the included landowners approve, and sign the plat before recording. All of the jurisdictions, whether County or City ask for a title commitment during the approval process, in order to be sure who owns the property and who should sign the plat. Also, all encroachments must be identified. In summary, I am asking the County, when are you moving the road off my property? When may I receive the construction drawings of both one sixty two A (162A) and one sixty-two (162) required in approval of the Stirling Subdivision Improvement Agreement (SIA)? When will the drainage problems be fixed on my property? When will you receive a complete chain of title required for subdivision approval for the Stirling property? Commissioner Samson – This happened thirty-five (35) years ago. If they took care of that thirty-five (35) years ago, we wouldn't be here today. In summary, you are asking when are we going to move the road off your property; you want to see the construction drawings of one sixty two (162) and one sixty two A (162A) and when will the drainage be fixed. Chairman Martin – The slope of road and the drainage; this does not flow with the ditches. All of these issues? Adrienne Crouch – The water does not flow into the ditches, everything is coming off onto my property. I believe John Stirling wanted to get from A to B and put the road in to get to his property. Historically, Stirlings may have the Resolutions but no public hearings. John Stirling would draw a picture to the utility companies and said he owned it then he would get an easement off a picture and record it. It is just speculation. I have spent one hundred thousand dollars (\$100,000.00) plus thousands of dollars on surveys. Now I am at a stalemate and it will cost more money – showed typical bill. Ron Liston did a lot of work and gave me a bill. Historically, I have paid law firms to split my property up. The reason it is significant, the Stirling Ranch Planned Unit Development (PUD), the latest one was approved May fourteenth two thousand two (5-14-2002). Look at the plat, it does not show an encroachment, does not show the nineteen thirteen (1913) road in the subdivision. Stewart Title knows. Important, in two thousand three (2003) more and more happened and in nineteen ninety-seven (1997) John Stirling died, then six (6) years after the Sun Mesa Subdivision and Subdivision Improvements Agreement documents, Becky came to the County and recorded the plat. Lots had changed; who owned the Sun Mesa – they just did a plat and it shows no ownership. I did not know about Stirling, not one notification and I own property that is three quarters (3/4) of a mile from them. Who are they notifying? Not the Crouches. I met with Ron Liston a private planner, Sexton Surveying Brian Steinwinder, High County Engineering and Don Scarrow of Scarrow and Walker and they said my corner was not matching up in two thousand two (2002) up at the corner. Stirling has already been approved. Lee Leavenworth, their lawyer since the nineteen seventies (1970's), without my knowledge asked Don DeFord, who had a significant amount of meetings over my road, going into Stirling's with Mark Bean and Susan on the nineteen thirteen (1913) road access to Lot twenty-three (23) and in order to do so, moved my property for lot twenty-one (21). In my estimation, there is no legal access into Sun Mesa property. I have never been involved; I have spent all this money. Everything has to do with helping the Stirling subdivision. What I am asking for today is a special investigation of Stirling ownership and where it is on the ground. I have worked with Stewart Title and Henderson/Stirling title. Crouch's owned the SW of the SW of the Section twenty eight seven South (7 87S). The bottom line is all the chains are incorrect. The County as well as staff have taken advantage of the Crouches and wants funding. I will give you the documentation but do not want to have anymore bait and switch. Commissioner Samson – There has been obviously harm done, most of what is true or a little bit. Most of it, you are not crazy – then you have a legitimate cloud on your title and cannot do what you want to do. Also it needs to be said the injustice was created a long time ago and these mistakes go into the present. So, what would take care of your problem. One, (1) move the road off your property or would that take care of your problem. Adrienne Crouch - No. Commissioner Samson - What else needs to be done? Why do you need construction drawings; are they required by law. Why do you need it? Adrienne Crouch - Because my main goal is to try to find the warranty deeds versus the arbitrary plats. These are state requirements. Commissioner Samson – If we take care of your property and I am not making any commitments; if the road went away and you reclaim your property would that satisfy your need? Adrienne Crouch – That is important. Commissioner Samson – Will that take care of your cloud? Your attorney wrote in November two thousand four (2004) – get the road off Ms. Crouch property – there has never been a response. Adrienne Crouch – One thing and I haven't gone there, the Henderson/Stirling plat and one sixty two A (162A) road, you can quit claim the Empire State building to the Board but it doesn't mean you own it; example, the Henderson/Stirling plat. Missouri Heights sometimes is dry and some has water. The Henderson/Stirling plat shows the Crouch's well so they can get approval from the County for more splits. The Stirling plat shows a gap of sixty-five (65') feet – they needed more land. Issues, it would help to get the ball rolling and not wait another five (5) years. One, you can give me a lot of money to pay expenses, but it does not solve all the problems and I want my reputation back. I come to your Commissioner meetings and I am viewed as a troublemaker. I did not ask for this problem. I read in the paper like on April fifteenth two thousand nine (4-15-2009), “the Board of County Commissioners to help solve the dispute with IB Miller. The County has no legal standing in the Limbach case but we can ask them to appear.” In my case, the county does have a standing. In the Limbach situation, this requires a financial commitment. This is the same as I, the Limbach's are unfortunate victims and the Board voted unanimously to have the parties come to the Board to hash out the issues. Well, I would like Resolution on my property and the encroachment that occurred with the Stirlings; this is just not just a little bit. Staff has not given you the entire story. Commissioner Samson – The legal staff and Chairman Martin have worked with you and we are trying to be professional. I know what you want done. Chairman Martin – We need to give direction to the legal staff. Don DeFord – We are not the only one involved. We need other staff as well, Road and Bridge and the Planning Director. Don suggested May four (4). Adrienne Crouch - What are you putting on the agenda? Don DeFord – A discussion on options on how to resolve the problems, it will be an executive session and then the Board will give direction. We will put this on the docket for May four (4). We will come out of executive

session and hold a discussion. I will need Fred Jarman, Marvin Stephens, the County Surveyor; and Commonwealth Title will be contacted by me. Adrienne Crouch – Does the County Surveyor have the same licensing requirements as other surveyors? He may not be in compliance with the state. Don DeFord – This will be on the agenda as an executive session under my time and then direction to staff she has raised and then come back for public directions. I would imagine this will be between eight thirty o'clock (8:30) am and nine o'clock (9:00) am on May four (4).

Adrienne Crouch – I'd like to make a suggestion, if you could review my communications in my packet including the resolution and position that says my family has three (3) title policies with Stewart and numerous others. The approvals for the County Road one sixty-two (162) expansion; Land Title agreed in a proceeding they would have title policies for John Stirling – why are you not doing the chain of title? When will you receive a chain of title, a complete chain of title I mean. I am not happy with Commonwealth; they have picked and chose certain things. I have a complete chain and a well sharing agreement between Stirling. They sold off twenty-acres (20) when she did not own the property. You need to look at this and see if the ownership is legitimate and the easements Stirling gave the county for the utility line are not located where they are now. Particular land title – this is before the State survey board. Louis Buettner is my surveyor and this is currently under review. We should have a finding within thirty (30) to sixty (60) days; a final opinion over a very serious issue that he has been working on that is the Adrienne Crouch land, the Crouch exemption and the road. Commissioner Samson – I make a motion to continue this meeting until Monday, May four (4). Chairman Martin - I will step down as Chair to second the motion.

All in favor: Samson – aye Martin – aye Houpt - absent

UPDATE THE BOCC ON A SPECIAL USE PERMIT APPROVED UNDER RESOLUTION 2007-82 FOR CENTRAL TEMPORARY EMPLOYEE HOUSING FACILITY OPERATED BY CHEVRON AND ON PROPERTY OWNED BY CHEVRON USA INC. – DAVID PESNICHAK

Julie Justice and David Pesnichak were present. A reference was made to Resolution No. 2007-82 regarding updating employee housing for Chevron USA. David received a letter dated March 31, 2009 from Julie Justice noting the Special Use Permit expired on September 11, 2008. The direction staff has taken; they sent a letter of alleged enforcement by Chris Chappelle. Kathy Eastley is tracking this issue and has written and had verbal conversations with Julie. The material is ready to be submitted. David said this will require a major impact review to keep the facility to run and there will be two hearings: one before the Planning Commission and one to the Board of County Commissioners. David said they could operate; there are no other violations. Julie self-reported the violation. Commissioner Samson thanked Julie for being honest. Deb Quinn spoke about the cease and desist order, the legal staff has started the process and but since they are in the process they will not go forward.

TO CONSIDER A REQUEST FOR A TEXT AMENDMENT TO THE ASPEN GLEN PLANNED UNIT DEVELOPMENT (PUD) PHASING PLAN. APPLICANT IS ASPEN GLEN GOLF COMPANY. – FRED JARMAN (APPLICANTS ARE GOING TO REQUEST A CONTINUANCE OF THIS HEARING TO MAY 11, 2009.)

Fred Jarman and Larry Green, legal representative of Aspen Glen were present. Larry Green submitted documentation. Fred said the applicant came on March 16th and opened the hearing and we continued it due to a legal matter. At this point, we cannot resolve that issue. The applicant has requested a continuance until May 11, 2009. There are legal issues in the old and new code and a vesting issue. Chairman Martin stated he would not be here on the 11th. Larry Green stated this is a simple request to extend the plat phase and the applicability of old and new code. My client contact thought he needed to discuss it and had a partners meeting in Dallas. Fred Jarman submitted the requested continuance in order to resolve vested rights issues. The background was given in his memo to the Board. Recommended Findings of Fact:

- 1) This modification, removal or release of the provisions of the Plan by the County does not affect the rights of the residents, occupants and owners of the PUD to maintain and enforce those provisions at law or in equity;
- 2) This amendment of the provisions of the 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;
- 3) This amendment is property sought pursuant to Sections 4.09.02, 4.14.04, and 10.01.01 of the Garfield County Zoning Resolution of 1978 as amended and;
- 4) The applicant shall provide staff with an original Zoning Map and a copy of the approved Preliminary Plan to verify their requests prior to scheduling this matter before the Board of County Commissioners.

Commissioner Samson made a motion to continue this until May 11, 2009. Chairman Martin stepped down as Chair to second the motion. In favor: Samson – aye Martin – aye Houpt - absent

CONTINUED FROM 03/16/09, CONSIDER A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD AT 0536 ODIN DRIVE, SILT, WITHIN THE ARRD ZONE DISTRICT. APPLICANTS ARE ROGER & SHERRY HARRIS. (THE APPLICANT IS WITHDRAWING THIS REQUEST IN FAVOR OF A NEW APPLICATION FOR CONTRACTOR'S YARD UNDER THE UNIFIED LAND USE RESOLUTION OF 2008.) – DUSTY DUNBAR

Tim Thulson and Dusty Dunbar were present. Dusty submitted a memorandum to the Board stating, the applicants are requesting to withdraw this application in favor of the option to apply under the new Unified Land Use Resolution of 2008 (ULUR). Tim said we would be requesting under the new code. Commissioner Samson made a motion to accept the withdrawal of this SUP by the applicant so they cannot apply under the new code.

**Commissioner Chairman Martin stepped down to second. In favor: Samson – aye Martin - aye
CONSIDER A PRELIMINARY PLAN FOR WHISPERING CREEK SUBDIVISION, A 5-UNIT SUBDIVISION ON 12.97 ACRES IN THE A/R/D ZONE DISTRICT, NW OF NEW CASTLE. APPLICANT IS SPECIALTY RESTAURANTS CORPORATION. – DUSTY DUNBAR**

Toby Guccini, Dusty Dunbar, Mark Hogan, Yvonne Bryant of BHH Partners, Davis Farrar and Debbie Quinn were present. Debbie reviewed the noticing requirements with Toby for the public hearing, determined the submittals were accurate and timely, and advised the Board they could proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar 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 –Garfield County Subdivision Regulations of 1984 as amended; Exhibit E - Application; Exhibit F - Staff Memorandum; Exhibit G – Email Letter - Garfield County Road and Bridge – Administrative Forman, Jake Mall, dated 1.15.09; Exhibit H – Email, Garfield County Vegetation Management Department – Director, Steve Anthony, dated 12.13.09; Exhibit I –

Email Letter – Garfield County Planning Department – Project Engineer, John Niewoehner, PD, dated 2.13.09; Exhibit J – Email Letter –Town of New Castle Planning Department – Planner Davis Farrar, dated 2.06.09; Exhibit K - Email Letter –Town of New Castle Public Works Department – Director John Wenzel, dated 2.06.09; Exhibit L - Email Letter –Town of New Castle Engineer, Jeff Simonson, PE. Dated 2.09.09; Exhibit M - Email Letter –Town of New Castle Engineer, Jeff Simonson, PE. Dated 2.27.09; Exhibit M – Email Letter – Burning Mountains Fire Protection District, Assistant Fire Marshall Orrin Moon, dated 2.10.09; Exhibit N - Burning Mountains Fire Protection District, Assistant Fire Marshall Orrin Moon, dated 4.14.09; Exhibit P - Email Letter –Town of New Castle Planning Department – Planner Davis Farrar, dated 4.03.09; Exhibit Q – Applicant’s PowerPoint presentation; and Exhibit R – Letters from the applicant in reference to this project.

Chairman Martin entered Exhibits A - R into the record. Dusty - This is a request for a project that was submitted in 2005. In 2006, the application continued through the process however, the Final Plat was not recorded and the project expired. The project is now to be reconsidered as a Preliminary Plan proposal. Most of the recommendations and input from the Planning Commission in 2006 have not been lost; instead, most have now been incorporated into the present design. The project applicant is Specialty Restaurants Corporation located 1.6 miles NW of New Castle on CR 245 (Buford Road) on a parcel of land consisting of 12.92 acres. The property proposed to be developed was originally created as Parcel A of the Huber Exemption approved in 1992. The property is to be split into a total of five lots ranging in size from 2.2 to 2.7 acres. **Staff recommendations:** Because it has incorporated the recommendations of previous review into the design, language and submittal documents of the present application, or can satisfy conditions set forth in the present review, staff recommends the Board approve the Whispering Creek Subdivision with the following conditions 1 – 13. An additional fire hydrant was requested by the Burning Mountains Fire District. Some of the drainage was discussed. This is under the old code but has to satisfy the Plat requirements under the new code. Condition No. 13 - Affordable housing, 15% dedications is required to satisfy and be aware of this when they came before the board to respond to this. One unit shall be required and must meet the affordable housing requirements. Conditions of recommendation came through the planning commission, but Dusty submitted the staff recommendations. Some of the planning commission conditions have been met. Some that have not been met which include the traffic impact fee and pay in lieu to the RE2 School District. They need to comply with 1.15.09 by Road and Bridge and obtain a utility permit to connect the water and sewer system via road and bridge. They must record drawings to the legal staff, road and bridge and the engineers; comply with all requirements by vegetations directors; Burning Mountains Fire protection plan; and comply with all expressed by Jeff Simonson, PE. Applicant had completed No. 12 There is additional language about small animals in the detention ponds and the final plat including the requirements. Conditions No.14 – There is an adequate water supply –a moot point. **STAFF RECOMMENDATION:** Because it has incorporated the recommendations of previous review into the design, language and submittal documents of the present application, or can satisfy conditions set forth in the present review with conditions, Staff recommends that the Board of County Commissioners approved the Whispering Creek Subdivision with the following conditions: 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.

A. The Applicant shall include the following in the submittal of the Final Plat application:

1. ~~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.~~
Satisfied
2. ~~The plat note prohibiting further subdivision of this subdivision shall be returned to the plat, as it is a requirement of Garfield County code.~~ **Satisfied**
3. ~~The protective covenants shall assign responsibility for weed management along roadsides and in common areas to the Homeowners Association. The covenants shall describe how weed management shall occur on individual lots and be managed by each individual lot owner.~~
Satisfied
4. The Applicant shall pay the Traffic Impact Fee to Garfield County to be calculated and paid prior to recordation of the final plat.
5. The Applicant shall pay the cash-in-lieu for the School Site Acquisition Fee for the RE-2 School District of \$200 per lot prior to recordation of the final plat.
6. The Applicant shall comply with all requirements expressed in the comments of 1.15.09 by the Garfield County Road & Bridge Department.
7. ~~Unless contrary to the permit recommendations of Garfield County Road & Bridge, driveway locations for Lots 1, 2 and 3 shall be on the south property line unless lots 2 and 3 opt to share a driveway on their boundary. Lots 4 and 5 shall take their driveway access from the turnaround.~~
Satisfied
8. The Applicant shall provide record drawings of the proposed municipal water line extension to the Planning Department so that they may be reviewed by the County Attorney’s Office, Engineering Department and the Road and Bridge Department. No hearing shall be scheduled before the Board of County Commissioners until such plans have been fully reviewed.
9. The Applicant shall comply with all requirements expressed in the comments of 2.6.09 by the Garfield County Vegetation Management Department Director.
10. The Applicant shall comply with all requirements expressed in the comments by the Burning Mountains Fire Protection District by Orrin Moon.
11. The Applicant shall comply with all requirements expressed in the comments of 3.4.09 (atop a memo dated 2.27.09) by the Town of New Castle Engineer, Jeff Simonson, PE.
12. The Applicant shall revise the covenants to reflect the following changes:
 - A. ~~The covenant language regarding fencing (Article VII, #22 shall be changed to ‘homeowners shall adhere to wildlife friendly fencing consistent with the Colorado Division of Wildlife approved fences.’~~
Satisfied

- B. In Article VII. #19 On-site Detention Ponds (typo: should read 'Ponds') language that states that the detention ponds shall provide some mechanism for safe escape should wildlife or a person inadvertently fall into the pond when it is full, shall be inserted.

Commissioner Samson asked for clarification, it is because of state statute which dictates they have to go through the Unified Land Code. Deb Quinn explained how this works. If the Board recalls we did a training session with you, one of the topics was vesting property rights, and under Colorado State, law an invested property attaches to a site-specific plan and that site-specific plan does not include a preliminary plan approval. What that means is that when the Code was enacted January 1st, those rules under the new code will apply on applications submitted after the date that the code takes place. Because Garfield County considers each portion of a subdivision application, the final plat will come under the new code and all of the requirements subsequent of that new code will apply to the final plat. The major substitutive change in the new code is the housing requirement. Staff has struggled with this issue ever since January and everyone who has a preliminary plan as this applicant recognizes the issues in the new code. We recognize that it may seem to create some hardships and because of that staff has come forward with an amendment to the code obviously that would address the issue. It would provide an exemption for the housing requirement for any non-expired preliminary plan to be exempt from the new code. Legally they do not want vested rights in their preliminary plan and under the new code; their final plat will come under the new code. Commissioner Samson – If I am hearing you correctly, you are saying that the staff is going to present to the planning commission soon; this type of situation and it would be rectified. If they had a non-expired preliminary plan then we would grandfather those in. How many preliminary plans are we talking about? Debbie – There are lots of different subdivisions and PUD's previously approved that have not been built out; some have vested rights which are now expired, so it could be anything from Aspen Glen that we talked about earlier today that has this issue, Oak Meadows still has quite – I don't know the exact number because not all have applications in, I think perhaps 7 or 8 applications actually pending but there could be a lot more subdivisions. Mark Hogan – Thanked Dusty and the staff. BBH Partners presented a power point and they want to clean up and continue forward. The argument is under the new land use code Section 1-106. He requested removal of Condition No. 13 as it relates to Affordable Housing. If we had known in advance then we could have dealt with it. He feels the project should be grandfathered in and work out the details at a later time. He is anxious to get the pre-annexation with New Castle, which expires on May 26, and he wants to get the plat recorded before this. They will be back in front of the New Castle Council on May 5. He is not sure if we can get a second extension. We have learned our lesson on delays. Tim Thulson, attorney added they were deemed technically complete under the old code. Commissioner Samson asked when this was passed. Chairman Martin – Their application was technically approved in December 2008 and they complied with the old code but not the new regulations. His interpretation is any application coming in after January 1 falls under the new code; this may be open to challenge. Deb stated the planning commission drafted an amendment 1 May to send these to you. It will create a provision in Article 8 that the new code would not apply to any non-expired preliminary plans. The rationale is not to create unnecessary hardship. It creates a style where they have progressed and then have an Affordable Housing regulation to address. All our meetings on the new code were public and anybody was privy to the information. We considered each aspect and tried to be fair to everyone. Toby – When we first started, it was a 6-lot subdivision and to give up another lot for affordable housing would keep this from happening. Davis Farrar, New Castle planner thought most of the points were covered but wanted to underscore a few things: one is that he hasn't seen revised language on the plat, the easement language we were looking for needed to state the Town of New Castle open access, open space and utility easement; it says open space access in the Town of New Castle is a little unclear and just wanted to make it real clear. The applicants agree to this. Under the subdivision improvements agreement there are some water line in the project to the Town of New Castle and for some reason we are asking for some protection under that SIA because depending upon what we might do prior to taking this into New Castle. An extension was granted and it will be coming back to Council on May 5. The project cannot go forward without a pre-annexation agreement and wanted the Board to be aware of this. Then an editorial comment on the no re-subdivision plat note and I mentioned this, it seems like overkill, it's like a plat note that says when you submit your next proposal you have to have an application. It is self-evident the Commissioners and the planning commission has total control on a plat note and at this point it should say 'unless it's annexed to New Castle.' This is an extra hurdle and we feel it is unnecessary. Toby agrees to all the conditions that New Castle submitted. Deb Quinn said it is common for open space to be designated by the HOA's or subject to an easement. Detention ponds are also be maintained by the HOA. Mark said they would clarify the easement on the property and add language. He agreed that yes it is typically maintained by the HOA. Easements are for the individual lots; he will put in at the request of engineers. Debbie said the plats did not show any kind of land for access by HOA to maintain. In regards to the HOA, there are covenants; an unincorporated non-profit entity and it need to be a corporation or an LLC. They are required by law to have Articles of Incorporation. These are unintended consequences. Tim referenced Section 1-106 – no vested rights so that clause is insignificant. They are not making the argument of vested rights. We have to give them the right to process under the old zone code. This is not the way the County has moved forward. Commissioner Samson – With the new recommendation from the planning commission, this would be taken care of under the new code. Chairman Martin – Once we make a recommendation we have to open it up to the public and we want to make sure we do it right the first time. These guys are on a fast track. New Castle has you under the gun. Dusty – Stated they are trying to incorporate. Chairman Martin – When we enacted that code, we had anticipated any application before January 1st would be exempt. Commissioner Samson made a motion to close the public hearing; Commissioner Chairman Martin stepped down to second. In favor: Samson – aye Martin – aye Houpt - absent

Commissioner Samson made a motion to approve the proposed preliminary plat Whispering Creek with the condition by staff excluding No. 13. Commissioner Chairman Martin stepped down to second. Deb asked why exclude Condition No. 13. Chairman Martin explained that it is unfair to them especially, from the recommendation of staff, that we will take care of this within the next two months. We will vote in favor. Deb Quinn asked for clarification regarding other applicants who find themselves in similar situations. Is there anything specific about that would take it out of the new code; we need to know so we can advise others what the new code says. Chairman Martin – It meets the technical requirements of the code of 1984 as amended. If it were to meet the new code and in the 11th hour they have to meet the affordable housing requirements it would not be fair. He understands where we wanted to go in the new code but this is overreaching. As we have the discussion, when we enacted the new code, everything with applications before January 1, 2009 would be under the old code. Old rules apply all the way; that

was Larry’s intent and mine. We had many discussions about the old code. This is my opinion. Commissioner Samson said that Tresi agreed and she voted on no moratorium. Trying to be fair, these people are caught in the middle. Chairman Martin stated we gave them poor guidance and that is the trouble with the text amendment. This is why we chose not to put a moratorium on applicants. That is why we made the decision. This is a good and right decision. This may be a challenge from legal staff and planning staff. Dusty posed a question to the legal staff. Is this definition clear enough, as it is? Debbie – No. Chairman Martin – It would be for all technically complete applications submitted before January 1, 2009. Dusty – If the application was submitted in 2005 and processed it would be under the old code. Chairman Martin – Yes, it would be processed under the old code. He is making his stand. Dusty – This puts the planning staff in the middle; we need a text amendment and this may be the only one before that amendment is approved. In favor: Samson – aye Martin – aye Houpt - absent

APPROVAL AND CERTIFICATION OF MINUTES, APRIL 6, 2009 – BILL BARRETT WAIVER REQUEST

A motion was made by Commissioner Samson and seconded by Chairman Martin, who stepped down as Chair, to approve the portion of minutes from April 6, 2009 in regards to the Bill Barrett Corporation (BBC) seeking the County’s approval for a waiver. In favor: Houpt – absent Martin - aye Samson – aye

COMMISSIONER REPORT:

Chairman Martin – Sunday he met with Representative Salazar and his chief of staff to work on an issue with a group of citizens regarding protection on land use on Thompson Creek and Middle Thompson with the Forest Service and BLM Management plan. Tresi excused herself, worked out a compromise, and took that as a representative of Garfield County. She wants to be the representative on that which may lead to some legislation. We will discuss this May 4th and not move forward. This requires full participation of the Board; also attended the Wilderness Workshop on a mineral rights issue; there were several groups and they want to do away with all mineral rights. Tresi sits on the COGCC and she would have to be here and has recused her. Commissioner Samson stated this was talked about in Washington. Chairman Martin – There is no rush so we can work on this on May 4th. Commissioner Samson said he would prefer to have John Martin working with the Forest Service, property owners, grazing rights, and the BLM. Commissioner Samson attended a community board meeting Thursday. Attending a Colorado Children’s Campaign child camp on Tuesday at the Learning Center at Rifle. Chairman Martin - CCI on Friday regarding public lands and Commissioner Samson will attend as well. Chairman Martin also attended a senior meeting on all senior programs and heard all the reports including the Travelers, and senior matters. It was a two and a half long meeting and we had lunch.

ADJOURNMENT

Attest:

Chairman of the Board

MAY 4, 2009
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 4, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Ed Green – DOLA Grants – We received two DOLA grants last week for \$600,000 for the Human Services Building and \$600,000 for the Sheriff's building across from the airport. The Human Service fund will pay for about one-fourth of that building and the Sheriff's will pay for about one-fifth.

COUNTY MANAGER UPDATE: ED GREEN

CONSIDERATION TO RENEGOTIATE THE TERMS OF THE TOWN OF SILT PURCHASE OF THE COUNTY SHOP – BETSY SUERTH

Betsy Suerth presented. This is a request from the Town of Silt requesting relief of \$150,000.00 of debt owed to the County by the Town and allow staff to finalize the sale and property transfer documents for the elected official signature in the near future. Betsy explained the background saying the Town originally signed a Lease-Purchase Agreement in October of 2005 that called for the Town to make five \$10,000.00 annual lease payments for a total of \$50,000.00; as well as reserve funds annually in 2005 through 2008 of \$40,000.00 and \$50,000.00 this year for a balloon payment of \$210,000.00. The total purchase price was \$260,000.00 including what was considered interest of \$10,000.00. The property appraised for \$200,000.00 according to a May 3, 2002 appraisal completed under the direction of the County. The recent economic downturn has brought unexpected budget challenges to all public entities. This economic situation has increased the need for the Town to make this request, as we see no trends for an equivalent decrease in public works services needs of our residents. The Town has submitted three lease payments of \$10,000.00 each in 2005, 2006 and 2007. We have also been able to reserve \$80,000.00 for the balloon payment. The original purchase price with interest was \$260,000. The town respectfully requests the County accept a payment of \$80,000.00 in 2009 as a final payment for the property purchase. This would relieve \$150,000.00 of outstanding debt and would establish a purchase price of \$110,000.00 including past lease payments and any interest.

Commissioner Houpt – We restructured the agreement in answer to Commissioner Samson's question on the renegotiation. Betsy – We reduced our workforce to be prepared for the economic downturn and cut our budget as well. For this reason and the DOLA recommendation, that is why they are here today. The full price would be \$110,000.00 instead of \$200,000.00. Commissioner Houpt commented that she was annoyed by DOLA's response; they should not tell us how to manage assets and contracts. There are other ways to work through this situation.

Chairman Martin – Understands the revenue stream has dried up. Ed – We received \$38,000.00 for the cleanup.

Commissioner Houpt asked Betsy if they have looked at other long-term possibilities in order to address this issue.

Betsy – We said we renegotiated with the County to delay payments for about two years. We were looking at the economic conditions. Looking further with the drop in property tax and other revenues dropping, it is difficult to know when the town may be able to meet our goals and pay off the County. We are examining this weekly.

Ed said we receive benefits from the property; the County is still allowed to store sand and gravel at the Silt site.

Betsy – We do this as well for CDOT. Don suggested we are working under an amended lease purchase and put this off for two years. He would like the Board to direct staff to amend another agreement and then this can be incorporated into a lease purchase. Since you are reducing the amount, you want to indemnify any use by Silt for the use of the property. Commissioner Houpt suggested Don bring back an amended contract. Commissioner Samson moved to direct legal staff to bring a seconded amended lease purchase with Silt for the purpose of alleviation of \$260,000.00 to \$110,000.00 and the \$80,000.00 paid this year. Commissioner Houpt seconded the motion.

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

DISCUSSION OF SUTHEY RANCH LAND EXCHANGE – MIKE SAMSON

Mike Samson, George Newman, Andy Wisner, Davis Farrar and Todd Robinson were present. Today they are seeking a letter of support for this. Todd stated no one is against the exchange. Andy said this is a straightforward exchange. This proposed Central Rockies Land Exchange involving Eagle, Garfield, Gunnison and Pitkin Counties was presented. This has been in the works for some time. This is a 520-acre ranch in Garfield County, three miles north of Carbondale. The Sutey Ranch adjoins BLM's existing land in the Red Hill area, which received over 55,000 user days in 2008. Acquisition will greatly expand BLM's ownership on Red Hill to protect critical wildlife habitat, promote public recreational uses, and provide a link to other nearby BLM lands. Protection of the Sutey Ranch is the Aspen Valley Land Trust's highest conservation priority. The private sector will acquire the following: **Two Shoes Ranch** acquires two narrow, isolated and hard to manage strips of BLM land in Pitkin County totaling 1,268 acres on the north flanks of Mr. Sopris. The land has been under Federal grazing permit to Two Shoes or its predecessors for many decades. The Two Shoes Ranch borders-sandwiches both BLM parcels for most of the length, and public use of the parcels is very limited by rugged terrain, and lack of access due to adjoining private land ownerships. Future development on the entire parcel will be limited to one house not to exceed 3,000 square feet and 3,000 square feet of ancillary buildings as approved by Pitkin County. **Lady Belle Ranch** acquires 195 acres of BLM land on Horse Mountain southeast of Eagle. Proponent. BLM has identified the land for disposal. The Eagle County Commissioners want to see it conserved and unanimously support the land exchange. **Darien Ranch** acquires 102 acres of National Forest land in Gunnison County adjacent to existing Darien/Delaney private lands along Rapid Creek near Marble. The land will be used for a small hydroelectric power plant to provide power for much if not all of the upper Crystal River valley. They hydro project intake and penstock (water line) will be on the land acquired from the Forest Service, whereas the small hydro plant itself will be on the existing Darien Ranch land. Non-motorized public access through the parcel will be permitted from adjacent National Forest lands. Other provisions of the exchange proposal include:

- All land acquired by the three ranches will be placed under permanent conservation easements or deed restrictions but will be appraised without the easement/restrictions. Easement holders will be Pitkin County/AVLT for the Two Shoes and Darien lands, and the Eagle Valley Land Trust for the Lady Belle lands.

- All land acquired by the three ranches will be permanently placed off limits to oil and gas, mining and other mineral developments.
- If the Federal parcels appraise at more than the non-Federal parcels, the ranches must each pay equalization funds to the BLM/Forest Service. The exchange legislation will direct that these funds to be used to purchase land in Forest/BLM holdings in Pitkin County.
- Two Shoes and Lady Belle Ranches will allow continued foot access to adjoining landowners.
- Two Shoes will limit pumping of water from an existing private well near the Prince Creek subdivision so as not to affect the water table.

The exchange proposal has been endorsed by the Aspen Valley Land Trust, Eagle County Commissioners, Eagle Valley Land Trust, Prince Creek Homeowners, Red Hill Council, Town of Carbondale, Town of Marble and Udall Consulting. A letter from Holy Cross was included in the packet and they favor the land exchange and encourage the BOCC to support this endeavor as well. It will not affect the local scenic views. This land exchange is in the interest of the public. Several letters of support were included in the packet. Aspen Valley Land Trust encourages support of these two important exchanges as they both provide access to critical recreation areas and will result in the former BLM land being conserved. A workshop is planned to discuss this at the Carbondale Town Hall from 10 a.m. to 4:00 p.m. on May 21, 2009.

2009 COUNTY FAIR ENTERTAINMENT CONTRACTS – MATT ANDERSON AND DAVID EBERLER

Matt Anderson and David Eberler submitted the recommendation to award the contract to two performers: Jamie O’Neal (Buddy Lee Attractions) for \$150,000.00; and Joey and Rory (William Morris Agency, LLC) for \$15,000.000. There were a couple of issues related to these contracts and Matt was requested to tell the performers where the County stands on Amendment 54 and the form of agreement is not on the standard form and there is no indemnification for the County. Matt will bring this contract back to the Board on May 11, 2009.

APPROVAL AND AUTHORIZATION FOR CONTRACT AWARD FOR MOTOR POOL VEHICLES – MATT ANDERSON

Matt Anderson submitted the recommendation for award to Glenwood Springs Ford for the Garfield County Motor Pool in an amount not to exceed \$229,631.00. Seven bids were submitted but only two submitted a complete bid - Courtesy Ford and Glenwood Ford. Commissioner Houpt so moved to award the contract to Glenwood Springs Ford for the Garfield County Motor Pool in an amount not to exceed \$229,631.00. Commissioner Samson seconded the motion.

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

DISCUSSION AND APPROVAL OF CONTRACTS FOR LOVA – MATT ANDERSON

Matt Anderson and Larry Dragon were present and submitted the service contract with LoVa and the MOU with LoVa. Matt explained this required two separate agreements. The first is the planning service contract, which entails miscellaneous project management duties and other program costs detailed in exhibit A to the planning contract. The NTE amount is \$48,710.00. The recommended approval and authorization is for signature for the not to exceed amount of \$48,710 for the Planning Services Contract with LoVa and approval and authorization of signature for the Memorandum of Understanding of \$100,000.00. The second scope of work will be in terms of the lease for office space. Matt said we would see the lease agreement on the next contract; that will be addressed on May 18th.

Commissioner Houpt so moved to approve and authorization for signature in the not-to-exceed amount of \$48,710.00 for the Planning Services Contract with LoVa and included the Amendment 54 contract language.

Commissioner Samson seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye

Commissioner Houpt moved to approve and authorization of signature for the Memorandum of Understanding of \$100,000.00 for the South Canyon Trail and add the Amendment 54 language. Ed explained that the County controls the funds as a pass through. Don – On the scope of services, I have two questions: Project management – whether or not this conflicts with the LoVa role and County staff. Discussion was held consisting of the County serving as the technical advisory, overseeing the design and why does the money have to go through LoVa to the County. This money was put in the budget and it is a Garfield County trail. We need to ask what the role is to Garfield County and LoVa. Ed explained that the County is the project manager. There were questions and Commissioner Houpt withdrew her motion; this issue was tabled until May 18th. Larry said they are having a ribbon cutting ceremony on May 15th in West Glenwood to dedicate the new bridge that was built last year. It will be at 12 noon, Friday behind the Audi Dealership. Larry said that last year there were two grants for the Coal Ridge Trail and the South Canyon Trail. They will get the money for the planning grant for the Coal Ridge Trail and in addition, he is hopeful to start construction next spring/summer at the South Canyon Bridge. He hopes that they will receive money from the stimulus bill and GoCo grant for this project.

CCOERA PERIODIC AGREEMENT UPDATE – KATHERINE ROSS

Katherine Ross submitted the CCOERA agreement update and sign up forms for benefits. Katherine explained the changes and requested authorization for Ed to sign the CCOERA periodic update. Commissioner Samson so moved to authorize Ed to sign the CCOERA periodic update. Commissioner Houpt seconded the motion. Carolyn requested clarification on the 457B; does it require a signature. Katherine said no, only the changes on the CCOERA.

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

Ed’s Executive Session items: Draft lease with the Housing Authority; contract negotiation on property with US Bank, Pitkin Housing Authority, contract negotiation with development opportunities, negotiation with White River Forest Service grant; and discussion and guidance, Carolyn wants on HB 1315 - Boulder Special Districts.

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/APPROVAL OF RESOLUTION ADOPTING AN E-MAIL ARCHIVE ACCESS POLICY

Charles Zelenka, Ed Green and Patti Fredrick submitted the memorandum to the Board regarding e-mail archive policy. A Resolution was submitted adopting an e-mail Archive Access Policy. It is suggested that this policy be incorporated into and become part of the Garfield County Personnel Policies and Procedure Manual as that manual is amended and re-codified in calendar year 2009. Don submitted a lengthy email to the Board explaining the e-mail Archive Process. He stated this has been in development for several weeks after the Information Technology Department was able to acquire and install an e-mail program usable for all the County departments except for the Sheriff’s. Because of the type of program it’s necessary to clearly define who has access; and the circumstances of who has access as it relates to the internal request for documents, public requests for documents are also addressed in this policy; and as part of this we had to look at both the length of time for which we would archive documents

because we have options within the program. And, because of that we then had to look at a policy that would be applicable to establish under your jurisdiction and how long the County Commissioners would retain mail in the e-mail program itself because we did not want the archive program to defeat the legal practices purpose. Commissioner Houpt stated she did not have the experience or technical ability to accomplish this in the timeframe proposed. She refers back to her e-mails and would need assistance. June 1st is not a feasible date. Charles Zelenka discussed some points of the program. We can work out a plan to help Commissioner Houpt. Don gave the history on how we came to E-mail Archive Policy. The Resolution addresses Court Order, CORA or CJRA Requests, Litigation, Board of County Commissioners Requests, Employee Requests, Internal Investigation, Department Head, County Attorney and Failure to obtain concurrence. The E-mail retention maintenance, purge, timeliness and retention, compliance by Elected Officials, Department Heads and County employees, and separate files outside the E-mail system. Don explained that this policy should be incorporated into and become part of the Garfield County Personnel Policies and Procedures Manual as it is amended and re-codified in calendar year 2009. The policy is to become effective on June 1, 2009. For open records request and for communications engaged we did not have an archival program and no way to search for documents particularly with the BOCC. We had a request two years ago for e-mail correspondence and it created a real problem. There was not an appropriate method to search for archived messages and it took the legal department many days to review the e-mails to respond to the request. This created a real problem. This is an archival program such as other counties have in place. The Board is not the only ones who have e-mails on their system; Don has well into the 1000's on his e-mail server. No one will lose e-mails for a period; however, within six months they will disappear unless you store them in a word file. Commissioner Samson wanted to know if it would be better to do a hard copy or throw into our own personal file. Commissioner Houpt thinks this is a good policy but was not certain how to set her files. Chairman Martin – CBI and the District Attorney have looked into this. He has had some E-mails that were sent to him and he did not want to open those; so for unopened E-mails how long are these saved. Charles said they show up but you can put them into a case file or they will disappear out of inbox in 6-months. Commissioner Houpt so moved to adopt the e-mail policy. Commissioner Samson seconded the motion. Clarification: This will start on June 1st and we will have 6-months worth of archives then in 12-months it is gone unless you save it yourself. John Gorman asked about communication between two elected officials; should those be available for more than one year. State or Federal law requires record retention. Some stay forever. Whether they are very good or very bad E-mails should those records not be retained for law enforcement and the public? Don – The policy does nothing with compliance with Federal and State Law. You move those E-mails out of file and create a separate document. They are not destroyed however; there is no retrieval through the E-mail system. The retrieval process can clog up the E-mail system. Charles stated the inbox should have subdirectories. Put them in a case file and set up folders. Georgia – She has not seen or heard any discussion on this new policy and therefore did not have any comment. Charles will work with each department. This is a trend in business today and it is to protect everyone. Don stated the Sheriff's Department has their own IT department and they maintain their own archive program. This is separate and not under the BOCC's control. In favor: Houpt – aye Martin – aye Samson - aye

CONSIDERATION/DIRECTION RE: BOARD OF EQUALIZATION HEARING REFEREES

Don submitted a separate package to the Board for the referees for the Board of Equalization and wondered how many the Board would like to retain. John Gorman predicted a larger number of protests and appeals to the BOE assuming the taxpayers will not like the determination made after their evaluations to us. How many of those will take it one-step further is unknown. The property evaluations were mailed on Friday, May 1st. There was a commentary in response to an article either Friday or Saturday and if the tone of the public is an indication, then he expects many will protest. In a week or so, he may be able to give a better estimate of what the volume may be and perhaps make some more definite plans. Don stated the number of residential would probably be far greater by number for residential property. Chairman Martin stated his position that the Board of County Commissioners should sit as the Board of Equalization and here the citizens. This is part of our job. John Gorman assured Chairman Martin that if they were not satisfied with the referee's findings, they would appeal to the Board of Equalization, the BOCC. John provided the timeframe; the month of May will be the time when the complaints will begin and they have to do that by June 1st; then by June 30th the assessor has to give the taxpayer a finding. Then the taxpayer had until July 15th to appeal on property valuations and July 20th for personal. Don stated there is no set compensation and leaves it up to the board however, today he is not prepared to discuss funds. John Gorman felt the applicants were all good; he hopes they will not be needed but the word on the street is that the volume will generate a need for referees. A motion was made to go into the Board of Equalization by Commissioner Houpt and seconded by Commissioner Samson; motion carried. Don said we need a motion to assemble the referees and submit a level of compensation before a formal letter goes out. The recommendation of the Board was to hire all five of the applicants; some may withdraw. Chairman Martin was in favor of hiring all of them; however, when we know the volume, then MaryLynn would set that up. We may lose one or two in regards to our offer of payment and their time. Commissioner Samson agreed to take all five of the applicants for referees. Don said if we do that, then we could decide on their expertise. Commissioner Houpt – so moved; Commissioner Samson – second. In favor: Houpt – aye Samson – aye Opposed – Martin saying we need to face citizens; this is what we are paid to do. A motion was made to adjourn as Board of Equalization by Commissioner Houpt and seconded by Commissioner Samson. Motion carried.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE FOR 162A.

DISCUSS PUBLIC SAFETY AND IMMEDIATE ACTION REGARDING CR 320 AND THE BUILDING CODE.

Don requested both Jeff and Andy stay for the discussion. Commissioner Houpt so moved to go into an executive session to discuss CR 162A and CR 320; and the building code. Commissioner Samson seconded the motion.

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

Commissioner Samson so moved to come out of Executive Session. Commissioner Houpt seconded the motion.

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

ACTION TAKEN 320 ROAD

Don said the Board needs to take action on a temporary injunction on County Road 320 as there is a serious violation of the building code and endangering travel of County Road 320, it requires a stop work order.

Commissioner Houpt so moved and added direction to the staff to mitigate road safety along that portion of County Road 320. Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye

DISCUSSION AND DIRECTION OF COUNTY ROAD 162A – ADRIANNE CROUCH

Don DeFord – There are a number of staff and officials present to address questions, if you have them as raised by Ms. Crouch in her correspondence she tendered at the last meeting. I have provided copies of that correspondence to Mr. Jarman, Mr. Aibner, Patrick Burwell at Commonwealth Title and I think they are present and prepared to address the issues that she raised in her correspondence, questions the Board has, and questions that you (Adrienne Crouch) may have. Chairman Martin - One clarification with Ms. Crouch, was she afforded the correspondence as well, the delivery of documents to us, you made copies. Don DeFord – No. I have not given any additional documents to Ms. Crouch. The documents however that I disseminated to those officials, I just noted at one juncture or another all have been provided to Ms. Crouch. Chairman Martin – Let’s start with Mr. Aibner in reference to the one sixty-two A (162A) road, is it or is it not on the Crouch property. My name is Scott Aibner the Garfield County Surveyor. We have in the potential items; have found regarding what I believe is some two hundred fifty degrees (250°). The road is in place and it encroaches eighty-three (83) square feet of County Road on Lot two (2) of the Crouch assessment. Chairman Martin – These are your findings. Scott Aibner – That is correct. Chairman Martin – Did you use the legal document from nineteen eighty-three (1983)? Scott Aibner – Yes, nineteen eighty-three (1983). Chairman Martin – And your finding was eighty-three (83) square feet of encroachment on the Crouch property. Adrienne Crouch – Mr. Aibner, when you looked in that book for title searches by certain surveyors, there is a plat ... (inaudible) ...that is not recorded. I have challenges to that document. Commissioner Houpt – And so, as you looked through this and I am reading from your notes for this property; you thoroughly examined everything that was in place – is that correct? Scott Aibner – Absolutely. We looked at the entire chain of title and the dates and times. That’s only half (1/2) of the actual survey research filed in the field and trying to culminate that field information with those documents and in this case I found the field information actually pairs up their well with the recorded information. Commissioner Houpt – So it is your opinion the exception of this triangular piece of property that was shown by Mr. Scarrow everything else seems to be in place. Scott Aibner – That is correct. Commissioner Samson – Just to make sure so we’re all on the same page here, Ms. Crouch doesn’t agree with the documents but in your best judgment that’s the only problem that has occurred. We are encroaching on her property at that point. Chairman Martin – Obviously, in your opinion are there drainage issues. Scott Aibner – I was not looking for any of those issues. Chairman Martin – And what was the date you have on that when you looked at the issue. Scott Aibner – The fielding on here is May one, two thousand nine (5-1-2009) when I started. Chairman Martin – Are there any questions? Louis. You need to identify yourself. Louis Buettner – Okay. Chairman Martin – What we are trying to do is to work through these particular issues and try to come up with some kind of resolution. No physical altercations and Louis, identify yourself. Louis Buettner, I am a land surveyor and I have performed some survey work for Ms. Crouch. What I would like to ask Mr. Aibner is did you compare the road construction forms that were made before this construction of that road. Scott Aibner – No, I did not. Louis Buettner – Are you aware of any construction drawings for that road? Scott Aibner – No sir. Louis Buettner – Thank you. Adrienne Crouch – Frustrated and eager to speak. Chairman Martin – I understand you are frustrated. Commissioner Samson – What is being done on this I guess is my concern. My question to you is what bearing does that have on this survey? Louis Buettner – Well, my understanding is there are construction drawings and should show the road being constructed not on the Crouch property but on the Stirling property that John said he owned. Adrienne Crouch – I can prove my point – I want to submit some additional documentation and photos that there were no documents indicating he owned the property. Scott Aibner – There is a slight encroachment only. Adrienne Crouch – Is this microphone on? Chairman Martin – It is if there is a green light showing on the microphone. Anyway, that is what we have in front of us, Louis. Louis Buettner – That is.... Chairman Martin – And you have not seen the construction sketch before. Louis Buettner – I have seen similar sketches, yes. Commissioner Samson – My question to you, do you agree with that encroachment. Louis Buettner – I agree with that encroachment, yes. Chairman Martin – Thank you. Mr. Burwell was the title search based upon the nineteen ninety-two (1992) survey or was it prior to that in reference for a request for a transfer of ownership of property. In other words, the Stirling’s transfer of ownership with title. Unidentified Speaker – Yes it did. Chairman Martin – What date was that? Marian Clayton – Can I get your name please? Patrick Burwell – There were actually two (2) deeds, easement deeds, from Stirling to the County for the sixty foot (60’) access road. It was recorded November twenty-four, nineteen ninety-two (11-24-1992). Chairman Martin – And that is the same legal description that we received in reference to the Book eight four eight (848) Page twenty- three (23) on that transfer. Patrick Burwell – Yes. Chairman Martin – Okay and that is what the document says. Patrick Burwell – Yes. Chairman Martin – Scott do you know when that road was constructed? Scott Aibner – I do not. Chairman Martin – Any other issue that you wish to bring to our attention in reference to the title search. Patrick Burwell – I do not believe so. Don DeFord – This is really about if you have questions about the chain of title. Patrick Burwell – No sir. Commissioner Samson – In other words, with your research everything is fair, legal and up-to-date. Patrick Burwell – The property was transferred to the County, which was in nineteen ninety-two (1992). The individual that transferred the title Commissioner Samson – Was that Mr. John Stirling? Patrick Burwell – It is actually from Ruth Stirling. Commissioner Samson – Ruth Stirling had property, documentation, title, and so on to transfer that deed in nineteen seventy-two (1972). Patrick Burwell – Right. Commissioner Samson – Nineteen ninety-two (1992), excuse me. Patrick Burwell – And it is actually from Ruth, the second one and the first was from John Stirling. Chairman Martin – In challenge also by Ms. Crouch’s allegations and challenge that the ownership is not legal ownership to deeds by Ms. Crouch – that is what she tells me according to her research. I asked in nineteen ninety-two (1992) what this was based upon. Patrick Burwell – And I can explain. She references a deed I believe was from the sixties (1960’s) that says; substance appeared in the title. The reason that it does not is because there’s nothing in that document that creates an exception to title. It is simple, a transfer from John Stirling to Jean and Rebecca Stirling. His interest at that time I believe was one-third (1/3) interest. There’s a subsequent action that John did because it deeded it back to him but they left out a third (1/3). There were subsequent transfers by John and he did not take this one-third (1/3) into consideration. Chairman Martin – What year is that? Patrick Burwell – This one is from nineteen sixty-six (1966). What happened after that was it became apparent to somebody who brought that to the attention of John Stirling and his successors to title. They made it up so that Jean Stirling interest and Rebecca Stirling interest were then conveyed back to John and that was done in August of nineteen eighty-three (8-1983) and September of nineteen eighty-three (9-1983). Commissioner Samson – So it was cleared up? Patrick Burwell – They cleared the title defect in August nineteen eighty-three (8-1983). Chairman Martin – And that was in nineteen eighty-three (1983).

Patrick Burwell – Yes, that was in nineteen eighty-three (1983). Commissioner Samson – So, Mr. Burwell in your estimation everything is up to snuff pertaining to title? Patrick Burwell – Yes. Chairman Martin - Are there any questions in reference to notification of the action just described here of the Crouch property and surrounding properties; I believe we dealt with the Stirling Ranch and the creation of that subdivision correct? Patrick Burwell – That is correct. Chairman Martin – And the nineteen eighty-three (1983) rules and regulations were followed and notification was to all property owners adjoining the property in question. Fred Jarman – There's some caveats to that that I would like to address. Chairman Martin – Can you explain those caveats? Fred Jarman – Sure, over the course of the life of this project, originally from the Planned Unit Development and on through several alterations through time, most recently was the re-split of Lot twenty-eight (28). There are a number of actions that came before this Board, some of which required notice and some of which do not. Specifically, final plat actions do not require a notice. Public meeting actions do not require notice. When I say notice, I mean the full gamut of mailings to property owners within two hundred (200') feet of the subject property, the subject action. So, there's an allegation in the letter tendered by Ms. Crouch to you at the April twenty, two thousand nine (4-20-2009) meeting that she specifically called out the Henderson/Stirling Subdivision Exemption application. I have that file here and I have a signature on a card that she received notice. I have checked all of the files contained in the Building and Planning Department for all of the land use actions that were conducted by this Board or the Planning Commission, either in a public hearing or a public meeting. All of those contain proper notice, all of those contain the cards and either Guy or Martha Crouch signed for those actions; or Adrienne Crouch signed for the notice. So, in the exhaustive search we have done notice was adequate and applicable. So, there's been no issue that we can find with notice if it was required. Commissioner Samson – So in your estimation every time the Crouches were to be notified of any action to be taken they were duly notified and you can verify that. Fred Jarman – That is correct. Chairman Martin – For clarification, in nineteen ninety-two (1992) when we started this you were not an employee of the County. Fred Jarman – That is correct. Chairman Martin - When did you start as an employee of the County? Fred Jarman – The first matter was in two thousand three (2003). It was a lot split of Lot twenty-eight (28). Commissioner Samson – Then you are fine with the notice. Fred Jarman – Yes. Chairman Martin – Are there any other things that we need to consider before we make our decision? Do we have what we need, all of the documents. Don DeFord – I do not know if you did or not, I do not think so from the letter she sent. Chairman Martin – She submitted a request for actual construction drawings and documentation for County Roads one hundred (100), one zero two (102) and one sixty-two A (162A). That seems to be missing – are we satisfied. Don DeFord – We have not given Ms. Crouch any information in terms of background, title of County road one zero two (102) and I'm certain we haven't, I don't believe on County Road one hundred (100); this issue came up a while back and we did not submit any actual drawings. Adrienne Crouch – First of all, I find that you abused the facts and it's really interesting that you are only addressing the letter I presented to this Board last week. These are issues that I have brought to the Board for at least for five (5) years now. I have extensive minutes and it was really my surprise that Sherry Caloia was representing Becky Stirling and presented all this information for the Stirling Ranch Planned Unit Development and I have never been notified; so I don't know who they are notifying, but I would like to see those files. And, particularly, I know I wasn't notified of the Sun Mesa Planned Unit Development information, which was in March nineteen ninety-nine (1999). And; on November three (3), two thousand three (2003) I wasn't ever notified and watched Ms. Caloia, and I know John Martin was here, watched her fumble around in her briefcase and come up with the notifications that were presented that day. Well, I was in the back of the room and I know I wasn't notified, so I don't know who she's notifying about that subdivision. I think everyone was sworn in that day and I was not notified. Chairman Martin – I was here and asked if there was any challenges. Fred has the notifications. Adrienne Crouch – Yes. Chairman Martin – And possibly your signature and since this was a public hearing I guess that you have the right to go ahead and see those documents. Adrienne Crouch – I don't think this group understands, every time I give you a little bit more information you only address the most recent and nothing in the past, which is part of the surveys. My next reflection is, I have done a complete chain of title for the Stirlings survey and the title company has this. Again, I received a letter from Don DeFord, I think its December one two thousand eight (12-1-2008) and it's a cover letter to me, "Dear Ms. Crouch, gosh we finally received a letter from a title opinion from Commonwealth Title after all this time." Well that title opinion was reviewed and dated April two thousand eight (2008) so I do not know why he had not received it before now. In that chain of title commitment you have known, Don DeFord, the omissions and I think you guys really ought to re-read that opinion - this is a letter to the Commissioners and it talks about there being two (2) documents describing one sixty-two A (162A) into two (2) pieces. Well, first of all those legal descriptions are not what the Stirlings owned, the easements are in Section 20 and Section 29. The question is where does one sixty-two A (162A) start, first it is one sixty-two (162). Then one sixty-two A (162A), my neighbor Temple Glassier, just told me yesterday, "Adrienne, one sixty-two A (162A) goes across your property and one sixty-two (162) goes up to Stirling's subdivision." I did not bring it today, but I went over to Denver and went over the state roads in two thousand four (2004) and they gave me Garfield County plats and mileage of Garfield County Roads that Garfield County sends to the state for reimbursements. That strip of land I gave the County, the **\$12,000** Road in 1998 was called County Road 66. So, when that road was approved in 1998. The County then had a roadway to the Stirling Subdivision. Well then, Don DeFord took information I did not know about and had me quit claim to the County in December of 2002 to help Stirling have access to their subdivision. To me and said, gosh Adrienne one sixty-two A (162A) is on my property. Unbeknownst to me, the County had, according to Don DeFord, at least twenty (20) meetings, public meetings over County Road one sixty-two A (162A) or one sixty-two (162) over the last twenty (20) years without my knowledge. I am a little bit upset. Additionally, I would like to ask Commonwealth Title, one; why didn't Land Title do the chain of title since they supposedly insured one sixty-two A (162A) and that was a requirement of the Stirling subdivision improvements agreement approval; and number two; why are you not guaranteeing all the exceptions to title to one sixty-two A (162A) including the Henderson/Stirling plat. There are gaps in the chain of title and coincidentally, the opinion of the chain of title for one sixty-two A (162A) that Commonwealth gave to Don DeFord actually states, "John Stirling gave utility lines across my property for a subdivision for an easement when he did not own the property. He drew a picture and gave it to Holy Cross and that's part of the chain". What land on the nineteen ninety-two (1992) plat – the Henderson/Stirling plat did John Stirling own? Also, why wasn't the nineteen eighty-three (1983) Plat recorded with the Ruth Stirling Resolution? Ruth Stirling got forty-acres (40) from John Stirling. What did John Stirling own and where is the Ruth Stirling Plat showing her property on one zero two (102) road. Simply draw your attention to a couple of things – I still question the chain of title because I have reviewed Stewart Title's chain and it is just not

the same as Commonwealth Title. So, I would go back to Land Title, who has been insuring Stirling properties for decades. The latest sale, Lot ten (10) of the Stirling Ranch planned unit development (PUD) does not guarantee the one sixty-TWO (162A) road or one sixty-two (162) road with the Stirling Ranch and Sun Mesa Plats, nor all utilities, roads, water. Land Title guarantees nothing for this subdivision. Commissioner Samson – Adrienne, can I interrupt for just a second? Adrienne Crouch – Yes sir. Commissioner Samson – Because I know they have been through this issue but I want to preface my remarks by saying I admire you. Adrienne Crouch – Thank you.

Commissioner Samson – I admire your tenacity; you are willing to come here many times because you feel you have been wronged. Then you’re here to get recourse and I understand; but, I must say as a newcomer here and I think I can speak for them because they’ve been through it, I’ve been through three (3) months, they’ve been through it for six (6) years or twelve (12) years or whatever. Adrienne Crouch – Yes. Commissioner Samson – Now I have tried to be as fair and honest as I can and you heard the testimony today by three (3) individuals – you do not agree with them. I understand. But, Fred Jarman just told us to the best of his knowledge you’ve been notified every time that you were legally supposed to be notified. Scott Aibner tells you that the survey shows us that you have eighty-three (83) square feet that you are infringed upon. We are going to take care of that. Okay. To the best of his knowledge that survey is correct, then the title search, which we paid this young man to do and he did the very best job that he could do but it’s not the same choice, so with all of that taken into consideration we can sit here and talk to you and you talk to us till the cows come home; but, it isn’t going to do any good with the exception of where we made a mistake of eighty-three (83) feet here and we’re going to take care of that. The only recourse that I can see that you have as the Chairman has stated to you before, is that you’re going to have to take this matter to the courts and the courts are going to have dig into this and divide the asunder back and forth and come up with, because our people are saying this and you and your people are saying that. And, there’s no sense of us going over and over and over and over again because it’s plain this has to be settled in a court of law. I am the first one to tell you I do not like that, I do not like it at all. There is no other recourse Adrienne. There is no other recourse. Adrienne Crouch – I would like to insert this document before you make your decision. Commissioner Samson – What good would it do us, may I ask? Adrienne Crouch – It describes basically a relationship between the Stirlings and your staff which is not in compliance with the state statutes. It is not in compliance with the Garfield County regulations for subdivisions. I have highlighted a few letters and say I want this on the record and this review and you said, Fred Jarman only came to the County in 2003 and where are the notifications in 2002. Commissioner Samson – He has researched that – that is his job. It is public record. Adrienne Crouch – Okay. It has been mentioned and you can open it up. Adrienne Crouch – In conclusion, I would like to show this because Don DeFord has continued to narrow the scope to one sixty-two A (162A) of which you find that the road is on my property and it is a case of “you are or you’re not” on my property. Commissioner Hought – Well I would like to clarify that, it is not Mr. DeFord who narrowed the scope. This Commission had sat with our County Attorney and given the County Attorney and his staff member’s direction on where to go and we.... Adrienne Crouch – Well the Commission has not addressed my issues. Commissioner Hought – Well, we have looked at other issues, we have gone through the material you have given us and perhaps we have not responded to you in a manner in which you would like us to. But, this is not working. Mr. Aibner did a great, a professional search and in his explanation and.... Adrienne Crouch – Then I would just like to read a few more letters. Chairman Martin – Also, the letters are part of the record and you have submitted them to us before. Adrienne Crouch – Some are new, some are not new. Chairman Martin – And they are from different people, attorney’s and others. Adrienne Crouch – Yes. This is a deed I would appreciate you going back and reviewing, all of the County Commissioner meetings on one sixty-two (162) and one sixty-two A (162A). On July 28, 1992 a letter from Sherry Caloia addressed to Don DeFord and Mark Bean, the County Planning Director, at the bottom you can see it says, “I am requesting that the final plat be issued even though the acquisition of property and the building of County Road one sixty-two (162) and one sixty-two A (162A) has not yet been finalized.” This important letter is being copied to John Stirling, David Harris of Land Title, Yancy Nichol who was the engineer for High County Engineering and Don Scarrow who was working for Scarrow and Walker. And next I have a letter dated August 4, 1992 from Sherry Caloia to Mark Bean again, “Mark, you’ll receive a copy of the construction drawing pertinent to County Road one sixty-two (162) and one sixty-two A (162A), Exhibit I from High County. Those construction drawings have not been recorded and I have requested them and you are in violation of the subdivision improvement agreement and the County confirmed the subdivision without the drawings. On October 13th, Ms. Caloia writes Don Scarrow of the Stirling subdivision exemption plat, it says, “according to the County rules and regulations”. The reason this letter is so significant because it says, “Lastly, the design I informed you of earlier on for the plat, the additional strip of land located north of the fence should be included as part of the Parcel A.” “In addition to Parcel A”, John Stirling did not own that property. That is in the Razzore property. So what they did is move the monuments, or changed the location, they labeled the Henderson/Stirling plat and did not describe the transaction between Veral Fender, who no longer owned the property to John Stirling. There is a gap between one sixty-two (162) and one sixty-two A (162A). Instead of doing the right thing, it appears that there is some question of procedure on notifications and approvals. Ms. Caloia “created” a deed from Veral Fender to John Stirling so there would be access to the Sun Mesa Subdivision.

Commissioner Samson – Adrienne, in saying what you’re saying there, you’re saying that certain people working for the County back in 1992 did illegal acts to cheat you out of your property. Adrienne Crouch – I do not like the word illegal acts but there are many documents that show questionable transactions. Commissioner Samson – Well, you are claiming they moved the markers. Adrienne Crouch – Yes. Commissioner Samson – Well, that is about as illegal as you can get I would assume, correct? Adrienne Crouch – That is right. Commissioner Samson – Correct, Mr. Surveyor? Scott Aibner – That is correct. Adrienne Crouch – If I need a legal, let’s just crank one up and that’s what happened. Commissioner Samson – Here again, that goes back to what I am saying... Adrienne Crouch – Okay. Commissioner Samson – That is going to have to go to court. Adrienne Crouch – Okay, I am just trying to make you aware that I have a lot of history that says..... Commissioner Samson – And I can appreciate your tenacity. But, that’s going to have to go to court – those are very serious accusations. Adrienne Crouch – Very serious. October 14 of 1992, “please deliver the legal descriptions for Mark Bean so that he can prepare a resolution for approval.” What is that about? Those are all the legal descriptions and including water lines and road lines and this, and that. And then a little history here on December 13, 2001, this is for the Stirling Ranch Planned Unit Development was approved May 14, 2002 that on December 13, 2001 your Deputy County Surveyor said, gosh I’ve reviewed the Crouch exemption amended plat – you have a problem; does the plat need a revised County Commissioner statement to accept the dedication of County Road right-of-way and vacates the old right-of-way.

Over and over and over again, the County staff has communicated on numerous acts of which I do not know about including any vacations on the right-of-way to get a road access to Stirling Lot 21. I do believe that the 1913 road; there is not access to Lot 21 and it has been going on since 1986. Lastly, yawl don't know a lot of the history, I have given it to you, but the Stirlings came to me in 2001 and 2002, I didn't know that the Stirling Ranch had been approved in May of 2002 so this is for 2002 and there's been a lot of lot line adjustments that have just showed up. Lot line adjustments for Chiarelli's, one that the Stirling property gave to the Razzore's, which is next to my property. The Stirling's asked me to do a pipeline. This location was done without my knowledge. And, my water moved without my knowledge. No notification's so what this is saying is that Caloia attached my water. Another piece of this issue really says that Ms. Caloia, who was representing Stirling, is representing all of my neighbors and if you look at the next document, October 2, 2003, I'm still having issues and I go to Balcomb and Green who represented my parents in August of 1989 and they wrote my legal description. I go back to them and I say, I have surveyed the land, and they said yes, something's wrong. The Stirlings have encroached on my property and so then they charge me three thousand dollars (\$3,000.00) to communicate and negotiate with the Stirlings without my permission. Again, Ron Liston, I think I have given you a letter where it showed where Ron Liston and the County were all getting together to work out the road issues without my knowledge. And, the last document is again, way after the Stirling Ranch, October 24, 2003 where Ms. Caloia representing the Stirlings gets together with my neighbors and says gosh, you cannot relocate the ditches on her property, you must install many of the improvements in the existing ditch on my property. The reason this is significant is because there's no legal description now of my pipeline going across one sixty-two A (162) or one sixty two (162) but it was orchestrated I might say, to get some land between one sixty-two (162) and one sixty-two A (162A) where John Stirling still needs legal access. And, the last document again, I have many new documents that I have not given to this Board because I think it inappropriate that I have to relay and work to make my property to accommodate a road cut. Todd Welch, who worked for Stirlings and then he is also working on the pipeline and negotiating an agreement with Garfield County Road and Bridge, excavating with no road cut permit so they may construct before April 1. Hum, Doug Though in this letter is the one who wrote me in 2003 and 2002 and said, "Gosh Adrienne I can't get you by your fax machine and you have built your fence on the road in the wrong place." So, I just wish that it was continued from the time my parents in 1982 purchased a lot of property versus what did John Stirling and his family really own and in summary, the rules are in place for a reason, they're not being met by the County so Garfield County needs to meet these requirements and state statutes; and in 2007 you had the Stirling people come and discuss things, or Ron Liston to say, what about this road. And, my issue there is, at that point weren't the Stirling Homeowners Association owning the property, not the Stirling girls anymore. So I would just say you know, in summary, I think that the County missed not doing all the requirements of the chain of title for this property and it is next to me and it encroaches on some of my property. Chairman Martin – Louis, do you have anything further? Louis Buettner – At the present, I do not have anything to add. I might push you, Don DeFord as to a point after they decide what they are going to do with the encroachment. Chairman Martin – All of this has been well established and we will ...

Adrienne Crouch – And also the drainage and engineering. To me we need an engineer up there, the slope to my entrance has been deferred back; and, still remains to flow into my property. Chairman Martin – We have heard all the testimony given. Adrienne Crouch – I would just like to say that it's really a shame that Mr. Jarman did not bring the certified notifications from the Planning Department on the Crouches and I think that I personally notified thirteen (13) people over and over again, so there were lots of things that did not happen. And I know for a fact that I have not been noticed. I am willing to negotiate. Commissioner Martin – Okay, we've heard the testimony and we have to decide what and we also need to discuss it. Are there any other questions of anyone? Commissioner Houpt – I have no other questions. Commissioner Samson – I need to ask Mr. DeFord, help me with what legal relief that we can make a motion to take care of the property that may vacate the eight-three (83) square feet, how do I say this to make sure this is what..... Don DeFord – From a legal perspective we do not need to vacate it because it is not part of the road; it's part of Ms. Crouch's property. And the problem is to get the improvements placed on the property is our obligation and to get it resolved and restore that property to the position she desires. In order to do that, we need some type of permission from Ms. Crouch to work on her property before we can prepare the construction. Commissioner Samson – So can we hear that verbally or does it have to be in writing. Don DeFord – That has to be in writing from Ms. Crouch. The difficult part has already been accomplished because Scott has already been out there; and surveyed the area and should generate a full legal description on that. Scott Aibner – Absolutely, and it will just take a few days and where the property line issue is and I should have that in a few days. Don DeFord – So, that is not difficult document to do. If Ms. Crouch agrees to have us enter her property to remove, what improvements were placed on there? And, we will need an agreement on what type of restoration is needed post removal. Commissioner Samson – So what do we need in the way of a motion? Don DeFord – You should authorize staff (inaudible)... for temporary construction... Commissioner Samson – To direct the staff to work with Mr. Crouch prior to construction and get her permission to work on her property too ...

Commissioner Houpt – To do this in a reasonable time frame.

Adrienne Crouch – Just so that you know, I get what you are doing but there are water line issues, utility line encroachment, and drainage issues that also still very much need to be addressed within this road; because these letters that you just got today says the water line is on one sixty-two A (162A), you know the utilities go there. I do not believe – "as built in place" does not work. The utilities, the water lines and the drainage must; be legally described and located. I am not going to agree to anything until I get something in writing and I am willing to negotiate. Chairman Martin – This is only going to be on a motion to deal with that eighty three (83) square feet which is shown in the picture and nothing else at this point. Adrienne Crouch – Well, that is... Chairman Martin – That is your decision that you need to make if you want to allow that to happen. Adrienne Crouch – I am going to have to address that with my attorney. Chairman Martin – Both of us can say (inaudible)... some money for five (5) years and absolutely, so. Commissioner Samson – We are trying to help you out, Adrienne. Adrienne Crouch – I just want to make sure everything is ... I need to move forward with you on this.... certified letters.

Commissioner Samson – I want you to understand.... Adrienne Crouch – Sir, my letters Commissioner Samson – We have had three (3) individuals who have been doing a job for us and we are going on the best information we have. Chairman Martin – The motion is to go with the survey on the eighty-three (83) square feet that is on your property. Commissioner Houpt – I will second the motion. Chairman Martin – All in favor.

In favor: Houpt – aye Martin – aye Samson – aye

Adrienne Crouch – Thank you. Commissioner Samson – Thank you.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers – COPS Debt Service for June 1
- c. Changes to Prior Warrant List
- d. Grants - Sales Tax Recovery Distribution for April \$51,658.53 – Georgia Chamberlain
- e. Liquor license renewals for The Arroyo Saloon on Battlement Mesa and Catherine Store Wine & Liquor Inc. in Carbondale – Jean Alberico
- f. Fourth Partial Release for Springridge Reserve Phase III (release request of \$40,726.84 leaving a balance of \$70,219.60) – John Niewoehner
- g. Fourth Partial Release for Springridge Reserve Phase IV (release request of \$53,894.72 leaving a balance of \$116,045.60) – John Niewoehner
- h. Authorize the Chairman to sign the Special Use Permit for a Resort for the Bair Ranch. Applicants are James Craig and Doris Bair. – Fred Jarman

Commissioner Houpt so moved to approve the consent agenda. Commissioner Samson seconded the motion.

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

ASSESSOR: ABATEMENTS FOR 3-M PARTNERSHIP, ABATEMENT NO. 09-050, SCHEDULE NO. R311374; RIFLE FIRE PROTECTION, ABATEMENT NO. 09-033, SCHEDULE NO. R040933; INK PRESS, INC. ABATEMENT NO. 09-041, SCHEDULE NO. P006178 – LISA WARDER

Chairman Martin swore in Lisa Warder.

ABATEMENTS FOR 3-M PARTNERSHIP, ABATEMENT NO. 09-050, SCHEDULE NO. R311374

Lisa Warder presented the abatement saying the petitioner states that the taxes assessed against the property for tax years 2007 and 2008 are incorrect because this property was destroyed by fire on November 23, 2007 and they request a proration for 2007 and a full abatement of 2008 taxes. For tax year 2007 the tax amount would be \$294.26 and for 2008 \$1,395.17. This is only for the 2008 abatement. Commissioner Samson so moved to approve a full abatement of 2008 taxes on abatement no. 09-050, Schedule No. R31137 for the 2008 tax for \$1,395.17.

Commissioner Houpt seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye

RIFLE FIRE PROTECTION, ABATEMENT NO. 09-033, SCHEDULE NO. R040933

Lisa Warder presented the abatement saying the petitioner states that the property tax for tax year 2008 is incorrect because Rifle Fire Protection purchased this lot on May 16, 2008 and due to a clerical error on a tax bill that was issued for an incorrect amount. The Tax abatement is for \$1,102.23. Commissioner Houpt so moved to approve the abatement, number 09-033 Schedule R040933 Rifle Fire Protection due to a clerical error a tax bill issued for an incorrect amount and the abatement is for \$1,102.23. Commissioner Samson seconded the motion.

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

INK PRESS, INC. ABATEMENT NO. 09-041, SCHEDULE NO. P006178 – LISA WARDER

Lisa Warder presented the abatement for the personal property tax year 2008 as the business was sold in August 2007. All personal property was then relocated to Pitkin County and taxed in Pitkin County under new ownership. The abatement is for \$1,688.24. Commissioner Houpt so moved to approve the abatement 09-041, Schedule no. P006178. Commissioner Samson seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye

REQUEST TO RATIFY CHAIRMAN JOHN MARTIN'S SIGNATURE ON AN MOU BETWEEN THE MESA COUNTY CORONER AND THE GARFIELD COUNTY CORONER – TREY HOLT

Ed Green said Trey Holt submitted the IGA for Coroner services with Mesa County for temporary assistance for whatever reason for emergencies which includes a shortage of Deputy Coroners from the other county, conflicts of interest, the assistance of the Coroner for Deputy Coroner in the event of multiple fatalities, complex death scene investigations, autopsies, a conflict of interest affecting the Coroner or any Deputy Coroner, or Coroner services that are required to cover a staff on vacation, training or attending meetings. Commissioner Samson so moved to approve. Commissioner Houpt seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye

FUNDING REQUEST FOR ROARING FORK BUSINESS RESOURCE CENTER – RANDI LOWENTHAL

Randi Lowenthal and Beth Shaw, Dean at CMC submitted the request for community support during the start-up period of the Roaring Fork Business Resource Center, which will contribute to an environment in the Roaring Fork Valley where new, emerging, and existing businesses can start, develop, and grow to become sustainable, resulting in a more profitable businesses, job creation and retention, capital generation, economic diversity, a positive impact on the communities, and retention of existing dollars in the regional economy. The request of financial support from Garfield County in the form of a letter of support describing grants/sponsorships in the following amounts: Year 1 \$25,000.00/Year 2 - \$15,000.00/Year 3 - \$10,000.00 for the start-up effort understanding that there may be restrictions on the commitments in advance. To date we have received commitments from Colorado Mountain College, the Town of Carbondale, and several local Chambers of Commerce's. Randi submitted budgets and gave a brief overview. This is a regional effort a combination of counties from Aspen to Parachute. They needed a web-based platform and chose Yahoo. CMC has agreed to be a huge partner including an office for Randi but she will have access to all campuses and have classroom space. Convinced there is a huge amount of resources: education mentor, access to capital and lots of businesses looking for additional funding. The funding is out there and it is overwhelming. This center can help with that. Some they will actually take on the economic development concept, which includes economic gardening of grow your own businesses. A second tier is emerging such as job growth for towns and regions and we will focus on them. Services lead to identifying emerging business to growing businesses in the area. Commissioner Houpt so moved to approve to have a budget supplement to support this for \$25,000.00 for 2009 to go to RFBC as a long-term business partnership. Commissioner Samson seconded the motion.

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

APPROVAL OF A RESOLUTION TO APPROVE JEAN ALBERICO CONDUCTING THE 2009 COORDINATED ELECTION AS A MAIL BALLOT ELECTION. – JEAN ALBERICO

Jean submitted the Resolution to the Board for approval of the Coordinated Election as a Mail Ballot Election for 2009 and asked for approval. She presented a handout with points of discussion for the Mail Ballot Election and gave an in-depth review of what was in the handout. She stated 24,234 active votes were cast in the last election and 52% of those voters requested mail ballots. This was 67% of the total votes cast. Since 2006, we have used Town Halls in Parachute, Silt, New Castle, and Carbondale as additional drop off sites for mail-in ballots. New pending legislation will require counties to have more drop-off and replacement locations. Our past mail-in ballot plan already meets this new requirement. We have two locations; the Rifle Annex and the Glenwood Springs office are

where we issue new and replacement ballots, process change of address and emergency voter registration. If for some reason the eligible voter does not receive their ballot or makes an error and need a replacement ballot, the voter can request the replacement in person at the Clerk's officers, by fax, by e-mail or by phone. Jean, in response to Commissioner Samson question said, the requirements are they must be age 18 on or before the election; a citizen can provide Colorado drivers license or a Colorado ID or the last four digits of their social security number in order to register to vote. They can register to vote at the Driver's License Office in the mall or at any of the Town Halls, Rifle Annex or our office in Glenwood Springs. Commissioner Houpt made a motion to approve the Resolution for the County Clerk to conduct the 2009 Coordinated Election as a Mail Ballot Election. Commissioner Samson seconded. In favor: Houpt – aye Martin – aye Samson - aye

ACCESS ROARING FORK MIDDLE SCHOOL AFTER SCHOOL PROGRAM - STEVE KAUFMAN

Sandy DeCrow assistant principal, Rick Holt from CRMS, Deborah Barnekow, Holly Hopple from the Sheriff's office, and Steve Kaufman Executive Director for the After School Program were present. Steve presented the request for the after school program. Today they are here to promote the program and they are not asking for money. However, they would like the Commissioners to consider having a line item in the budget. The purpose of the after school program is a three-legged stool: 1) It keeps kids safe as a real concern and priority; it provides an enrichment environment for the kids; 2) It lets working parents focus on work and it ultimately improves family life; and 3) Parents say after school programs helps them balance work and family life; 87% of parents worry about their kids after school. There are many kids hanging around the schools with nothing to do. Many do not participate in a sport. This can be an education for school improvement and some of the students have provided in-put as to what they would like such as cooking, band, cheerleading program and they have lots of ideas. We have the space for after school programs but need the offer of financial backing. They can also provide the teachers for the after school program. Middle school is the target. We feel this could be really successful. Rick Holt said, this year we added art, music, and theater and in addition we need to give students in need of additional support in academics. We can also provide structure to homework assignments and give incentives. In the middle schools, not everyone has access to all sports. Commissioner Houpt asked Steve if this is going on in other areas around the County. Steve – Everyone is stepping up to the plate with taxpayer dollars. Conversations have been held with a hundred mayors who have carefully carved out where to fund the programs. They are also providing demonstrations to apply for federal and state dollars. We do not want to come into areas that are prepared for a program like this one. We want to see that if it reaches that level in the community from a safety point of view. Steve submitted a sheet of calculations of the potential cost in Glenwood Springs - \$10,000.00 a month. We are putting this on the public access TV 24/7; we acquire many volunteers. It is not cheap but it is worth it. Chairman Martin – This would develop kids and get them started on their way for employment. Commissioner Houpt would like a cost estimate and perhaps put together a plan of partners. Steve – This is not a request for funds. We are working with the community, church groups, junior achievement, Lions Club, Rotary, Jazz Aspen, Valley View Hospital, gardening, nutrition, and cooking possibilities for the community. Deborah said this takes collaboration because of all enrichment programs in the schools. It is a wonderful program for the kids. A number of our youth are starved for attention in the area of the arts and have interest in guitars, lead guitar program, etc. Programs like this are active in Page, Arizona; and within in the Navajo nation. They teach classic music and how to read music, there has been great success in music in the Navajo programs. It cost them \$15,000.00 to bring their program into being. Holly stated, on the law enforcement aspect this would be great, it will be a teaching program and with it located in the schools we can reach the kids. Kids today are offered many opportunities to become involved in gangs, drugs and alcohol. Gang leaders and drug dealer's stand off the school grounds waiting on the kids. This offers an opportunity to give kids more of what they are seeking. Chairman Martin – They will find the excitement wherever it is. Steve – We are actively engaged and are looking for high quality programs. This will set the standards for those coming on board. We included our budget outline and took national records to develop the budget. We estimate per year a cost of \$150,000.00 for the middle schools which averages a cost of \$14.00 per kid per day and we are going to offer a sliding scale to free. Commissioner Houpt said this is very doable for us as to where it falls for payment. We prepare our budget in June. We could do a budget supplement in 2009 and part in 2010; she also wants to have those projected requests. Commissioner Samson – What do you have in my district – District 3? He is concerned that the folks in his district will see this occurring in the Roaring Fork School District and start wondering how his constituents will feel about spending taxpayer's money for only one district. He encouraged Steve to get in touch with those schools in District 3. Steve agreed this needs to be active in all the school districts.

CH2MHILL RELEASE TO CONTRACT #1 APPROVAL – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren submitted the proposal for Release to Contract Number 1 for the Garfield County Regional Airport Task 1 and Task 2. CH2MHILL submitted for Task 1 the proposal of \$106,136.00 and for Task 2 - \$271,720.00 a total of \$377,856.00. They had an independent review, which came in slightly higher. A 4% is acceptable with the FAA and the FAA pays 10%. Carolyn noted two changes that were needed in the packet. These are editorial and one substantive change on page 9. We need a more intensive drainage analysis that Jeff would do. They want to start immediately. The legal dept would include our form with the appropriate language for work done this year. Commissioner Samson so moved to approve the proposal for Release to Contract Number 1 for the Garfield County Regional Airport for both Task 1 and Task 2 for a total of \$377,856.00 and the changes in the editorial language. Commissioner Houpt seconded the motion. In favor: Houpt – aye Martin – aye Samson - aye

Executive Session items – Bond Counsel; litigation where Patti and Lynn will be needed; Cassie Coleman on 3 litigation issues; potential settlement of KOA/Elk Creek Litigation code enforcement issue; direction on code violations regarding Rulison and Williams; rollover accident; Debbie on a 1:15 contract involving County Road 317; Ed's issues on property acquisition and we need direction from the Board; Carolyn on Rifle Air and issues from COGCC; and direction on the IGA for Rifle annexation of County Roads. Commissioner Samson moved to go into Executive Session. Commissioner Houpt seconded. Motion carried. Commissioner Samson moved to come out of Executive Session. Commissioner Houpt seconded. Motion carried.

Action taken:

Don stated we need a motion to grant authority to seek injunctive relief against Williams Production Facility on Rulison Mesa. Commissioner Houpt so moved. Commissioner Samson seconded.

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

PUBLIC MEETINGS:

CONSIDER ACTION REGARDING THE EXPIRATION OF THE SUN MEADOWS ESTATES SUBDIVISION IMPROVEMENTS AGREEMENT. APPLICANT IS FRED COOKE – FRED JARMAN

Tim Thulson, Fred Cooke and Fred Jarman were present. Fred submitted the background stating a Final Plat for the Sun Meadows Estates Subdivision was submitted on March 15, 2004. The Replacement SIA was submitted on January 11, 2006 and the first amendment to replacement SIA was submitted on September 17, 2007. The current project status is that the developer is again in default of the terms and conditions of these SIAs.

The following County action based on the fact that the Developer has not completed the infrastructure improvements required in the SIA and the fact that the LOC has now expired. Staff finds the Board has the following options available to them as contained in the SIA:

1. The Board may elect to vacate the Final Plat as it pertains to lots that do not have building permits issued on them;
2. The “Pledge Lots” (Lots 9 and 10) could be released to the County, which the County would be required to sell for the purpose of generating the funds necessary for completing the improvements. (In this case, that includes the improvements to the intersection of State Highway 6 & 24 and Miller Lane.)
3. The Board could re-negotiate a Second Amendment to the Replacement SIA with the Developer to address the completion of the remaining improvement and obtain a new LOC.

Fred concluded by saying on March 16, 2009 the BOCC instructed the Applicant to return to the BOCC with a revised SIA, updated Engineer’s cost estimate, and renewed letter of credit. As of April 30, 2009, no documents have been tendered to the County. Fred Cooke said since we were here last, we have held a meeting with CDOT. We need to locate the Qwest line and that is the big issue with Hwy 6 & 24; their main truck line for fiber optics runs through where we need to make the improvements. We sent the survey to CDOT and CDOT does not necessarily want to put guardrail over the line. If that was ever hit that they may hit the line for the internet. So we need to find a solution to avoid that situation. Improvements: Xcel power post along the north side of 6 & 24. We have made application to Xcel to move those. Best solution is to move those one-half mile to the west on the south side of 6 & 24. They will move those to the south of 6 & 24 if they pass our improvements. 1) This allows us to make a ditch for a 6 – 1 slope and 2) It allows us to do wider shoulders and avoid infringing on property to the north of us. We are exploring these things. We just made application for a cost estimate to move the poles. Otherwise, it will move to the north side of the road. On the south side, it is CDOT’s right-of-way; and we need to acquire additional right-of-way on Miller Lane, as it is not adequate for the turning radius. We have talked about this with the property owners on the west side; and I have left a card on the east property owner’s door for him to contact me. We need about 200 square feet. We are waiting on a response. It may take six to nine months to accept the right-of-way for CDOT. Now we are trying to determine the land needed and going with Xcel to move power lines. We are finding this to be an assortment of problems. Once we have the additional right-of-way and move the Xcel power poles then we can complete the redesign plans. As to the Letter of Credit, we have extended this through November and added an additional \$100,000 with Alpine Bank. Now we have a \$383,000.00 loan at Alpine Bank. We are waiting on direction from this Board. Commissioner Houpt asked about timelines. Fred said we have to acquire an additional right-of-way and that may take between six and nine months. We really do not know how much we need. Commissioner Samson commented they could not start until next year per Fred Cooke. He suggested he go to Alpine Bank and obtain an extension from November, 2009 to November, 2010 for a total line of credit for \$383,000.00. Deb recommended the Board extend the SIA and the escrow agreement and include a date certain to secure performance of the full cost. The staff requests a default due to the timelines and to send a notice in default and keep the two lots as escrow. Give them 30-days to request a public hearing and set this in 40-days. The Board needs to make a decision of collection on the land or something else. The notice must include all adjacent property owners for the hearing so we can have input from them. Commissioner Houpt wants to make sure everything is in place and the guarantees; she also wants Fred to communicate with our staff. They have heard nothing from Fred and that is the reason for the process of default. We need to make sure Fred Cooke is moving forward and the staff is informed. Fred requested a timeline of 6-months to November 2009. If it goes beyond that, he would suggest a November, 2010 if they can prove they are moving in that direction. Put a deadline on the SIA and push security up to that date. The SIA expires in May, 2010 or go 6-months past that to November, 2010. Fred Cooke felt these were reasonable timelines. He should have the final determination in 30 to 60 days. He should be able to have a cost estimate for the SIA by December, 2009. He is anxious to move forward so they can market the second phase. He will be happy to give monthly updates; a copy of the plans to show work is in progress; and will provide the letter of Credit from Alpine Bank in the amount of \$383,000.00 till December 31, 2010. Tim Thulson explained we do not know what that estimate will be for the engineering, guardrail, ditch slope construction and by accepting a bond on an estimate puts us in a better position. Chairman Martin said he was fine with the extension but would like to have a cost estimate in 60-days. Deb said she needs to see the SIA now and it can be amended if the costs increase. She will work with the application for the SIA and we should have it within a couple of weeks. She requested the Board set a date certain for June 8, 2009. Commissioner Houpt said that is my motion. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A CONTRACTOR’S YARD WITHIN THE ARRD ZONE DISTRICT. APPLICANTS ARE AUGUSTUS & JENNIFER HAMPSON, 1177 CR 259, SILT. – DUSTY DUNBAR

Dusty Dunbar submitted the referral of the Special Use Permit to permit a home-based business that involves storing heavy equipment on a residential property in the ARRD Zone district. The applicants seek permission to utilize a portion of the property for parking heavy trucks, trailers and implements, and continue to utilize an existing enclosed garage for storage/minor repair. This is under the old code. Delayed at request of the application to do work on presentation and now referred to PC. This is for a contractor’s yard on a 36-acre parcel NW of Metro Silt located just off Jewel land. **Staff recommendation:** Because the proposal is limited in scope and complexity, staff feels it is appropriate to recommend that the Board direct staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commissioner. Commissioner Samson so moved to direct staff to set this matter to the Board concerning Hampson’s contractors yard at 1177 County Road 259, Silt. Commissioner Houpt seconded the motion. In favor: Houpt – aye Martin – aye Samson – aye

CONSIDER A LIMITED IMPACT REVIEW APPLICATION FOR THE CIRCLE B PRODUCED WATER STORAGE FACILITY #4 IN THE RURAL ZONE DISTRICT, LOCATED IN SECTION 35, T6S, R 92 W,

SILT. APPLICANT IS BILL BARRETT CORPORATION. (THIS ITEM HAS BEEN REQUESTED TO BE CONTINUED TO JUNE 1, 2009, DUE TO DEFICIENCIES IN PUBLIC NOTICE) – DUSTY DUNBAR

Jeff Fandrich for Barrett, Dusty Dunbar and Deb Quinn were present. Deb suggested the Board open the hearing to avoid the applicant having to re-notice. Jeff stated we held an informational meeting last Friday and informed everyone present we would be asking for this to be continued. Jeff stated he would send first class notice to everyone as a courtesy. Commissioner Samson asked how this was stated in the regulations. Dusty replied it requires first class certified mail but if we continue this, a phone call, or courtesy should be sufficient. Debbie reviewed the noticing requirements with Jeff. All the notices are for two property owners except those who did not get their notice. Jeff explained the two notices that were defective however, with exception of the two notices, two were not claimed but he held phone conversations with them and one was aware of the hearing and the caretaker of the mail would not sign. These notices were mailed on March 27, 2009. Jeff said on one mineral owner the notice was sent where the individual has been receiving their mineral revenue. It was published in Rifle Citizen Telegram on 4/2/09 and posted the property on March 28th. The Board needs to find if this is a defective notice and if they should be re-notifying. The testimony is that Jeff sent out written notification and that did include the two parties and he held the meeting with the property owners. Jeff – As people got their notice, there was some confusion about what we were doing. He held the meeting for clarification and wanted to avoid the Board hearing from being a question and answer period. At the meeting, the property owners were able to review the plans and he explained how staff would handle the issues. He was not able to give the property owners verbal information because of the uncertainty of a specific date to which this would be continued. Dusty – We have time available on June 1st or June 8th. Scott Denado is requesting June 1st. He had discussed this prior to the meeting on Friday. Deb once again stated the notice is not complete and the applicant is requesting to open the hearing and continue it to June 1, 2009 so they do not have to re-notice by certified mail. Commissioner Houpt believes this to be located in a sensitive area and she wants to know people do get their notice. She wants a certified mailing. Jeff is not constrained to the 30-day time period. She is not confident with regular mail and you would not know whether the property owners received the mail. She is okay with opening the public hearing, but wants the notice of change by certified mail otherwise this could be challenged. Chairman Martin proceeded to open the hearing and swore in Jeff and Dusty. Dusty Dunbar submitted a continuance request for Bill Barrett Corporation Circle B-4 Water Storage Facility Special Use Permit Application hearing. The request is they would like to reschedule the subject hearing to June 1, 2009. Commissioner Houpt moved to continue this hearing to June 1st with the condition that the applicant notifies all neighboring property owners through certified mail. Commissioner Samson seconded the motion.

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

Executive Session

A motion was made by Commissioner Houpt to go into an Executive Session to discuss CR 317, Beaver Creek. Commissioner Samson seconded the motion. Motion carried. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of Executive Session. Motion carried.

DISCUSSION WITH ELECTED OFFICIALS – BUILDING ISSUES - 2:00 p.m.

The Board of County Commissioners invited the Treasurer, Georgia Chamberlain; Assessor, John Gorman; and Clerk and Recorder, Jean Alberico to join in a discussion about whether to build a new building for the elected including legal and BOCC; build a new courthouse; or leave as is. The period for building a new building would be approximately 2 years and at this market price today \$9 million but in 2010, it would probably be \$10 million. The Courts would love a new secure building and feel it is important to separate the functions of the District Attorney from the Courts. One is prosecutorial and one if for justice. The treasurer, assessor and clerk and recorder gave feedback as to where they would like to have the building located. They want to stay in Glenwood downtown area and feel parking is essential for their employees and public. The needs may change the more on-line applications are permitted. Jean referenced renewals on line; and recording submitted via internet. There is a possibility that fewer individuals searching records would allow a smaller space for that staff. Jean also referenced that an individual wanting to register to vote, vote in elections, and/or obtain a marriage license have constant complaints about security. Georgia feels she does not have all the information she needs in order to make a decision, but she wants to be in on the planning process and also feels a downtown area location is essential. She also feels it is necessary to be close to the legal and financial staff and included IT. She mentioned the hazards of crossing 8th Street in the winter months due to ice and snow. John Gorman offered taxpayers money should be spent where most effective and zero energy for the future. He too feels it is important to have the location in downtown Glenwood but feels parking is a necessity. All three acknowledged it is up to the Board of County Commissioners to ultimately decide. Commissioner Houpt explained that today we are here to decide what our priorities are and where do we want to go with a building. All three elected officials did not like the location already built across from the MOC operations in West Glenwood. Commissioner Houpt indicated the BOCC has made no decisions. All elected officials attended the discussion held at the City of Glenwood Springs with Valley View Hospital. The city wants to know what the County is planning, how big, overhead walkways, etc. John Gorman stated he appreciates the open meeting and laying it all out and see what reasons, good sense and practicality in building a building. As elected officials, we are looking for function, brand new space that makes the best use of my staff and processes; we need it designed specifically for that. As a taxpayer and citizen, he would like to use the public's money in a smart, conservative and best way. He feels this is a great opportunity to build something beautiful, functional and practical. He wants to spend public funds wisely and put technology and systems to further ease the burden. Predictions are that natural gas, electricity costs will soar once more this year, and perhaps we will be able to use stimulus money or collaborate with Xcel Energy. He sees this as an opportunity to set a standard in this state and for other counties and do it at a cost not-to-exceed conventional costs. The estimated cost for building a court building is \$300.00 per sq feet not including tunneling or access to sheriff and inmates. Commissioner Houpt feels moving the court would be more expensive. Commissioner Samson discussed moving the courts. Chairman Martin noted there will be five courtrooms, furnishings, and could tunnel under for access. Commissioner Houpt – Feels it would be cost prohibitive to move the courts. Ed estimated the cost of the utility vault in place currently was \$831,000.00 and that tunnel was not very long. \$300.00 for courts plus tunnel and security would be an issue. Commissioner Samson asked if that building over there, the old courthouse stays and allows them the entire building, will it take care of the judicial needs 10-15 years. That question has not been addressed with the courts so is it practical to leave it for the courts? Commissioner Houpt said we pay for the courts. When I look at the cost of moving the courthouse next to the jail. Transport inmates and courtrooms; there is a lot of room. It is a great building and thinking about the fact

that we will have a budget not growing within the next couple of years; to build a new courthouse with state of the art technology is cost prohibitive. Jean said the three elected officials are saying we are happy to stay where we are. Sure, she would love a new building for better work environment and space designed for staff needs, but she is also willing to work for what the BOCC decides. If it is a new building, then we all want to be part of the design. Commissioner Houpt – agrees. John Gorman estimated he needs 6,000 square feet for just the Assessor. With an increase activity with oil and gas he would like the ability to expand and felt we could rent out space on a temporary basis until the county needs the space. He suggested building if for 20 – 25 years in the future. Glenwood needs a downtown parking structure. If this could happen, this would be good for downtown for events and all services convenient for downtown. Chairman Martin said a parking structure costs \$50.00 to \$75.00 per parking spot, people would have to pay to park, and they would opt to walk six blocks rather than spend the \$10.00. Commissioner Houpt would like to see us still discuss the parking structure. Don feels for his legal services he needs to provide expertise to the elected officials and he has personnel that need to access the courts on a daily basis. John Gorman agrees with the campus idea and keeping all functions together. We also need the knowledge of legal and financial staff as well as the IT department. Let's make it a campus friendly environment. Georgia said as for Rifle, the IT department does provide services but there are problems with the Rifle software and we need to have Rifle part of the discussion. Chairman Martin – A skyway easement is possible with the City and that would be his method of addressing the availability of services. Keep it together; knock down buildings and make more parking. To leave it as is – is not an option. Timeframe was once again discussed. Commissioner Houpt focused on the main points she heard today: downtown area, parking, zero energy building; everyone involved in the design and monthly updates on direction. Georgia would request a professional design expertise. Jean likes everyone having to go through security and this has lessened the complaints from the public. Chairman Martin suggested the BOCC, administration, and include the elected officials, city, courts and DA should be involved in these discussions. Commissioner Samson warned the elected that they would not get everything they want. Georgia, Jean and John all expressed appreciation for the communication and asked to stay in the loop and avoid rumors.

COMMUNICATION ASSESSMENT

Georgia asked about the communication assessment done. She personally spent a couple of hours and everyone was interviewed in the process. LC Marketing – Patricia Ray Lynn-What were her suggestions on how we can improve. Dale responded. A 32-page assessment and the priority was the web site. This just began the April 16, 2009. We are taking this one- step at a time. Dale will provide a summary of her findings and all elected would like it.

5-YEAR PLANS

Georgia stated it would be helpful in our 5-year plans to have ideas of what others are doing and have available the statistics by different departments. We need consensus in our county government. Ed said this was addressed in the budget to the BOCC. It was not a formal document; it is a living document that changes the direction to what is best for the County. Georgia wanted to know about strategic planning and feels we need more communication.

Jean liked the daylong session and that surfaced a lot of good points; out of that came the way to handle archive e-mails. The daylong session was better. Ed said they hashed out many ideas and plan to present our thoughts to the elected officials. Commissioner Houpt wants to be involved. Everybody needs to be in the room when discussions are occurring. We need to have an understanding of the directions. Dale said this is strategic for the elected officials and other department heads. This Board made the determination – then we build on the next step to achieve the goals. It is a slow and frustrating process. It is an operational plan – not a strategic plan – with a vision and trying to do it within four years. Understanding how you come out with priorities. When asked about the timeframe, Dale said about one month from now. After the elected officials have completed their 5-year plan and it will be included in Ed's plan. What we have to do for the County's future is to do our jobs and the strategic plan is about space and staffing. If elected officials are interested and are available during these sessions, that is great. There will be an array of projects to pick and broadest possible view and future. Ed – It is in our objective to narrow it down to a dozen or less projects. A number of items were considered and numbered it down to five. John Gorman has been enhancing his website to make it easier for first time users; also, the function of that is for the outsiders who are looking. The website is not user friendly for MAC users.

EXECUTIVE SESSION – Don said he needed an executive session for those issues previously announced but not addressed. He said these are direction for staff on property acquisition; bond counsel on the agenda; information on COGCC and Divide Creek, Corsair Airport issue regarding a lease violation; a road issue and IGA with Rifle and Limbach. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into Executive Session. Commissioner Samson – second. Motion carried.

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

Action Taken:

AIRPORT

Don needs authority for the Chair to sign a notice of default regarding the FBO at the Airport. Commissioner Houpt so moved. Commissioner Samson seconded. In favor: Houpt – aye Martin – aye Samson – aye.

DISCUSSION AND DIRECTION OF RETENTION BOND COUNCIL FOR ENERGY DISTRICT

Don said the board asked legal to explore bond counsel in preparation of bonds and sale of bonds. With that said, there is an engagement letter with the Board and he is asking the Board to consider a motion pending further development, to contract with Thomas C. Weihe of Kutak Rock as an advisory on tax issues but not as full bond counsel. Commissioner Houpt so moved. Commissioner Samson seconded the motion.

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

ADJOURNMENT

Attest:

Chairman of the Board

MAY 11, 2009
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 11, 2009 with Chair Pro-Tem Tresi Houpt and Commissioner Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Chairman Martin was not present.

CALL TO ORDER

Commissioner Pro-Tem Tresi Houpt called the meeting to order at 8:00 A.M.

COUNTY MANAGER UPDATE – ED GREEN

ASSIGNMENT OF THE ASMI CONTRACT TO VAISALA – BRIAN CONDIE

Garfield County received a letter from ASMI to inform the County of an important change. As of January 1, 2009, ASMI has been purchased by Vaisala, Inc. ASMI is looking for consent from this Board for an assignment or transfer of their contract to Vaisala Inc. Commissioner Samson – I move we give the assignment to ASMI to Vaisala for the airport instrument landing system. Chair Pro-Tem Houpt – Second.

In favor: Houpt – aye Samson – aye Martin - absent

APPROVAL FOR CONTRACT AWARD FOR CONCRETE AND ROCK CRUSHING AT THE LANDFILL – MATT ANDERSON, MARVIN STEPHENS, CRAIG SCOTT

This was solicited and publicized with a response date of April 30, 2009. Eight offers were received and a list was provided. Matt is recommending approval to award Overlook Sand and Gravel in an amount not-to-exceed \$137,369.39 contingent upon contractor signature. Matt passed out new sheets for prices adding wood chips; the amount is now \$193,000.00. Commissioner Samson asked if we had a policy about locals and Chair Pro-Tem Houpt stated they need to have a conversation about this. Ed stated they would be changing their Procurement Manual. Chair Pro-Tem Houpt said the community is watching them closely and this was not an issue in the past because of the economy; but it is now. Matt stated in the original RFP they did not include wood chips. Don DeFord – Just so the record is clear, the chips were not included in the RFP. Don asked if they could do as a separate contract and Matt said they could do that. Commissioner Pro-Tem Houpt stated these bids are all over the board, and she is not sure if the chipping would make a huge difference with that spread. Don said there are circumstances you could award to the low bidder and then ask them to modify their contract; however, he stated it is not a recommended process. Unless there is a real need, you should follow your Procurement Code. Commissioner Pro-Tem Houpt recommends they go back to the original bid not the one Matt presented today. Don assumes this operation would be done on site and Matt stated yes. Don asked what form of contract Matt would be using and Matt said a service contract. Commissioner Samson – I move we approve the award of contract for concrete and rock crushing to Overlook Mind Sand and Gravel with no modifications to the contract for an amount not to exceed \$137,369.39 Chair Pro-Tem Houpt – Second. In favor: Houpt – aye Samson – aye Martin - absent

ENERGY ADVISORY BOARD APPOINTMENTS FOR CARBONDALE – MAYOR PRO TEM JOHN FOULKROD

Michael Hassig, Mayor of Carbondale sent a letter to Chairman Martin, Commissioners Tresi Houpt and Mike Samson with his nominations for the Carbondale representative for the EAB. Those nominations are:

Representative	Arthur Rothman
Alternate	Clare Bastable

Mayor Hassig is hoping the Board will support their nominations. Ed stated they do have a resolution pending with the EAB that would not make this a requirement. The issue is there was no representative on the EAB Board for the Town of Carbondale and they would like to be on the board. John Foulkrod– Mayor Pro-Tem, Town of Carbondale and Artie Rothman were present. John stated they asked for volunteers and they came up with two great candidates; he feels they are two strong candidates with a lot of valuable experience. Commissioner Samson asked if the Board appoints these nominations. Don said that several months ago, this was discussed and there is a conflict between the resolution action forming the EAB and the By-laws that were later adopted. The resolution needs to come in front of the Board to conform the processes. Once Carbondale is designated as other towns are, you do not actually appoint that member. You appoint citizen representatives in Garfield County under both the resolution and the By-laws. The individual governments, the towns, appoint their own representatives and simply inform the Board of their representatives such as the letter today. Don stated this was discussed in March and he has been anticipating the recommendation from the EAB. Chair Pro-Tem Houpt said this is an advisory board and we as a Board do not get involved; how do we move that forward? Don stated; it is your advisory board and if you do not want to follow the By-laws then indicate that in a resolution that you are not accepting their By-laws and modify a new resolution. Chair Pro-Tem Houpt said she certainly wants to modify their By-laws. Don asked if they wanted to wait for the recommendation. Chair Pro-Tem Houpt said not if it is going to be delayed by the EAB. Commissioner Samson stated the other cities and towns have already appointed. Why wouldn't Carbondale? Don said Carbondale was never designated as a participant in the By-laws or in the formal resolution. It is the only municipality not included. Chair Pro-Tem Houpt said it was truly an oversight. She would like to figure out how we can immediately get them on the board. She does not think they should wait for the EAB. Don stated they could adopt the resolution that modifies the existing resolution and include the Town of Carbondale as a designated representative. Don anticipates the Board wanted this coming forth from the EAB; but if you do not want to wait for the EAB, you can go forward. Ed stated he recommends the modification of the existing resolution to allow a Carbondale representative. Ed said in talking with Judy and Betsy the EAB has no objection. Don explained with the By-laws adopted last year. He does not see New Castle, Glenwood, or Carbondale. That is the reason he has been waiting to see and he thought the Board wanted to wait to get a recommendation from the EAB on the membership list. Because of these inconsistencies, he asked if they just wanted to deal with the towns today. Chair Pro-Tem Houpt said they just want to deal with the towns today. Don said it does leave the other members in limbo. Commissioner Samson said, we need to let the EAB come to us with their recommendations on their regions etc. I would make a motion we modify the resolution so that all municipalities have voting members on the Energy Advisory Board. Chair Pro-Tem Houpt – Second. In favor: Houpt – aye Samson – aye Martin – absent

Executive Session – Ed Green

Ed stated he had several items for executive session; use of land at the airport, construction near the Mountain View buildings, County Road 306 and the intersection of 306.

COUNTY SHERIFF UPDATE – Lou Vallario

Ed stated Lou called to cancel his items except for the emergency manager item on the agenda. Chris Barnholdt was present. These items would be scheduled for May 18, 2009.

- 2) **A. Fee Increases**
- 3) **B. Mental Health Care Contract Increase**
- 4) **C. DeBeque Marshal Cost**
- 5) **D. Emergency Manager Update - Chris Barnholdt**

Emergency Manager Update - Chris Barnholdt

Chris submitted Lou's 2009 Objectives for Emergency Management and explained those objectives. Ed would like to have them go to training in Alabama, which they can apply for a free two- weeks with extensive training. It really cements the Emergency Operation Center (EOC) as a team. Chris needs a signature for a grant, which they have done every year. Commissioner Samson – I move that the acting Chair be authorized to sign a grant application for the Emergency Management Performance Grant. Chair Pro-Tem Houpt – Second.

In favor: Houpt – aye Samson – aye Martin - absent

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don said he needed to provide updates and receive direction on the Huntley litigation; Vezzoso litigation; the current fairgrounds site and proposal; liability issues at the airport; receive direction on projects on County Road 306 and to provide legal advice; Jean and Don needs to discuss a public hearing concerning High Lonesome Ranch and the Board of Equalization. A motion was made by Commissioner Samson and seconded by Chair Pro-Tem Houpt to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Chair Pro-Tem Houpt to come out of Executive Session; motion carried.

MARVIN STEPHENS – UPDATE ON ROAD AND BRIDGE ISSUES

Marvin Stephens stated last week on County Road 320 the rock wall was removed. On Saturday, they had the household hazardous waste event at the Landfill and it turned out to be a good event. An update on 306 road - on the Wallace Creek side they hauled gravel there, and on the Spring Creek side they have negotiated with the gas company to start paving it soon. The widening of Spring Creek hillside is near completion.

Don said that project is in the hands of the title company and the appraiser. Don has had some discussions with the property owner. Commissioner Samson said he really appreciated all the emails updating them on projects. Commissioner Samson wondered if it was possible to let the County know what projects Road and Bridge have going on. He wondered if in the past they have ever been published. Marvin said he could make a map and it could be put it in the paper and on the website. Commissioner Samson said he thought both would be good. He feels older people do not use computers and are unable to see what is going on. Marvin said one thing that helps is the informational boards. Marvin lets the Board know that Sunday, at the Landfill, they had a power surge and lost their computers. He will probably be coming to the Board for new computers.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Approval of the 2009 BOCC Minutes – January 5, 12, 13, 14 and 20; February 2, 9, 16 and March 16 – Jean Alberico
- d. Authorize the Chairman to Sign Both a Conditional Use Permit in the Open Space (OS) Zone District and a Special Use Permit in the Agricultural/Residential/Rural Density (ARRD) Zone District for the GarMesa Utility Facility, North of Loma on State Hwy 139 – Applicant; Public Service Company of Colorado – Dusty Dunbar
- e. Release of EnCana Reclamation Bond – John Niewoehner

A motion was made by Commissioner Samson and seconded by Chair Pro-Tem Houpt to approve the Consent Agenda Items a - e; carried.

REGULAR AGENDA PUBLIC MEETINGS:

SECURE RULE SCHOOLS – PUBLIC AFFAIRS OFFICER, PAT THRASHER – U.S. FOREST SERVICE

Pat Thrasher, Public Affairs Officer with White River National Forest passed out a handout. He is here today to clear up concerns the Board has about the Secure Rule Schools funding. The handout provides an overview as it affects counties with the White River National Forest for the fiscal year beginning in February 2009. Secure Rule School's legislation was extended to stabilize payments to the counties. In the past, the County has relied on the 25% fund. A change in the Secure Rule School's legislation established three titles for the funding. Title I revenues that go to schools and roads as the former 25% fund; Title II & III - counties have the option of taking up to 15% of their fund and put them towards Title II cooperative projects. Title III is for fire wise planning and other related projects. One provision, if you elect to have part of your funding in Title II, which Garfield County has, it requires the County affiliate with a RAC Advisory Council to review and approve the project for which those funds will be used. The adjoining counties, there were two concerns; one, the dollar amount you are looking at is a relatively small amount compared to the time requirements necessary to form an advisory council and populate it with the required number of individuals. You are looking at \$47,000.00 in Title II for the current fiscal year. They can split out the White River National Forest revenues that come to Garfield County and that amounts to \$47,000.00. That money, under Title II, would require one of two actions by this Commission; either affiliate with the Resource Advisory Council from another forest, or you share acreage. In the case of Garfield County, you have Gunnison National Forest acreage as well as White River National Forest acreage. You also have a small portion of Routt National Forest acreage. The challenge is to look at the cost in both time and money to form your own advisory council for the amount of money that you will actually receive under Title II authority as opposed to working with another participating Resource Advisory Council on an adjoining forest. Those are the options available to you at this time, given you have elected to receive funds under Title II. Chair Pro-Tem Houpt stated that none of these counties are receiving very much money. Why isn't there a White River RAC group? Pat said in our case the Grand Mesa, Gunnison and the Routt National Forest; those two entities have other sufficient interest to form a RAC and Garfield County got caught in-between. Chair Pro-Tem Houpt asked, what interest would they have that we would not have? Pat could not answer that. If these other forests have RACs that stand alone, the Board thought it was important that White River got that same level of attention. Pat said if they look at the spread, in most cases they were dealing with larger sums of money. One of the questions Mr. Green posed was if Garfield County chose to associate with one of the other existing advisory councils would the money allocated to Garfield County be diluted or could it be earmarked to projects within Garfield County. Pat said the answer is yes. He explained there

are mechanisms to allow Garfield County to participate in one of the other RACs; but earmark your funds for projects in Garfield County. Chair Pro-Tem Houpt stated that every one of these counties have White River acreage. She is still confused as why it wouldn't be automatic to add... Pat said they looked at it initially as being able to form a RAC for White River; it would require 15 individuals to form the council. They had adjoining national forests that were willing to pursue that effort. The energy spent by us to bring that group together was probably going to be more than they would realize in benefit. Their recommendation is to affiliate with another county. Chair Pro-Tem Houpt said it would be beneficial if having a RAC to have it specific to that resource. Unless we do some kind of regional RAC, she thinks the White River Forest could get the short end of whatever discussions are made; because we do not have the benefit of a RAC that actually looks at the White River Forest. Pat said he understood the concern and he will convey those concerns back. They wanted to have a regional RAC maybe northwestern Colorado or the West Slope, or something along those lines. They were pursuing that avenue and the other counties went in a different direction. Chair Pro-Tem Houpt said she liked Pat's idea. She does not like the idea of hooking onto another forest. Commissioner Samson asked what the largest national forest was. Isn't it White River and Pat said he believes so but has to plead ignorance. Samson thinks it would be better to have their own RAC. Pat stated at this juncture time is of the essence. They need to work with Garfield County to set the process in motion. We need to have the RAC in place and have some discussion on the projects for the funds by the end of their fiscal year. Projects do not have to be carried out in the fiscal year but the funds have to be tied to the project before then. Chair Pro-Tem Houpt said it is not just Garfield County. Pat stated it is a part of all the RACs. If you look at part of the table, the three White River counties that have ski areas elected to stay at the traditional 25% of revenue sharing. Basically, that is Eagle, Summit and Pitkin Counties. Rio Blanco elected to take their discretionary funds in Title III. Rio Blanco does not need to go through the RAC formation process with regards to revenues. Chair Pro-Tem Houpt stated there is not going to be one RAC for White River and Pat stated at this time; no. Chair Pro-Tem Houpt said it seems to her, if the Forest Service is going to have RACs there is no consistent process being followed for creating them. What good are they going to be? Pat apologized that he is not the best one to answer these questions. He can take these questions back and get answers. Chair Pro-Tem Houpt said they should have met a long time ago. What is the goal of having RAC's in White River; do you see this changing. She is asking for an explanation of the goals. Pat said his answer would be speculative. The authority for the Forest Service to enter into a relationship with the advisory council has existed for some time. Resource Advisory Committees have been formed for a number of different purposes. It now exists with the Secure Rule legislation that they apply the Resource Advisory Council the authority to allow the counties to enter into a relationship with the Forest Service. For example, there is a group called the Region Two Recreational Resources Advisory Council that deals specifically with the establishment of user fees for recreation authorities. Some of the authorities would be rewritten to provide for a Resource Advisory Council to deal with a portion of how the funds could be or would be used. Chair Pro-Tem Houpt stated if we went under another Forest RAC; how would we be communicating with them. Pat said just as you are today. Chair Pro-Tem Houpt asked why they would take that back to a RAC; she is trying to figure out the logistics. Theresa Wagenman said she believes this payment will go away after 4 years. Theresa talked about the allocations for Title II. Chair Pro-Tem Houpt said we are receiving monies specifically for White River. Pat - They would be at the table in an advisory capacity. The authorities are the Forest Service; they sit at the table as the authority. Chair Pro-Tem Houpt asked Pat when you look at the chart do you see one RAC? Pat said their original vision was that they were probably looking at two in Northwestern Colorado and in Southwestern Colorado. Chair Pro-Tem Houpt stated if we make a decision today to attach ourselves, what are we attaching to. Pat said we would be attaching to a RAC, which is still in formation. Even though Grand Mesa is working toward the formation of a RAC, it does not currently exist. Chair Pro-Tem Houpt asked if it would include Garfield, Gunnison, Rio Blanco, Mesa and Routt. Pat said it could; he believes the Routt National Forest has already entered into similar conversations with Routt counties and the other counties to the north. Ed asked if they could extricate themselves from this by simply moving Title II money to Title III. Pat stated, in the current fiscal year he is not sure that is an option available. In future years, it is an option. Theresa stated it depends on how much money you receive. Pat stated Garfield County had an option in Title I by taking up to 15% of your receipts and splitting in a combo of Title II and III. Rio Blanco opted to take it all in Title III and other counties split it. Pat said one option now is to informally communicate with Gunnison or the other counties and see where they are going. Time is of the essence; we need to make a decision to move forward and obligate to a project. It does not have to be carried out. Chair Pro-Tem Houpt felt if Mesa County has their own RAC, there is no reason Garfield County should not have their own and Commissioner Samson agreed. Pat said the RAC they are working towards would be a multi-county RAC. Chair Pro-Tem Houpt said they have two options; to form a RAC or tag onto another RAC. She feels they need a representative to work on this with staff and the Forest Service. I would make a motion that Mike Samson be the representative to work toward a final recommendation in creating a RAC; working with our administration, legal department, and the Forest Service and figuring out the best way to approach this.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - absent

2009 PLAN UPDATE FOR NOBLE ENERGY – DIRECTOR OF GOVERNMENT RELATIONS, STEPHEN A. FLAHERTY

Stephen presented a power point presentation. It is difficult to plan this year and they have built a number of variable factors in to accommodate the economy. Recently they had a very large discovery in the Mediterranean Sea and West Africa. He covered three topics: 2009 Planned Activity, Environment Health Safety Program, their Rulison Sampling and Analysis Plan. They plan to drill 42 wells; currently they have 2 hp flex rigs operating and they will complete 45 wells from 5 pads. Their capital budget for the program is \$96 million dollars; their LOE expenditures are \$24.4 million and approximately \$3.39 million ad valorem taxes. Chair Pro-Tem Houpt asked about the operations in 2008. Stephen said they had significantly cut back and obviously, it was a different economic environment. They still see Garfield County as a growth area. In Colorado, Weld County is probably the number one producing area, then Piceance. Stephen talked about their whole Global Management System. They are committed to conducting business in a manner that protects the environment, health and safety of all employees and the public. Chairman Pro-Tem Houpt appreciates their principles and asked, where are the five pads located that they are planning on working. Stephen said the Rulison area. They have not been constructed probably in design; but he can find out. Chair Pro-Tem Houpt stated because of that area these principles are very important. Stephen said they do not want to meet standards; they want to beat them. On the Rulison analysis and sample in 2007, they worked with stakeholders and the final sampling was presented to the COGCC in January 2008. They

adhered to the additional COAs; all the sampling and all the results came back that everything was operating as expected. They will continue to monitor and comply with all the recommendations in sampling. In 2008, they drilled 21 wells in a three-mile area of Rulison. In 2009 and 2010, they will primarily develop the area from one to three miles. Commissioner Samson asked if they thought the Department of Energy was working well with them and Stephen said they are working as well as they could. Commissioner Samson asked, since the Commissioners sent a letter has there been any communication. Stephen said they stand ready to help them any way they can with DOE; he is not sure. It is hard for him to characterize; the DOE does not have the same enthusiasm about what is going on here. Ed feels they are using Stephen as a canary. What remediation techniques do you have? Stephen said it is an emergency response plan, which is standard for this type of operation. Today they are announcing they will not drill within the ½-mile radius until 2010. It will give them more time to collect data and work with the State. Stephen believes they can do this in a safe manner and SAP has provided that. Carolyn informed Stephen we need a CD or printout for public access and Stephen will provide the information.

WEST GARFIELD COUNTY VETERANS MEMORIAL – CHAIRMAN VETERANS MEMORIAL, JOHN SCALZO

John passed out a handout. The American Legion Post #78 in Rifle is planning to erect a new addition to the present memorial located at the Rifle Veterans Memorial Park. The names on this memorial will be from the areas of New Castle, Silt, Rifle and Parachute. These names will be from the Civil War to present and include both living and deceased. They are also including names of those veterans who moved into our area. At this time they are asking for donations to pay for the stones they will be engraving, and they need to raise \$40,000 (for 4 stones) to complete the project. Each stone will carry approximately 250 names. Their cut-off date is July 31, 2009 to order the stones. They have raised \$22,034.00 from private individuals. Commissioner Samson – I would like to make a motion for a budget supplement to help the Veterans Memorial in Rifle for \$10,000.00. Chair Pro-Tem Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – absent

COMMENTS FROM CITIZENS NOT ON THE AGENDA

Mrs. Linda Dixon representing, the Dutton family, stated she wanted to talk about the road issue on County Road 306. Sunday, people were driving around the barricades and they claimed they had permission from the County. They are telling the County they need to access an irrigation ditch; there is none. They heard from a Noble representative several months ago that they needed to do some water diversion. 306 is a loop road and apparently, Noble did not want to contact the appropriate regulatory agency. We have not verified that and she will contact the appropriate regulatory agency to see if they have permission. Don said he has had no direct contact; all of Don's information came from Chairman Martin. Linda said she was just here to relay this information and encourage the County to go forward. The road has been closed for eight months and everyone is frustrated at the slow pace. Linda asked if the Board could give any timeframes. Don said the question is for Ed; Ed said he did not have any timeframe. Don stated Jeff is still working on an engineering plan. Chairman Pro-Tem Houpt said legally everything is in place; we are just waiting to hear from our engineer. Linda said if it does not happen while the weather is good; they are saying they can re-claim the road. Don said he did get a verbal communication from one of her attorneys; they talked with Linda and established that it was all right for some members to access an irrigation ditch. Linda said that was the divider box. This past weekend they did not go into the ranch to work on any ditch or divider box. She stated it feels like the irrigation issue was used to gain access through there. Don said what they need to do is get closure on the design. Chair Pro-Tem Houpt said they would be keeping the barriers up. Linda said she would like to see that it is made clear; the road is damaged and is not safe for public travel and to be careful. Don said he would relate this to Commissioner Martin.

EXECUTIVE SESSION

Chair Pro-Tem Houpt stated they needed a motion to go back into executive session and Commissioner Samson seconded. In favor: Houpt – aye Samson – aye Martin – absent

Chair Pro-Tem Houpt stated they needed a motion to come out of executive session and Commissioner Samson seconded. In favor: Houpt – aye Samson – aye Martin – absent

COMMENTS FROM CITIZENS NOT ON THE AGENDA

Jean Alberico talked about the second part of the FASTER Bill (Funding Advancement for Service Transportation and Economic Recovery). There has been a lot of publicity about the first portion of this bill. This bill was passed in March, which raised license fees for maintenance on roads and bridges in the State of Colorado. Those increases and fees will take effective July 1, 2009. The second part of the Bill takes effective June 1, 2009. The County Clerk's office will be required to charge a mandatory late fee if you have an expired registration or expired temporary permit. The late fee will be \$25.00 per month up to a maximum of four months or \$100.00. Jean wants to encourage people; if you have camp trailers, trash trailers, a boat trailer, or a vehicle and you have not decided if you are using it, you must get it renewed by June 1 or there will be an extra \$100.00 to the registration fee. Jean ordered a large number of voters' pamphlets with all the elected officials from the President down. It has mailing addresses, e-mails, etc. Chair Pro-Tem Houpt said there was a blue ribbon panel that came up with many different avenues to create a fund for maintenance and safety for our highway infrastructure. Other ideas would have been more impacting on our citizens. We want to know everyone, the roads and highways, will be in a safe condition and CDOT lost a great deal of funding. Jean stated there was an excellent fax sheet available on www.coloradofaster.com and it talks about increases and what this Bill will accomplish.

CONSIDER A ONE YEAR EXTENSION TO AN APPROVED PRELIMINARY PLAN FOR VALLEY VIEW COMMONS SUBDIVISION – APPLICANT; DARTER, LLC – DAVID PESNICHAK

Terry Lawrence – President, Chris Hale, Mountain Cross Engineering and Chris Norris, from Grace Homes were present. Monday, May 19, 2008, the Board of County Commissioners approved the Preliminary Plan Application for the Valley View Commons Subdivision (See Resolution 2008-72, Exhibit C). This approval with conditions entailed subdividing the 7.9-acre property in Battlement Mesa into four lots to accommodate 56 residential multi-family dwelling units and potential future self-storage units. This approval provided the Applicant, Darter, LLC, 1 year to file a final plat application to Garfield County, which will expire on May 19, 2009. As you will note, Darter, LLC has graded the site under a grading permit obtained from Garfield County on September 4, 2008. In accordance with this permit, the Applicant has provided the County with a Letter of Credit in the amount of \$106,000 to allow the County to re-contour the site to original conditions should the development not occur. The property owner requests the Board grant a 1-year extension to file the Final Plat, which would expire on May 19, 2010. Staff recommends the Board grant a one-year extension to the property owner to file the Final Plat prior to May 19, 2010.

David stated they would like to have two conditions; one, the letter of credit be extended and two, the site be put hibernation so the soil will be stabilized from water and wind erosion. The site has been graded in September 2008. John Niewoehner stated the applicant would like to see the letter of credit reduced. It is the opinion of staff that the letter of credit is for the reclamation of the site. Having done the grading does not mean there is no justification returning back to the letter of credit. Chair Pro-Tem Houpt asked if there was any concern leaving it un-reclaimed for an additional year. John said they have done a good job on erosion control. They do not want them to move topsoil overtop and then have to remove it again. He is recommending a substance sprayed on top so the dirt would not blow around. David said this is visible from Battlement Village and it is not a big visual concern. Chris stated they have read the staff report and are in agreement with everything except the grading permit security. They met with staff on site; number one they did have a development loan approved for that site and the bank pulled it because of economics and they were literally forced to stop by the bank. It is an excellent piece of property and it was going to provide affordable housing in Garfield County. They have a five-year history of building in Battlement Mesa. They are in search of a new lender and they own the land, which they have no other entitlements on. They do have a \$106,000.00 letter of credit securing a lot of work that has been completed already. He has agreed to do additional work to stabilize the site so there is no blowing dust etc. This process costs \$10,000.00 to \$15,000.00 per year. Right now, they have completed well over \$60,000.00 and he has the engineer's estimate with him if the Board would like to see. About \$30,000 to \$35,000.00 was spent to vegetate portions of the site in the event no public construction happened. About \$60,000 was spent on engineering work for grading the site to its present condition. They will take care of the site and keep it stable over the 12-month period of extension. What they are asking for is a partial reduction on the letter of credit. This helps him get new additional financing for the project. Chris stated their goal for re-vegetation is for it to be back to the preexisting condition; they will not walk away from the site. At present, the grading permit is not tied to the preliminary plan. This condition would bring the grading permit and its security within the preliminary plan approvals. David said the security in place is for exactly the situation they have found themselves in. Regardless whether the economy falls apart; it is to bring the property back to its original configuration. We do not have an issue tracking the grading permit or the letter of credit along with the preliminary plan as long as their original expectation of this development has already been approved. Chair Pro-Tem Houpt asked if David had those two conditions. David stated they were not in this report. Essentially, it is allowing the extension of the preliminary plan conditionally upon the 1-year extension of the existing letter of credit. Deb Quinn said the last piece of this final plat entitlement requires an SIA and that is the time to get the credit for the work done. If you cannot finish the project, we can put it back to the way it was. Chris Hale said the intent to him was to guarantee under the grading. Deb said that was a misunderstanding on your part with the grading permit and restoration. Chris said what would help him solve his problem is to reduce the bank commitment. He wanted to know if they could offer land as collateral. Deb said they have not seen that proposal. Chris stated he has done this in other jurisdictions and is offering as a lien. Chair Pro-Tem Houpt said they have done different types of collateral in the past; but she would want the legal staff to be able to put this in a more formal presentation. Today we could approve the extension with conditions and work with staff to come up with an alternate... Chris said the conditions did not sound clear to him. He is worried if there are real general conditions and then the County says do this and this... and all of a sudden it becomes really expensive. Chair Pro-Tem Houpt said one condition would be to extend the letter of credit; the second condition would be to do site hibernation treatments. John said they would need to spray the site, apply mulch to the top of the tack fire and irrigate slopes facing Battlement Mesa Parkland; run all runoffs toward the existing basin and build temporary sedimentation traps below the site; lower the height of the soil stock piles; lower the height of the landscaping rock piles; maintain silk fences; and remove old wood on site. Chair Pro-Tem Houpt asked if they would, have this brought back through the consent agenda and Deb stated if the applicant submits a substitution of security, they will need to bring it back. David said the current letter of credit expires Sept 1, 2009 and any new security needs to be put in place before that date. Chair Pro-Tem Houpt – I make a motion we grant the 1-year extension to the final plat to a date of May 19, 2010 for the Valley View Subdivision in Battlement Mesa with the two conditions presented by staff; a letter of credit and if there is a substitute and the existing condition. The second condition would be for the applicant to follow through with an erosion control as discussed; mulch on top, tack fire, seed and irrigation on the slopes facing Battlement Mesa, route the appropriate run-offs as discussed, lower dirt and top soil piles, and remove tires and whatever other materials deemed rubbish on the property. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – absent

PUBLIC HEARINGS:

CONSIDER A REQUEST FOR A TEXT AMENDMENT TO THE ASPEN GLEN PLANNED UNIT DEVELOPMENT (PUD) PHASING PLAN – APPLICANT; ASPEN GLEN GOLF COMPANY – FRED JARMAN (APPLICANTS REQUESTED A CONTINUANCE OF THIS HEARING FROM APRIL 20, 2009)

Fred submitted an e-mail from Lawrence Green, Balcomb & Green, indicating that his clients would like to withdraw the present application and to vacate the hearing scheduled for this meeting. The applicant has directed Mr. Green to submit a new application that requests an extension of the phasing plan, an extension of the vested rights granted to the Aspen Glen PUD and an extension of the approved preliminary plan as discussed with Fred Jarman and Debbie Quinn on April 8, 2009. Mr. Green expects to submit the new application within the next couple of weeks. Deb explained the applicant has withdrawn the application and will submit a new application.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**MAY 18, 2009
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 18, 2009 with Chairman John Martin and Commissioners Tresie Houpt and Mike Samson present. Also present were County Manager Ed Green, 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.

EXECUTIVE SESSION – NECI ADVISORY BOARD – BLOCK GRANT APPLICATION; CODE VIOLATIONS

Don stated that he wanted to go into an Executive Session in regard to a morning item under the County Manager's time in regard to the award of NECI Advisory Board recommendation regarding a Federal Block Grant Application. He needs to provide legal advice on the contract; and Cassie Coleman has pending violations cases and this issue needs to occur early as it involves potential code litigation. Commissioner Houpt made a motion to go into executive session. Commissioner Samson seconded; motion carried. Commissioner Houpt made a motion to come out of Executive Session. Commissioner Samson seconded the motion; motion carried.

Action taken:

Don would like the Board to authorize the legal department to proceed with judicial enforcement through enforcement and penalty assessment proceedings against North Bank Holding as it concerns failure to obtain a major impact review permit. Commissioner Samson so moved. Commissioner Houpt seconded.

In favor: Houpt – aye; Martin – aye; Samson – aye

COUNTY MANAGER UPDATE: ED GREEN

REQUEST DESIGNATION TO WAIVE OPERATOR REQUESTS FOR INCREASED SPACING – JUDY JORDAN

Judy Jordan stated she was here a few weeks ago with Bill Barrett Corporation and their request to increase the drilling spacing unit that they had just by waiver. This was about 3-4 weeks ago and they had a designation under order from COGCC that there were only well pads they could put within a given area under the order. The company was restricted by some of the infrastructure that remained on the pad from a previous owner; they have asked if they could build another pad. They had to get a waiver from the County to do that. Judy projected some of the maps for the Board that showed where the pads were and explained the restrictions they were under and why they needed to build another pad. The Board of County Commissioners then okayed that waiver basically allowing BBC to construct another pad so they could proceed with drilling. The question was, when BBC first approached Judy about that waiver, they were hoping to proceed the next week with having built this new pad. Judy could not give them that waiver because she did not have the authority to do so because the Board had not delegated that authority to her. Their understanding was that I could give that waiver to them as the Local Government Designee (LGD) because that was the practice previously. Under a prior board the authority to give a waiver under those circumstances, which is actually a variance where they were pinned in and not able to proceed with drilling just because of some type of a logistical constraint. They had previously been able to obtain the waiver quickly from the LGD; but because we had not had the new Board delegate that authority to Judy, she was not able to proceed with the waiver. The question is, whether the Board wants to go ahead and delegate this kind of authority strictly for these kinds of waiver situations where there is a density issue for a number of pads of that kind that does exist in a certain area. Commissioner Houpt – Isn't that for every situation. It is basically putting that decision to make any kind of variance on the number of pads you could have in the drilling field. Judy said yes, it would be for the density of the pads. Commissioner Houpt believes there are many land use questions and if we did this, I would want to make sure that you would bring that before you make variance decisions bring back those issues that are in residential areas or other unique areas that would be impacted by having another pad. It's very difficult to predict what kind of requests would come forward. Chairman Martin – And since this was a special field order on the first one and the neighbors were protesting that is why it came to us as well. There was a study and many other things that went along with the hearing. This was when the new pad was discussed, when they had four pads even though they bought the property the owner still said only four pads. The owners of the adjoining property also had an issue with that. Even if we gave you the designation, which could still have the hearings in front of this Board, we would make that determination to ratify your decision one way or the other. So, why not just bring it to this Board the first time. Commissioner Houpt did not remember this presentation. Chairman Martin this was underground spacing. Commissioner Houpt – If we made a decision previously then she did not understand why Judy would not be able to carry that forward. Commissioner Samson said she did for that one. She is asking for authority in the future. This one is already taken care of. Judy – The only reason do this is the timing. It would take 2-weeks to get on the agenda and the problems mapped out so she could describe to the Board what is being requested. That would be assuming there isn't a fourth Monday involved. Otherwise, it would be at least 3-weeks before she could appear before the Board. Under those circumstances, BBC was looking for a waiver request within a day or two, as they wanted to drill. Commissioner Houpt would think we needed a written policy before we changed that designation because if there was a pad that the neighbors wanted to protest, this is their opportunity to do that and that should not be eliminated.

Commissioner Samson – Isn't that how it's been done this in the past and you are asking for an extension of that authority and Commissioner Houpt wants a change in the policy. Commissioner Houpt – I assumed that those would come to us. Chairman Martin – No. Commissioner Houpt – Yes, because we were supposed to be receiving these. A variance can be very small or it can be very large. We did not have a formal policy. That is why Judy is here today. That said the LGD could make those variances without coming to the Board. Commissioner Samson asked Judy if she was given this in that past or was it just assumed. Judy – It was not personally given to me, but it had been given to the LGD before I arrived and continued once I was in that position, but yes, the previous Board had delegated that authority. Commissioner Houpt – Do we have that on paper? I would really like to see these policies. Judy – The reason I know that Commissioners is that Don told me that was in the duties. Commissioner Houpt asked if we have that as part of our policy. Don – Is it written? Commissioner Houpt – Yes, because we really did not receive anything on this. Don – I think when it did occur, if you pull the job description is it on there. I would have to see it to make sure. Commissioner Houpt – I think what would be really beneficial is if you pull the job description, you guys came up with some policy proposals on how you believe – I don't want to stand in the way of you doing your job, but I want to have a policy so we're all on the same page here. And have that come back because I think it would be premature to make a decision. Don suggested pulling the minutes because at the time the position was created, which is now a few years ago, there was an extensive public discussion of the position and the job function and I remember distinctly that this came to the Board to establish the job description for this position. Now, I need to see those minutes and job description to see if this specific issue was addressed but it should have been included in that because the Local Designee position is one that is established in state regulations and so we had to address that. Commissioner Houpt – And, I don't disagree with that but sometimes I think there

are larger land uses that go along with that and so with our new Land Use Code our director of building and planning can make a decision on what can be administrative and what should come to the Board. I am thinking that maybe that is the same type of call that I would expect Judy as the LGD to do that as well. Some of the decisions would be easily administrative but I would really like a more formal vision. Commissioner Samson thinks he may have seen this but was not sure. Commissioner Houpt wants to have all the information in front of us and a discussion before we change anything. Chairman Martin voiced his concern saying you are dangerously close to a conflict of interest in reference to sitting on the Board and setting policy for the Oil and Gas Liaison for the County, making these determinations and then making policy and decisions for the state. You have to be very careful on that – it is getting close. Commissioner Houpt – I do not think so. Chairman Martin – In my opinion it is and I think that you need pull in your horns a little bit there and to say hey, am I on the County board to make these policy changes and change the job description to match the state or if you're on the state and making decisions on oil and gas. Commissioner Houpt – I think we're all partners in trying to regulate energy development together and what I think is important as a County Commissioner is to make sure that we are looking at the land use concerns and I have a great deal of respect for Judy Jordan and the job that you do as a liaison and I think this is really key to how we precede as County Commissioners on land use issues. Chairman Martin – My point exactly, you either need to be a state or a County Commissioner. Commissioner Houpt – Well, I am only on the commission because I am a Commissioner, that is the way – it's a local official on this board and I don't think that is part of this discussion. Chairman Martin – It is to me. Commissioner Houpt – What I am requesting is just more information so we can be clear in case there are other questions that you have. However, I can see how most probably 90% of the times, it would be an administrative decision. Judy – One of the things, I bring this to you not because I necessarily want to make those decision and wrestle on who makes that decision. Really, the question to this is on, it takes more time for the decision to be made at the Commissioner's level which is an inconvenience to the operators and so I'm bringing this to you really just in my duties in terms of considering what they have to contend with to get their drilling and their acquisition done. Therefore, the one side is what the time is for them and whether there is a hold up that is involved in terms of bringing the question to the Board of County Commissioners. The other side is if it is made an administrative decision then it is the operator and me sitting in the office looking at the logistical constraints that they are facing, which would be the same things that you would be looking at but it would be done publically. Therefore, those other neighbors would not have an opportunity in the same way to voice their opinions and concerns. I think it's a balancing act that you might want to consider in terms of what's the inconvenience to the operator versus what's the opportunity for the public to have some comment on it and to me. I can see it both ways and that is why I put the question to you where you would like to have the answer lie. Chairman Martin – With the new rules and regulations the neighbors would have an opinion and they'd be able to voice that opinion and call for an on-site inspection as well as intervention by the County by voicing that view which you would bring to us, show that and we could intervene. Yes, the neighbors are going to be there, yes; they are impacted, yes; the new rules and regulations allow that to happen; and so if it's in the job description we need to continue the policy, it's worked for as long as the job has been there, all you have to do is call it up like you've done before, say, there's a spacing issue in this, shall we go ahead and talk about it or not. You have made those calls before. Jesse did that; before that, the other three LGD's did and it worked very well and if we have a real contentious item, it comes up anyway and we can go ahead and have our hearing. Commissioner Houpt – But, we just need to make sure and as part of the discussion make sure that Judy is communicating with the surrounding landowners too, to know if it is something that should be called up, so, that has to be a big part of that as well. You meet with the industry but you also make sure that there is no concern from the public. Then, that triggers a hearing. Commissioner Samson – So, Judy do you feel good about coming back next time and we could have a copy of the job description so I could actually look at that and decide what is in that. Chairman Martin – We'll consider the designation officially until we read those rules and regulations and will come back and make a determination if we need to change that or not. Don - Based on my memory of that, you might want a copy of the minutes adopted as well because there was a long discussion of the position.

FOLLOW UP ON RULISON LETTER TO REPRESENTATIVES – JUDY JORDAN

Ed prefaced this as the letter to all the Congressman and Senators. Commissioner Houpt stepped down. Judy Jordan presented the letter that John Martin signed to all our congressional delegation describing the rules and problem and asked for congressional inquiry. I just wanted to give you an update about that. It was sent April 6 to the Washington offices of our entire delegation as well as the Energy Department Secretary Steven Chu. I did call each of the staffers and Secretary Chu's office to follow up about two weeks after the letter was sent. Of those, I was not able to talk to the staffers of most of those offices, only two did actually return my call. That was Senator Bennet's staff and Representative DeGette's staff. Right now, I have not heard any reaction from them or from any of the others who I did call. This has been over a month. Commissioner Samson asked what the reaction was from those two that did call. Judy – Jerry Otero from Senator Bennet's office remembered the rules in the blast site and remembered the controversy about it. Neither of them expressed any kind of an opinion. I had heard along the way in talking with whoever answered the phone when I was trying to reach a staffer responsible for the issue or from one of these folks that Senator Salazar had believed, since we are in his district but heard nothing from Representative Salazar's staff. Chairman Martin had breakfast with him, his chief of staff, and the staff of Colorado. They did not know anything about it and I mentioned it and discussed it at length. They said they would get back to us. That has been three weeks. Judy – That was after the letter was sent. Chairman Martin – Yes and I even asked did you receive the letter, chief of staff and the Representative said no, we haven't seen it so it's somewhere in Washington. And the answer is they'll get around to it. Also, they talked to Dr. Chu, said I know Dr. Chu and I'll talk to him and get back to you. It has been three weeks, getting close to four weeks. So, the process moves slowly as did the initial project in 1969 and we still have to file a report; it is in progress. Things move slowly in Washington. We will get it by the end of the year. Ed – The thing that is most disturbing is that DOE already has their response prepared. Chairman Martin – Mentioned this to all their chiefs of staff – it's a hot potato and they don't want to touch it; it deals with the national policy and energy and they're trying to determine if they are going to suppress energy or if they are going to continue to import energy. That is basically what they said. Commissioner Samson – What is the purpose of the letter so that everyone's on the same page. Judy – The purpose of the letter was to draw a congressional inquiry to look into the Department of Energy's policy with regard to Rulison and ask them to perform an appropriate study that actually gathers data from the blast site, not data that's three miles away from the site that tells us nothing about what's happening at the blast site itself and then to really use appropriate data to make

a determination of what the safe cell would be for drilling around the site. Chairman Martin – In one of the comments, made by the chief of staff for Salazar they should be on top of this, they should be the ones making the inquiry and pushing the rules in place, they are the ones that have the control of the permits – well, I said, they’re waiting for you. They said they should have been active a long time ago. They are shifting the blame. They control the permit.

SCHEDULING ITEMS – COGCC AND WEST DIVIDE SEEP ISSUE

Don mentioned two things: Scheduling items, just to make sure that the Board is aware that generally an issue of the rules has been set for discussion in front of the COGCC. This hearing will be July 14th and 15th meeting in Garfield County. In addition to that, Don has also been informed they will consider the West Divide Seep this year and re-occurrence of seepage in that area as part of their meeting. Commissioner Houpt confirmed the COGCC will be in Garfield County on July 14th and 15th but she did not know the location.

Don said there were debating over whether it would be in Rifle or Glenwood Springs they have not found a site yet.

DISCUSSION OF GNECI ADVISORY BOARD RECOMMENDATION REGARDING A FEDERAL BLOCK GRANT APPLICATION. – ALICE LAIRD

Jim Rada and Alice Laird were present.

Ed – We had notification that DOE has provided Garfield County with a \$227,000 grant and it comes with some strings and a lot of administration. Jim said they have found just how difficult it is to apply for stimulus money and we are working on a proposal, met last week with G-NECI the advisory board to run some thoughts by them as to what direction we might want to go in terms of our plan and strategy. In the packet today is what Alice has developed and she will present. Alice Laird submitted a memorandum to the Board regarding the request that the G-NECI advisory board discuss possible approaches for the EEC Block Grant application. The meeting held on May 13 yielded the following topics for the grant application:

- U.S. Department of Energy criteria, or jobs created or retained;
- Energy savings per dollar invested;
- Renewal energy capacity installed;
- Green house gas emissions reduced and
- The funds that this Block can leverage.

The advisory board discussed the block grant at their previous meeting in April and again in May. The feedback today is it would be great if we can build on existing programs that are already in the works through the New Energy Initiatives so we’re not creating something that’s redundant or going off in a new direction. The specific area that they suggested to be focused on was helping households and businesses save money on energy through increased access to information, audits, technical assistance and financing. Specifically within the existing initiative there are several programs and projects underway or planned that would tie into this concept. One is the concept of a one-stop shop audit finance source. Heather McGregor has already started the website for that which will make it more convenient for households and businesses to get access to information. Another concept is to develop a clean-energy loan fund utilizing the Manaus loan funding pledge of \$250,000. When the grant was put together, we went to the Manaus fund to see what role they might play and they pledged \$250,000 of funding for some kind of clean-energy financing so we could build on that. Another option is the USDA has offered \$100,000 grant opportunities that Heather is pursuing for small business audits. So there’s a lot of existing projects in the works but we could use this block grant to build on supplement programs even more. Just last week the Governor’s Energy Office put out this plan that identifies how they are going to be spending their \$40 plus million dollars throughout the state and a lot of these programs tie directly into what we are doing as well; so, we’re in close communication with GEO to make sure what is proposed at the County level again compliments these programs and supports it and creates a local delivery system. Within that context of the overall deal, the energy criteria projects programs that are committed in the initiative and the DOLA contract and additional funding sources that could be used to leverage the concepts that we’re pursuing are the actual funding of that program, the on-going County delivery system, rebates and audits to supplement to utility programs that in the works. There is a huge gap in terms of solar hot water, there are not a lot of financial incentives for solar water and that is one of the most cost effective opportunities out there. Combined with the Manaus loan fund pledge to end banks that are interested to grow that clean-energy financing source provide low interest or no interest loans and if possible actually focusing on the solar hot water heating component. The actual budget breakdown of this program is that we need to be working closely with GEO. A lot of what they announced last week could make some of the things already covered within the state program so the actual budget breakdown for the \$227,500 for this block grant; we will need more time to work closely with GEO staff to figure out if it’s mostly on the revolving loan financing side or it’s more the pure information side but there’s a lot of opportunities and GEO is working closely with us. Their real deadline is June 25 and they are recommending we get it in earlier than that date. It is a real issue of how soon we can get through all this paperwork that is on the website. Commissioner Houpt asked, is this an update or do you need something from the Board today. Jim – More of an update – we just wanted to let you know that this has been presented to the advisory board and they have sent it forth for detailed discussion and will bring back the final proposal to this Board as you will be the ones receiving the money. Is there any objection to the direction we are going or concern? Chairman Martin – I just don’t think we need to go ahead and ask for stimulus money, it’s my principle and I think we’re over spending our taxpayer dollars. We are also in conflict with the Department of Energy as you heard in the discussion prior to this and now we are asking for them to go ahead and give us a block grant while we’re asking them to go ahead and settle something. I think we’re kind of hipped. I will not be too critical of this but anyway we want it both ways. In addition, I do not think we need to do that and again, seeing this package today is being gullible and the strings attached are just unbelievable. I do not like federal money anyway. So, that’s my opinion. Commissioner Houpt – I love what you have put together and I look forward to hearing how you want to break that out and think it is a wonderful opportunity not only to help people in our community to save money but also to keep people working. Chairman Martin – And we need to do that locally without the federal government; we need to take care of ourselves and not ask the federal government to help us out. Everything else is okay, Jim, programs and everything else but just asking the federal government for money goes against my grain. Commissioner Houpt – But I think if you look at the various different opportunities, this is not the only program in Garfield County with stimulus money. So, it’s a package. Chairman Martin – It’s only my vote. Commissioner Samson – Okay, let’s go forward.

COMMUNITY CORRECTIONS SUBCONTRACTS – RODNEY HOLLANDSWORTH

Randy Hollandsworth was present. Randy submitted a copy of the sub-contract for services between the Garfield County Corrections Board and San Luis Valley Community Corrections and (SLV) and Intensive Residential Treatment (IRT) program for the period between July 1 and June 20, 2009 with Department of Justice. He explained the late contracts saying there was not a place by the state to have them until they now ran out of money and they are looking to cover themselves. They want all the facilities to have these subcontracts with each other. The contract we have with the state runs from June to July. Commissioner Houpt – These are all from last year so what are we approving this year? Don DeFord stated both Patti and he have looked over these contracts and had some of the same questions on the timing element. Everything can be appropriated and paid for out of 2009 budget for the County. Carolyn was informed of this and realized that this signature had to be ratified by the Board and it had never been authorized. That is why it is back in front of the Board today. Because of the timing on those, we need to make sure that Community Corrections and finance are on the same page in budgeting and appropriations. The Board reviewed the contracts. Commissioner Samson – I would so move that these contracts be approved for ratification. Commissioner Houpt second. Chairman Martin asked how many Rodney had in the program. Rodney stated sixty (60) beds.

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

Commissioner Samson informed Rodney he would be calling in the future to have a tour of the Community Corrections facility. Rodney stated he would welcome that opportunity.

DISCUSSION AND APPROVAL FOR THE IGA WITH GLENWOOD SPRINGS FOR IMPROVEMENTS ON 27TH STREET AND MIDLAND – MATT ANDERSON

Ed stated that a few months ago the Board approved participation in a project at 27th street and Midland. This document, IGA, codified the original agreement. This is for the roundabout. Matt Anderson and Don DeFord were present. Matt submitted the agreement, which was originally drafted by Glenwood Springs and reviewed by the legal staff where changes were made based on recommendations. Matt recommended approval for signature of the Chair of the IGA with Glenwood Springs for improvements to 27th Street and Midland contingent upon Garfield legal review and the signature of Glenwood Springs. Matt expounded on the contents in the IGA calling attention to the following: The City shall be the contracting party for the project and is hereby designated the Project Manager for the project. The City Manager representing the project will utilize City procedures regarding contractor selection, which it believes is most suitable to construct the project. The City shall be solely responsible for awarding any resulting contract for this project. The City is also responsible to appropriately address any conflicts regarding contract performance. The City is also responsible to approve privately resolve any other conflicts concerning other participants (private developer) and develop appropriate consequences if other parties fail to contribute or participate. In addition, the City shall maintain all necessary records to demonstrate compliance with the provisions in this Agreement, which records shall be available to the County for inspection at all reasonable times. The City shall provide the County with a monthly progress report for the improvements at the intersection of 27th Street and Midland Avenue for the purpose of determining compliance with the provisions in the agreement. The payment of the County will be \$200,000 for the purposes of this agreement and paid upon execution of this IGA. Changes were made to the IGA and the City has looked at these and approved the changes. Don – The form of agreement did not include Exhibit A. Matt addressed the detailed drawing and plans however; he left out the detailed layout so he will bring it back to the board. Commissioner Houpt – Wanted to see the specifics about what the money will be used for. Matt said he would give this to Don before we proceed. Don – The Board knows the project and what they are funding. Commissioner Samson made a motion to approve for signature of the Chair of the IGA with Glenwood Springs for improvements to 27th Street and Midland. Commissioner Houpt second.

In favor: Samson – aye Martin - aye

DISCUSSION AND APPROVAL FOR CONTRACT AWARD FOR CARE FACILITATION SERVICES – MATT ANDERSON

Matt Anderson, Jim Rada and Don DeFord were present. Matt submitted the contract for the Facilitation/Project management of the EPA CARE grant environmental health assessment and associated stakeholder process. He recommended approval of the contract to Royce Arbour, Inc. for a not-to-exceed amount of \$54,370.00 contingent upon contractor signature. This is paid for by the EPA grant. Commissioner Samson made a motion to approve the contract with CARE and approval of the contract to Royce Arbour, Inc. for a not to exceed amount of \$54,370.00 contingent upon contractor signature. Commissioner Houpt second.

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

DISCUSSION AND APPROVAL OF 2009 LEASE FOR LOVA – MATT ANDERSON

Ed stated we provided funding for the LoVa trails and also provide funding for their lease. This lease agreement requires them to pay us the \$3,710.00 and this is before you today. Matt Anderson and Don DeFord submitted the lease agreement for LoVa for the year 2009. The term of the agreement will be from January 1 through December 31, 2009 for rent in the amount of \$3,710.00 annually. Matt was asked at a previous Board meeting to bring the lease back. This is the same lease as last year. It is the same square footage. One other question, last time we had discussed if there would be a need for the MOU for \$100,000.00. Finance discussed this and agreed a contract was needed and we would add a comment for the MOU is that a statement that Garfield County Finance Department will invoice LoVa for \$100,000.00 payable when required but no later than the 31st of December. That was the direction received and Matt said he could not remember if this was previously discussed. Chairman Martin – This is money we distribute for both for the trails, etc., and we budgeted for it. Commissioner Houpt suggested this could be a consent agenda item. Commissioner Houpt made a motion to approve the lease between the Board of County Commissioners and Lower Valley Trails Group as presented. Commissioner Samson second.

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

DISCUSSION AND APPROVAL FOR RECOMMENDATIONS ON CONTRACTOR SELECTION FOR THE DESIGN/BUILD OF SHERIFFS ANNEX BUILDING – MATT ANDERSON

Ed Green, Lou Vallario, Randy Withee, Matt Anderson and Don DeFord submitted the contractor selection for the design/built of the Sheriff's annex building in Rifle saying three proposals were submitted and based on interviews and evaluation a final selection was made. Today's presentations will be made for the top three: CMC was the highest scored among the three with a score of 706.25. We are not here today for the contract award and need to continue discussion and will come back for actual contract award. Lou, Randy and Matt presented the proposals. The process was explained fully to the Board. Lou was very impressed; the proposals had very good ideas and it was a great process. Today we are asking for approval to go forth with the CMC firm to negotiate a price and come

back. During the interview process, CMC had a well-documented proposal and has a record of subcontracting with local folk - 90% in the past. Out of the top three proposals included in the review process, CMC had the best option. We would like to proceed. Commissioner Samson noted that some of bids are 1/3 the cost of the others. These are the other firms in the top three:

- Neenan Construction came in second with a score of 571.05
- Panattoni Construction came in third with a score of 536.03

Ed explained there were two levels of review. The first is you look at all sixteen (16) and sort down to your competitive range. Once you establish your competitive range then you interview all the folks in that range and select the final ones. This is what we are asking today is to consider CMC as the final. The caveat to that is if we cannot come to a final negotiated contract with them to present to the Board, then we will have to go to the number two firm and start the process all over. Commissioner Houpt – You need a motion to proceed with negotiations with CMC. Ed – Correct. Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Samson – aye Martin – aye Houpt – aye

DISCUSSION AND APPROVAL FOR CONTRACT AWARD FOR THE NECI FACILITATION SERVICES – MATT ANDERSON

Ed introduced the subject and stated we have an interim contract with NECI. Matt Anderson and Don DeFord submitted the contract for the facilitation/project management of the Garfield County New Energy Communities Initiative (NECI). Three proposals were received. The evaluation was based on technical, risk, past performance, the completeness and reasonableness of price. The recommended award is to contract with CLEER for a not-to-exceed \$604,200.00 contingent upon NECI advisory board approval and contractor signature. Matt stated the contract expires May 31, 2009 so the contract we are asking for today is for approval, but it would not be effective until June 1, 2009. It was put out as an RFP and the criteria for this RFP was based on evaluating the technical aspects and a risk factor to each one of those technical aspects. We felt this particular project needed a risk assessment because of the continuation; if we were to go to another offer then what kind of risk would that be to the program. Therefore, we did evaluate the technical, risk, past performance, price on completeness and reasonableness, not necessarily the cost. This is a time and materials labor hour kind of contract. We received three proposals and based on the three proposals we felt that Clear Energy Economy had the very superior proposal. They included everything and had a great understanding of the project. After evaluating all three proposals, we recommend approval for award to CLEER for not to exceed \$604,200, contingent upon the NECI Board approval of the contract. Chairman Martin asked why it did not go before the Board first for their approval and recommendation. Ed – Timing was the main issue; they only meet once a month. They are aware of this coming to the County Commissioners first. Jim Rada informed the Commissioners that a representative served on the review committee. Commissioner Houpt made a motion to approve an award to contract with CLEER on the Garfield County New Energy Communities Initiative in an amount not to exceed \$604,200.00 contingent upon the NECI Board approval and contract approval.

Commissioner Samson - Second. In favor: Samson – aye Martin – aye Houpt – aye

GRAND RIVER HOSPITAL – STRATEGIC PLANNING – JUNE 3, 2009 – PATTI LAMBERT

An invitation was extended to the Commissioners and a request as to who would attend. Commissioner Martin – Okay, I will attend. It is at Grand River Hospital on Wednesday from 9:00 a.m. to 3:00 p.m. Commissioner Samson – Okay, I will attend. Commissioner Houpt – No, I am not available.

ED’S EXECUTIVE SESSION ITEMS – Two (2) land acquisitions and legal guidance regarding those and legal guidance to a response document to Compass Mountain Land Use

COUNTY SHERIFF UPDATE: LOU VALLARIO

FEE INCREASES

Lou is requesting approval to change certain fees in order to relieve increasing business costs. Lou explained they recently purchased an updated electronic fingerprinting machine and he has seen an increase in fingerprinting requests. The current fee is \$20.00 and he is requesting an increased fee to \$25.00 to alleviate some of the expense of the new machine as well as the extra time in training. Lou is also requesting an increase in civil fees in the hourly rate charged for evictions and civil standbys. He gave a breakdown of civil charges showing the average per hour cost of a civil employee exceeds \$40.00. Lou explained their current hourly fee is \$30.00 and he is requesting their hourly rate fee be increased to \$42.00. Lastly, Lou explained the fee for animal impoundment or quarantine has been \$20.00 per day since June of 2005. He is requesting this fee be increased to \$30.00 per day and it will require an amendment to the Animal Control Ordinance. Don stated this will require an amendment to the Animal Control Ordinance and we will need to schedule a public hearing and provide adequate public notification. Commissioner Samson – I would move that we increase the current fee for fingerprinting from \$20.00 to \$25.00 and also evictions and civil standby’s hourly rate be increased from \$30.00 to \$40.00. Commissioner Houpt second.

In favor: Samson – aye Martin – aye Houpt – aye Don requested direction from the Board if you want to proceed, if so his office would prepare an amendment. The Board agreed.

DEBEQUE MARSHAL COST

Sheriff Vallario received a letter from William Fariello, Town Marshall reporting their cost for services for the 2008 year. Part of this area is in Garfield County and they help us. Marshal Fariello submitted a final bill for \$6,089.59 for deputy time, equipment usage and wear covered in deputy time and gasoline expenses also covered in deputy time. Pay will be out of the 2009 budget. We have also supported them with a new vehicle. He elaborated saying we support a third Marshall Deputy for them to help us enforce things up in Roan Creek and in that vicinity; they provide traffic enforcement and initial response to our deputies until they can arrive on scene. They have done a good job and we have been doing this for about three to four years. Lou received a bill from them and did not receive this until 2009. This is to pay them for 2008, he checked with finance, and we can pay this out of our 2009 funds for the \$6,089.59 to go toward the support of the third deputy. Lou will make sure we get a bill for 2009 as quickly as possible and 2010 and try to put this in the 2009 budget. We have supported them with a new vehicle a couple of years ago and it is a good deal for us. In the past, this has been taken out of Emergency Management fund, the one-half million-dollar fund. Don asked Lou if we had put an IGA in place with DeBeque. Don suggested this be done to cover the liability issues so they are clear if there is not one in place. Lou did not know either. Chairman Martin suggested that Ed Sands or Steve Carter would have drawn this up. Lou did recall discussing it initially when we started because Mesa County pays one-third, DeBeque pays one-third and Garfield County one-third.

Don wants to make sure if there is an IGA that it is renewed. Commissioner Samson – I would move that we made a motion to approve the amount of \$6,089.59 to cover the 2008 period for the DeBeque Marshall Department's salary for the deputy. Commissioner Houpt second. In favor: Samson – aye Martin – aye Houpt - aye

MENTAL HEALTH CARE CONTRACT INCREASE

Lou provided a price quote to the Board for professional mental health care services including healthcare staff per Exhibit B. CHM will be charging \$79,787.88 per month effective January 1, 2009 through December 31, 2009. For off-site medical costs CHM will cover the first \$25,000.00 which includes emergency centers, outpatient and inpatient hospital services, ambulance transports, off-site specialty, off-site physicians, off-site dentist visits during the 12-month contract period. Garfield County will be responsible for any off-site costs, which exceed the \$25,000.00 during the contract period. CHM will be responsible for the costs of all medications administered at the Jail with the exception of AZT and any other HIV or AIDS related medications as well as any medications utilized for treating Hepatitis. CHM will not be financially responsible for the care of persons injured in the arrest process, but will assume responsibility for follow-up care once the inmate is booked into the facility. If, in any calendar month, the Average Daily Population (ADP) exceeds 200 inmates, then Garfield County will pay CHM a per diem of \$2.15 per inmate per day on the difference between the monthly ADP and 2009. The current rate for all of our correction health care coverage including medical and mental is \$73,662 per month and this would raise it to \$79,787.88 an extra \$6,125 a month. What this does is it gives: 1) an additional 37 hours of service, mostly toward the mental health piece of this as we are increasing our mental health. What happens now is unfortunately people land in jail and have mental health issues and we do not necessarily know what that is. It would be similar to you being treated by a doctor and then find yourself beyond your control in another doctor's office with very little record of the diagnosis. We have to reanalyze and start all over, so there is a lot of time involved. Currently we are doing a good job with crisis intervention/prevention. This will allow us to do some additional follow-up not only with medication but evaluations. An important aspect is transitions from outside coming into the jail and even more importantly inside going out. We have had cases where someone that had serious mental health issues and medication that were being treated locally at Colorado West and would get a personal recognizance bond from the judge and we cannot hold them but it is unsafe at that moment to turn them out of the street. We have run into this dilemma two or three times. This will allow us to do a better job of transitioning that and getting those pieces in place and making sure that either their personal provider or Colorado West is more involved. 2) More discharge planning to help with the community and 3) help the inmates and 4) mentally ill people in the jail which some are suggesting is a crisis at the county jail level; twenty years ago, ten percent of the people had mental health problems and not it's turning into forty/fifty/sixty percent in some places. The mentally ill can affect your entire facility because of the behavior. If someone is physically ill, they can be isolated and not affect the facility. What we are asking for is to increase the service for the remainder of the year and it would be the additional \$6125 per month, which is a total of \$42,876.82 to give us the extra hours of mental health care and provide a better service for both the inmates and the community. Chairman Martin – One provision that the per diem does not exceed 200 inmates otherwise you will have another issue. Lou – This is different topic. We have been up to 165 – 170 and although there are different classification levels of sentenced, pre-trial, we are up on numbers for bed space, but that number goes up and down. Don stated this would require an amendment to the existing 2009 agreement with CHM to incorporate their proposed cost increase and have it retroactive to the first of January. Lou stated CHM proposed that but we would only begin the service as of June 1, 2009. There will only be seven additional months of the increase. Lou would need a supplement to his budget. Commissioner Houpt made a motion to approve a supplement to the agreement with CHM to increase the amount of that agreement by \$42,876.82. Don stated the budget supplement would come later. Commissioner Samson - Second. What is the alternative? Lou – The alternative would be looking at people not getting the attention they need from the mental health side of the house and possible from anything including disruption of the organization either physical injuries and more serious injuries to individual inmate if they are on an additional regiment and stabilized and come into the facility and it is like the opportunity to review and analyze and re-balance their medications. They crash and we have to start all over so there are personal things that occur to those folks, again, when we turn them out into the community we need to make sure they at least have a plan and some medications to go along with that, so many alternatives, we have none of the above. Commissioner Samson – What have we done in the past? Lou – Originally, we had actually contracted with Colorado West Mental Health at one point. When Correctional Health Care became our medical provider, they said we can provide mental health as well and a seamless opportunity. This occurred about two years ago, so we switched and went to CMH management. Since then and analyzing the program, the needs and increase in mental health issues that come into the jail, we are seeing the need for more services. The option is they do not get the services and we have the potential for messing up some individuals or even issues within the facility. Chairman Martin – Prior to these changes we didn't take mentally ill individuals into the facility and let them on the street, in fact at one time they turned out all the mentally ill folks out of the jails and prisons because they felt they needed to be outside instead of in the prisons. We have come a long way. Lou – If you look at the studies, people with mental health issues have no other resources and the communities are very limited even though private providers and Colorado West do a great job, state funding and federal funding, Colorado is 49 out of 50 states as far as funding for this so we do turn them on the street until they act out criminally, because that's all they know how, so the ones committing crimes are not necessarily criminals do things to get put in jail so they can achieve some mental health services. It is a vicious circle and it is a national issue; ultimately we either provide better mental health care or we don't. Chairman Martin – When they are arrested and commit the crime and are put in jail they lose all their health benefits that they have under other state programs. Lou – Social Security is suspended if they are in there more than 30-days, Medicare, Medicaid and they are not eligible to reinstate on that because they committed a crime. Chairman Martin favors doing what we can. Lou – In jails, mental and medical health is an extremely expensive proposition so just look at the lawsuits and issues nationally and you will see that many have inadequate care. In favor: Samson – aye Martin – aye Commissioner Samson stated that he and the sheriff spent the afternoon on last Tuesday and made a tour jail tour. Lou recognized that John Martin comes over regularly and Tresi Houpt did a tour about a month ago and he appreciates this. He also mentioned that Sandy would be retiring on June 12th.

MODEL TRAFFIC CODE

Chairman Martin inquired about the Model Traffic Code. Lou and Don reported on the progress. Lou and Don wanted to meet last week about that and Lou was sidetracked. We have some copies of other ordinances in other counties. Don – Lou and Don need to meet and see where we are going to go with this. Chairman Martin said Mesa

County has officially adopted it and is going forward. Their process was painless and it was welcomes. Lou said he would get with Don this week and check into this. Commissioner Samson – One of the problems with the Model Traffic Code and the enforcement of various things that we have never really worried about in the past is that the Sheriff’s deputies are going to have to be trained in all the new rules and regulations and the time associated with this. Lou said the Model Traffic Code mirrors the State Traffic Code but it gives us as a local government to do more. The biggest issue is the very limited state level on parking. So we cannot take locally and say, we have a neighborhood parking issue and we can adopt that to schedules – no parking here to here, or two hour parking; we can improve our handicapped parking which is strapped. Commissioner Samson – This will help the individuals at Battlement Mesa. Lou – Technically if you would put out the handicapped parking going into the activity center and someone parks illegally it would require a summons, court, etc. whereas with the Model Traffic Code we can actually come up with tickets and penalty assessment fines and it will enhance what we can do locally. Lou has looked at a couple of components of this and in the past two of the major issues have been the position of the Garfield County District Court and the District Attorney’s office and so there may be funding issues that come back to you from those offices. That certainly was an issue the last time we discussed this and the reason in the past, the previous Board’s of Commissioners have not moved forward with this. Chairman Martin – The records keeping is one of the big issues. Don – This involves records keeping, collection of fines, where the funds will be allocated, etc. Lou – We talked about this and clearly, the courts given the state freezes, etc do not have the ability to manage it. One of the pieces of this which when we bring it to you would be, we would hire an FTE clerk just like the municipal court clerk handles all that with the City of Glenwood Springs, City of Rifle – this person would manage that whole program. That is collecting the revenues, sending out the letters, passing information on where it goes to the state, so we would anticipate the revenue would pay for an FTE and beyond. Chairman Martin – You would also need an agreement with the District Attorney to collect the VALE funds and then at that point it defrays some of the cost. Lou – What has changed with the different Boards in the past - if I write you a ticket 95% of our traffic issues are what is called “decriminalized infractions” – there’s no ‘go to jail’ or ‘you either pay or your license gets suspended’; so you can go to an infraction hearing but the DA does not represent the state there, the officer goes direct, so there’s no change in that – if I wrote you a ticket at the state level or at the Model Traffic Code level, you would still have the same rights. The workload would not change either because if I wrote you a ticket for careless driving, which is a misdemeanor, then the DA is going to prosecute it in state court so there would be no reason to suggest that the DA would say I am not going to prosecute it now because it is under the Model Traffic Code. Don is right, there may be some pieces of this financially where the Board would say 10% goes here and 5% goes there and things. Commissioner Samson – So, back to my original questions, when can we reasonably get this done? Lou – It is up to Don and his workload. Don – I am not going to accept that Lou – we have been working with your department and the District Attorney’s office and the courts; it has not come out of that group yet to my office. Lou – The last thing I recall is we sought out other counties that had this in place, we received some of that information, and we have not gone beyond that point. Don – Correct, and it involved all of those offices in that meeting and none of that has come to me yet. Lou thought Don had received some of those. Don – No, I have not. Lou – So, then it is my error and I do not know who received those if Don did not get them. We will find out where those are and have another meeting. Commissioner Samson – I want to get us off dead center here because people are calling me about this and I want to know about the Model Traffic Code. So, the hang up is that we’re waiting for other counties to give input so that we can go forward – is that where we’re at with this. Lou – Yes. It was my understanding that we had received some material. Commissioner Samson – So what are we going to do so we can get off dead center here? Lou- We will reach out to the other counties again and see what they can forward us as Mesa County just did and let’s not reinvent the wheel, other counties are doing this, let’s see what they are doing. Commissioner Samson – We need to get going. I want it to go forward. Lou apologized to Don; at some point as the County Attorney, you will have to draft the documents. Don – That is correct but when we had the meeting last time I was supposed to receive input from District Attorney, from the courts on how they wanted to approach the collection; we needed to deal with the Treasurer’s office and I don’t know if anyone’s had contact with her office – that hasn’t happened yet. The reason I’m hesitant to answer Commissioner Samson’s question directly and he deserves a direct answer is it appears to me we need to find out where all these other players are and then go forward with a proposal if we can get a meeting set together with the various departments and offices that have to be involved in, it would seem we could get a draft ordinance in front of the Board. Lou said we need to have input from courts, District Attorney and Treasurer. This has not happened yet. So, once we have this meeting he feels we should be able to get a draft ordinance to the Board this summer.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Legal advice and some public action may be required: Provide legal advice on LB Rose Ranch, legal advice for a 10:15 agenda item on Fairgrounds and license; License agreement with CDOT - legal advice policy on highway intersections on County roads; advice on independent referees and a policy discussion on property valuation; proposed Crouch easement 162 and Battlement Mesa Trail plus the items previously mentioned by Ed Green. Commissioner Houpt made a motion to go into an Executive Session. Commissioner Samson second. Motion carried. Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt second. Motion carried.

ACTION TAKEN

No action

CONSENT AGENDA.

- a. Approve Bills
- b. Changes to Prior Warrant List
- c. Approval of BOCC minutes for April 7 – Jean Alberico
- d. Approval for Release of Bond for Gregory and Cook Construction, Inc. – Jake Mall
- e. Authorize the Chairman to sign the Treasurer’s Deposit Agreement from Public Service Company of Colorado for the Re-vegetation Security for SUP 9608 GarMesa utility Facility. – Dusty Dunbar
- f. Authorize the Chairman to sign a Resolution and Special Use Permit in the Agricultural/Residential/Rural Density (ARRD) Zone District for the Storey Contractor’s Yard, at 285 CR 261, Silt. Applicants are Duane & Linda Storey. – Dusty Dunbar

Commissioner Samson made a motion to approve the Consent Agenda items a – i. Commissioner Samson Chairman Martin stepped down to second. In favor: Samson – aye Martin – aye Houpt - aye

**HUMAN SERVICES COMMISSION:
BEHAVIORAL HEALTH – SUSAN ACKERMAN**

Laurel Little, Ken Eielson and Lou Ann Herman Executive Director of New Hopeful Heart, Jackie Skramstad Colorado Mental Health, and Susan Ackerman presented a handout addressing Suicide Prevention Efforts in Garfield County. They have held suicide prevention trainings at St. Johns Middle School, Alpine Christian Academy, Coal Ridge High, St. Stephens Catholic School, Rifle High School, Crossroads Academy and the Garden School. They have 35 community members trained in a 2-day intensive intervention program. We are talking with RE1, RE2, and Coal Ridge. Looking at having a heart beat – for loved ones who have lost lives to suicide. Attempted or people left behind. Affects multiple people. Susan gave the following statistics for 2007 – 2009:

- 63% of suicides involved substance use and 36% were unknown;
- 66% of death were by males;
- 88% of suicides were by whites;
- 53% had a history of mental health concerns and 34% were unknown and 13% had no mental health history;
- 44% died by gunshot wounds, 28% by hangings, 16% by overdose and 13% from other methods.

Garfield County had the following deaths by suicide:

- 2004 – 8
- 2005 – 6
- 2006 – 9
- 2007 – 11
- 2008 – 12
- 2009 – 10 from (January through April)
- ✓ Colorado has the 6th highest suicide rate in the nation. Garfield County is among the counties with the highest rates in CO.
- ✓ More lives were lost to suicide in 2007 than to motor vehicle accidents or illness. 805 people died from suicide that year.
- ✓ Suicide is the second leading cause of death among teens and young adults in CO.
- ✓ In Garfield County, the majority of those taken by suicide have been middle-aged while males.
- ✓ The majority have known histories of substance and/or mental illness, but not all.

Substance abuse in Garfield County crosses all societal boundaries, affects men and women, every ethnic group and across every tax bracket. Scientific documentation defines drug and alcohol dependence as a disease affecting us psychologically, socially and medically. The economic downturn contributes significantly to individual and family stress. In September 2008, 80% of Americans said the economy was the main stressor. Depression and anxiety are the two most prevalent mental health disorders and are frequently managed by alcohol without ever going to a doctor. In a bad economy, alcohol is cheaper than a doctor. The Suicide Prevention Efforts team meets monthly in the Board of County Commissioners meeting room. Commissioner Samson noted that suicide is second to motor vehicle deaths. Chairman Martin – Tracking how long they have been a resident is also important. Many come here and commit suicide. There have been a couple isolated incidents. In Garfield County however, it seems the middle age white male is more locally high and nationally the elderly have the highest rate. All the literature promotes legal injection in terminal illness. Ken from Strom King Management stated that in good economic times and in bad, we like our vices. Boom times are an increase in drunken driving rates, alcohol related illnesses and spending on alcohol. Substance abuse in Garfield County crosses all societal boundaries, affects men and women, every ethnic group and across every tax brackets. Economic stress takes a toll on sleep, moods, physical health, relationships, eating habits and our willingness to indulge in alcohol and drugs. The economic downturn contributes significantly to individual and family stress. In September 2008 80% of Americans said the economy was the main stressor. Depression and anxiety are the two most prevalent mental health disorders and are frequently managed by alcohol without ever going to a doctor. Alcohol is cheaper than a doctor. Lou Ann Herman – We are seeing the ability of serving the population for special programs for job purposes. Many are on disability and are using substance abuse to aid with the coping of the stressors. We are seeing an increase in middle class with loss of employment. Many are further in loss of medical health care and the whole family needs help generally. Look in the paper and you will see there are no jobs advertised. We are seeing people who were struggling before. The majority of suicides from January and April were substance abuse or mental health related. Jackie Skramstad – Colorado Mental Health. The times are difficult and the economy is having a full impact on Human Services in all agencies such as Salvation Army and Catholic Charities who are seeing more increase. In behavioral health, we are just starting to see some of the impacts. The suicide rate is very compelling and a lot are stress related. We are working as a team to stay on top of this issue and trying to address the gaps in services and help to integrate the services and supports that are available. In the State of Colorado, we rank in the top five for substance abuse and forty-eighth in the nation for spending. Jackie stated she really appreciates the county support. As far as resources, Colorado came in dead last. We see beds closing every day. We are continuing to monitor the bed space and are working on behavioral health issues collaborating with others and discussing ideas and solutions to bring to the County. In Rifle, we had an incredible spike in referrals, layoffs, and this is a reflection on economic stress. Chairman Martin said the increase in suicide is a shame and we need to work as a community to solve those issues.

**BOARD OF HUMAN SERVICES:
APPROVAL OF EBT/EFT DISBURSEMENTS FOR APRIL 2009**

Lynn Renick submitted the EFT/EBT disbursements for April totaling \$731,772.64 and requested Board approval. Commissioner Houpt so moved. Commissioner Samson - Second.

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

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

Diane Watkins submitted consideration and approval for the following:

- Provider, Third Way Center, ID number G092565 in the not-to-exceed amount of \$22,292.12

Lynn requested Board approval.

Commissioner Houpt made a motion to approve the out of home placement contract to Third Way Center, ID number G092565 in the not-to-exceed amount of \$22,292.12. Commissioner Samson second.

In favor: Samson – aye Martin – aye Houpt aye

- Provider, Southern Peaks, ID number V655641 in the not-to-exceed amount of \$14,279.25.

Lynn requested Board approval.

Commissioner Houpt so moved. Commissioner Samson second.

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

- Provider, Savio House, ID number Y195388, in the not-to-exceed amount of \$11,929.50.

Lynn requested Board approval. Commissioner Houpt so moved. Commissioner Samson second.

In favor: Samson – aye Martin – aye Houpt – aye

CONSIDERATION AND APPROVAL OF THE 2009 9-PARTY INTERGOVERNMENTAL AGREEMENT FOR SENIOR PROGRAMS

Lynn Renick and Judy Martin submitted the IGA for congregate meals and Traveler transportation to seniors saying the major change in the document from 2008 is the addition of the City of Glenwood Springs. The major change from last year is the addition of the City of Glenwood Springs as a signatory, two municipalities have approved the IGA, and now we have this on the agenda on all city and town councils over the next month. We are requesting consideration and signature authorization and not approval at this time on this IGA. Commissioner Houpt asked why not approve the considerations. Lynn – Today we do not have all the of these. The Chairman has to sign on every signature page. Commissioner Houpt – Are you suggesting this will be put on the Consent Agenda after everyone has signed it. Don is struggling with the idea of authorizing the Chair to sign and not approve it. Lynn – We are seeking approval but I cannot request the signature today because we do not have these. Commissioner Houpt made a motion to approve the Garfield County Senior Programs IGA as presented and approve the Chair’s signature contingent on the signing by the eight other partners in the Intergovernmental Agreement. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

CONSIDERATION AND APPROVAL OF THE 2009 9-PARTY MEMORANDUM OF UNDERSTANDING FOR SENIOR PROGRAMS

Lynn Renick and Judy Martin submitted the 2009 Memorandum of Understanding for Senior Programs based on 6-month actual (July 1 through December 31, 2009). She requested approval. Commissioner Houpt made a motion to approve the Garfield County Senior Programs nine party Memorandum of Understanding dated January 1 through December 31, 2009 and authorize the Chair to sign contingent on signature of the eight other parties on the MOU. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

PROGRAM UPDATES

- Health Care Policy and Financing is reportedly planning to initiate a ‘competitive bid process’ and possibly further regionalize the state’s Single Entry Point agencies. It is expected that this may occur for the state fiscal year 2010-2000. The Department and Northwest Colorado Options for Long Term Care Advisory Board will monitor this issue as it goes forward.
- A SSFY09-10 contract amendment for the Single Entry Point program is reported to be in final clearance at the State. The Department would request Board consideration and approval as soon as it is received.
- Garfield County will receive a total of \$67,500 in state and federal grant money to provide community planning and direct services through the Rural Runaway and Homeless Youth project; also known as the Rural Collaborative for Homeless Youth. Garfield County is not the fiscal agent for this grant since it is a statewide project consisting of 6 rural Colorado counties. For the Board’s information, a copy of the scope of work regarding the State portion (State Strategic Use Fund) of this project has been included in the packet.
- The Department of Local Affairs (DOLA) will be distributing American Reinvestment and Recovery Act dollars through the Community Services Block Grant. Garfield County will be receiving \$70,562. The criteria for the money includes: 1) direct services, no administrative costs; 2) eligible individuals must have incomes at 200% less federal poverty guidelines; and 3) focus of programming is on employment/education, nutrition, health or housing. The Department is working with Colorado Mountain College and the application will be finalized by the end of May. A public hearing will be added to the Board’s June 1 agenda. The deadline for submission is June 15 and the monies are to be available and spent beginning July 2009 through September 2010.

BOARD OF HEALTH: THREE CONTRACTS

CDPHE T.B. CONTRACT

A motion was made by Commissioner Houpt to go into the Board of Health. Commissioner Samson seconded the motion. Motion carried. Mary Meisner - This is for case management of TB and there is an increase in the amount this year. Last year it was \$14,500 and this year it is \$16,000. It depends upon the work that has done in this area. Commissioner Houpt moved to approve the contract with CDPHE for Disease Control and Environmental and Tuberculosis Epidemiology program of tuberculosis management and control in the amount of \$16,000.

Commissioner Samson - Second. In favor: Samson – aye Martin – aye Houpt – aye

CDPHE NURSING CONTRACT

Mary Meisner presented Public Health Service Contract and this is between local public health agencies and CDPHE for public health services particularly in the area of public health nursing. This is for \$110,684.00 for \$27,671 per quarter. This is an increase of \$1,736.00 over last year’s contract. Commissioner Houpt made a motion to approve the contract with CDHE Office of Planning and Partnerships to provide support for public health services in an amount of \$110,684.00. Commissioner Samson - Second. In favor: Samson – aye Martin – aye Houpt – aye

CDPHE AIR MONITORING CONTRACT

Mary Meisner and Jim Rada submitted the contract for performing air pollution monitoring activities including PM2.5 monitoring, PM 10 monitoring, ozone monitoring, and visibility monitoring in Garfield County. This will renew the contract for another year. Jim noted this year the amount is larger - \$71,606.00 and represents about a \$14,000.00 increase in the contract, most of which is attributable to an increase in the scope of work to include additional data management and analysis function under out private contractor services for all of the data including the VOC data we are collecting. This also does include about \$15,000.00 of payment for the County services of managing some of the air monitoring sites on behalf of the state. Commissioner Samson – I thought we had decreased some of our monitoring sites. Jim Rada – We have; we are monitoring in Parachute, Rifle, and a couple of sites in the gas fields – Rulison and Dry Hollow. We had 7 PM 10 monitors in the original study and 14 VOC sites and now we are down to 2 PM 10 sites and 4 VOC sites. Commissioner Houpt – You changed the scope of the monitoring as well. Jim agreed that was a year and a half ago. Commissioner Houpt – You did not cut down on

monitoring. Jim – We looked at the data and because of what the data was telling us, we modified our monitoring plan to monitor the most heavily impacted areas of the County, which happened to be in those areas mentioned. We are working with other areas of the County to see what we can do to help. The Carbondale area seems to have fallen through – they could not get the amount of help they needed to actually operate. Commissioner Samson made a motion that we approve the contract with CDPHE to not-to-exceed the amount of \$71,606.00 for air monitoring services. Commissioner Houpt - Second. In favor: Samson – aye Martin – aye Houpt - aye

MAP – Mary submitted an update on the Swine Flu and different roles of Public Health. She has completed five press releases. Yvonne Long is the coordinator; she is in planning and liaison so we have a good organizational plan. We are still encouraging strong survey lists; we have one case in our community and we have four confirmed cases in Garfield County. We have had a total of 471 probable cases nationwide with five deaths. We are encouraging the public to check the websites to look at our guidance and using good hand washing and good infection control techniques. We are calling all our WIC clients before they come in to make sure they do not have any symptoms before they come in and if do then we are asking that we mail their checks to them. Chairman Martin – There are still four states that have no report of cases. Mary said these states only want those who are hospitalized or very ill to be tested so there is one meeting that case definition. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of the Board of Health. Motion carried.

GARFIELD COUNTY FAIRGROUNDS PROJECT – FLEISCHER GROUP

Frank McSwain, Jr. project manager for the Fleisher Company based in Carbondale and Matt Flink, Executive VP for Fleisher Company and General Manager presented. They presented a Power Point Presentation regarding the Garfield County Fairground Fleisher Company Phase I Due Diligence for relocating the Fairgrounds. Times have changed and they are looking for a financially responsible solution, enhancing services to the Garfield County community and with the relocation of the Fairgrounds; it can increase revenues. This can be accomplished with no increased taxpayer burden, maintain the existing Fairgrounds staff, and have state and federal funding that is available for projects with a strong energy efficiency component. This will provide enhanced services for the Community by Youth/Community programs, preserve ranching and agricultural roots, and provide sustainability/energy efficiency. The Fairgrounds can increase the revenues in the County and examples were given such as allowing naming rights and including a RV park. The Fleisher Company has been working on this project for two years and has spent \$70,000 and a lot of time speaking with County staff, City of Rifle, City of Glenwood Springs, CSU Extension, Fairground staff, architects and planners, general contractors, stadium builders, estimator, engineers and energy efficiency and sustainability consultants. Today they are here to ask the Commissioners for assistance in Phase II of the proposed due diligence effort. Estimates were given of:

- Financial feasibility report - \$15,000
- Architectural design and renderings - \$25,000
- Development management - \$30,000

Frank listed on the development manager responsibilities. The site they have selected is the Gentry parcel as it hosts many land options. Commissioner Houpt said she is trying to figure out who would benefit from the relocation of the Fairgrounds. Chairman Martin noted that Mesa County had to close down part of their fairgrounds due to lack of use. They have as much traffic on Hwy 50 as we do on Highway 6. We know the fairgrounds are not a moneymaker. Commissioner Houpt knows that the City of Rifle would like the County to move the fairgrounds. Commissioner Samson – Times have changed but the fairgrounds are a part of our heritage and asked if the company has considered ways to obtain feedback from for Joe citizen with respect to the move. Commissioner Houpt - With the financial downturn, does it fill a need into the future. We do not want to take a big risk and asked what assurance we could rely on. Chairman Martin – The question before us today is to fund it or not. Don asked on Attachment 1, identified as \$9 million for the sale of fairgrounds property; what is this based on? Frank said we are talking about 17 acres and he estimated the value between \$5 to 12 million. This would allow Rifle to use the current property. Don asked about Attachment 2 and the site proposed. Frank stated the J. Gentry property just beyond Divide Pass, which is for sale for \$3.5 million. Don asked if the Fleisher Company was acting as agents for Mr. Gentry.

Frank stated they were. Don's concern is regarding the restriction for the possibility of reverse on the fairgrounds property if things change. Powell may come in and say no more use of the property as it has a restriction in use. He thinks we could make a strong argument but the Powell parcel, if not used for the purpose for public benefit, is a huge risk to the County. The worst case would be to track down the heirs to buy out a reverted clause. Chairman Martin stated the heritage is a main factor and this is a huge issue for all three Commissioners. The risk is huge and we gave our word to the people. He has heard about moving the fairgrounds since 1997 and this is coming from the same people who want to use the land in other ways. Scott Becker from the City of Rifle read a letter in support saying it will improve visitors and the council is in favor of this proposal. However, they would not like the facility moved out of the town limits. There is a potential for annexation of the Gentry property. Aneuk Pruett, President of the Rifle Chamber of Commerce is intrigued by the proposal and feels it would be beneficial for merchants and tourism. Currently there are no facilities for large events. Heritage is very important and this can be challenging. It is an opportunity to diversity and offers a better facility for 4H, agricultural and ranching; it is also an opportunity to have trade shows such as hunting and fishing. There is a concern over how much this would cost but they see the potential. She has not had any negative feedback and the Chamber has held many conversations. Ed responded to Commissioner Houpt's question on cost saying the service contract is \$70,000.00. Commissioner Houpt moved that we do invest in the 2nd phase and feels this is very important and we need more information, and; to enter into a service agreement with Fletcher for a not-to-exceed amount of \$70,000.00 and everything represented today. This motion died for lack of a second. Chairman Martin stated he believes this would need to have an RFP. Commissioner Houpt stated they are a licensed professional firm and we could consider this a sole source. Commissioner Samson and Chairman Martin agreed this motion was premature. Commissioner Houpt would like to make a motion that we move forward on the Phase II on a Due Diligence Plan for the architectural, feasibility report and management in the service not-to-exceed \$70,000.00 and ask staff to research whether we need to put this out to bid or if we could contract with Fleischer. Don raised a question on the motion and commented this should come back to the Board with a staff opinion and wait until a determination was made on going forward or not.

Commissioner Samson clarified this motion was not for any money to be spent; it is only to have Matt bring back the information as to an RFP or sole source opinion. Chairman Martin suggested we would need a scope and felt

positive we would need to go out for an RFP. Matt will look at details on whether this needs to be bid in an RFP or as a sole source. Commissioner Samson - so moved. Commissioner Houpt second.

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

BIKE LICENSE AGREEMENT FOR THE SOUTH CANYON TRAIL – CDOT AND LARRY DRAGON

Larry Dragon and Joe Elsen presented the license between the Department of Transportation (CDOT) and the County for the right-of-way without cost or liability to the state and Garfield County to pay the cost of the trail with the right of the state to review the design and construction of the proposed trail project. Garfield County would be responsible for the preliminary engineering, design services and preparation of construction plans and special provisions. The license agreement was discussed and in order to precede CDOT requires this to use their right of way. Larry stated that similar agreements have been completed in both counties and municipalities. He requested the signature on the agreement. This is a 7-year license. The liability in case of an accident was referenced in the agreement on Page 12 Item X. Don referred to Page 14 the last paragraph on indemnification and restoration requirement saying this is broad base and in the event, after 7-years, the license is not renewed. Chairman Martin commented this has always been the issue of encroachment. Joe Elsen of CDOT told Larry the likely timetable for improving this section of I-70 is remote. There are other ITPR priorities such as Hwy 13 and I-70 east. When you look at it in a 30-year planning, it is not on list. I-70 east of Edwards is a concern. Don stated for the record that he presented the Board in March a memo on the liability issues. The decision is the Commissioners as to whether to accept those terms. This is a non-negotiable license. Chairman Martin referenced Page 6, and if we do not provide insurance then the license is in default. We have to apply this and it has to stay in place forever. Don – Two levels: 1) the County is covered with a pool for insurance; and 2) it is a requirement that we ensure certain levels on working with the site. This would be in the construction contract. Chairman Martin – This is a \$1 million dollar agreement. Another issue regarding Jeff Nelson is the construction timeline; he did not see this where we could break the guardrail for entries in and out. Jeff stated that CDOT still has the conditions in the wintertime closure; it is not going to open for use during the wintertime or maintained. Chairman Martin added there is also a timeline when you cannot build. Jeff – Anytime the surface is wet, no construction. Commissioner Samson - So, if it's closed in the winter, some kids want to use it and gets hurt on the trail, are we covered through our insurance pool? Chairman Martin – It is in our insurance policy which is up to \$1million dollars as well as the insurance on the sub-contractors. Ed said yes but there is a deductible. Commissioner Houpt – This is a boilerplate contract with the other party saying this is non-negotiable. There are going to be concerns and questions. We have been working on this for a long time. But this is important and we are in line potentially for some money for this so time is important at this point. Chairman Martin stated this is a far different than the original what we were worked on for eighteen months in reference to the license and it's changed drastically. Some of the issues have been answered and some have been compounded. Commissioner Houpt made a motion that we approve the South Canyon Trail license between Colorado Department of Transportation and Garfield County as presented. Commissioner Samson seconded for discussion but asked Don if he was okay. Don referenced the five (5) page memorandum and those issue still remain and they not going to change and you either have to accept the risk that I explained to the Board or not. Commissioner Samson said he is not prepared to vote on it. I need to think about a few more things. Chairman Martin asked the timeline on this to go forward. Larry said one concern that Joe may be able to answer, unless we do not have this we are not on the C list for stip, so is this accurate. Joe – It puts us in a better position; at the last ITPR, I do not think that 120 days time period on the Recovery Act- Stimulus money really gets drawn until June 30 and we may not see it. Don asked Joe, one of provision in the license agreement on insurance seems to say that the state will not sign off on it and make it a license until we provide the certificates of insurance from our contractor to you. Is this correct? Chairman Martin – It's within the 120 days of signing this. Joe agreed. Obviously, you would not have a contractor on board until this was in place. Don justified this because we would not actually have a license even if the Commissioner agree, perhaps for a couple of months. Chairman Martin - 120 days after signing this it goes in for approval and also for review and also within that 120 days you have to provide the insurance and it has to be accepted by the state as the proper insurance. Commissioner Houpt – We have been working on this for a very long time and if we have a shovel ready project, we are not top on the list but at least we would be on the list and if we are ever going to build this portion and with the technical constraints it would be good time to this. Chairman Martin – The project is a good project and Larry has put a lot into this. The other issues is our economy and other issues that we face, is this the best project we need to go forward with as to our limited funds and is this going to be a top priority or not; we have many more issues that are more top priority that we need to be paying attention to - this is taxpayer money. Commissioner Houpt – We are looking at outside monies right now. Larry – When you say we, are you talking about the County or the Country? Chairman Martin – The County itself, meaning this Board, you and the neighbors next door to us; is this the top priority that we should put our efforts towards. Commissioner Houpt – They are not asking for our money right now. They are looking to get in place for the stimulus money. Chairman Martin –That is taxpayer money as well. We owe three trillion dollars to China, we have to pay, and this is part of that money we are spending, so it is our future. This is one of those dilemmas. Commissioner Houpt – If we do not get it someone else will. Larry – It's going to be spent anyway if it's out there and whether it gets spent in Larime County or Denver or Garfield County. That's not true, if money comes into this region and whether it's on this project or another in the region we can at least be situated to get the money whether we disagree with it or not. Chairman Martin said it is a worthy project and he has supported it from the conception. It's not about that, it's about where that money comes from and the strings and hoops we have to go through and the pressure we're under to get this done as well as the contract is non-negotiable and it's hard to swallow. Commissioner Samson said he would like to offer and have Tresi withdraw her motion and I still have some questions I would like to answer with Mr. DeFord and there are some nagging things I have on his five points that I want answered first. Commissioner Houpt suggested an executive session and act on this. Commissioner Houpt stated we could leave my motion on the table.

Executive Session – Legal Advice on the LoVa Trail and CDOT Agreement

Commissioner Samson made a motion to go into an Executive Session for legal advice on this issue. Commissioner Houpt - Second. Motion carried. Commissioner Samson moved to come out of Executive Session. Commissioner Houpt – second. Motion carried. Motion on the table. Commissioner Samson – Before we vote on this, one more question for Joe. The chances of this, with your Stimulus C money, are probably slim of this transpiring, so if it doesn't transpire how long is this in effect and will state cancel this or will we cancel so it's not hanging out there or what happens. Joe – The intent would not be to cancel by either party; the terms allow either party to cancel it, we

have no interest in that. This is a 7-year term would be the next thing and then CDOT would reexamine it within that timeframe. I would be confident you would have a project by then. Larry – We had no conception of stimulus money until very recently and yet our plans have been to get this trail constructed all the way through South Canyon as quickly as possible and clearly without big money it will have to be done in small segments. However, given that we are planning on doing another section to be put out to bid in a few months and have plans to construct it by next summer by the South Canyon Bridge. We still have a big chunk and our plans without stimulus money has been to hopefully go back to GoCo who hopefully will be given a large scale grant cycle coming for 2011, 2012 and 2013 where we might be able to get several million dollars and we need to have a license agreement no matter how we get the money, if we can find the money to construct the rest of this trail. And, without stimulus money which appears right now as a pipe dream and may not happen, we're still going to move forward to find a larger chunk of money through GoCo or whatever source we can. Chairman Martin – Under the last GoCo grant that we had to turn back, it was because we had to keep that trail in perpetuity under that license agreement with a 7-year non-negotiable contract. This was just a temporary license and that was a real issue. Have they changed their rules so far? Larry – No, GoCo still has a requirement for all their projects for 25-years; that is their thing and it is for all recreational projects that they fund. That is not the reason the license agreement went away, GoCo revoked their agreement. Don – Regarding the liability question, I saw referenced in some communications the need for a BLM permit for this trail; what is the status of that? Larry – The County would need to enter into an agreement with BLM, a right-of-way agreement. It is a simple process and the County has done this before with CR 204 as an example. We will work this in concert with the County and we will get the paperwork done with BLM. It is only a paper request and there are no other requirements. We will be working with the local BLM office on this permit. Phase II of the plan this fall if we do not get stimulus or the GoCo grant does not cost BLM and we do not need it for Phase II. We would need it for this bigger phase because it will cross BLM land. Chairman Martin – The motion is still on the table. Commissioner Samson – Second. In favor: Hout – aye Samson – aye Opposed: Martin – aye – I'm still opposed because it is stimulus money and the way that it is going it puts the burden of the state and also the Attorney General says she thinks this will put us in a real bind in reference to state statute. There are five different items in this that I found really go against state statute. Larry said he understands and appreciates it.

AMENDED RESOLUTION FOR THE ENERGY ADVISORY BOARD – BETSY SUERTH

Betsy Suerth, Judy Jordan, Jeff Simonson from Divide Creek and Don DeFord were present. The Resolution amending Resolution 04-40 concerning the establishment of the Garfield County Energy Advisory Board was submitted. This new Resolution will add additional members to the EAB and amends Paragraph 13 of Resolution 04-40 to add the following members each of which will have one full vote on all actions requiring a vote of the EAB: Glenwood Springs, Town of Carbondale and Town of New Castle. The EAB Board wants to reexamine the goal and business due to the changes in the oil and gas and activity level; there are certain aspects that are no longer appropriate. Don made a statement saying he will need to complete another Resolution that is limited in scope; the Board will add the additional municipalities. Commissioner Hout has questions on every change they presented. Betsy explained that this started in November, 2008 however; one reason for the delay was because we wanted to reexamine the map and boundaries. This has been a big effort of the subcommittee as it was a complex issue. Resolution suggested changes: Eliminated the paragraph that originated the EAB because the nature of the board has changed and it is no longer reasonable to reach conclusions on regulatory matters. Commissioner Hout – The very best solution is a regulatory solution. Our notion was that sometimes there would be more generalized solutions but are you saying this group has not come together to find common ground; we hoped you would but this didn't happen. Judy commented that it was not practical. What the board has been doing is concentrating on problem solving and citizen complaints on whatever is occurring in the oil and gas development. As to regulatory solutions, there is a division in the industry and citizens and most people have a general perception of this issue. It is actually unlikely that the Board could reach a majority opinion. They are more involved in solving problems; so, it is unlikely that any regulatory opinion would come as a recommendation to the Board. Commissioner Hout – If you see those please share them with us; there may be a solution to create a regulatory atmosphere to that particular application. Everyone perceives a different viewpoint. Judy said she sees nothing we could address with a regulatory opinion. The Board is anti-regulatory and wants their own solutions. It is just not happening. There is nothing to preclude us to suggest to the Board of County Commissioners; we can still do that. Commissioner Hout – My hope was to have this group give some thought with certain planning issues and discussing very specific issues around oil and gas issues. Subcommittee; I know there are other tools and when we put this commission together we were not expecting the members to become community experts. Jeff Simonson said he did not think the EAB could come to a consensus but we can have discussion and bring information forward. Commissioner Hout would like more communication and written information. Betsy said they feel they can do a better job of reporting to the Board of County Commissioners. The Resolution was discussed in-depth with suggested changes as well as the members on the Board. The result of the discussion was if you have come to a consensus then bring it back.

CITIZENS NOT ON THE AGENDA - MARION WELLS

Marion Wells, a citizen of Rulison, came before the Board saying she tried for months to get the Energy Advisory Board and worked to recommend to you that the roads about which citizens had come and complained about be recommended for priority in repairs this year. Those roads are 301 Road on Homes Mesa, County Road 215 on Parachute Creek and 306 Road on Wallace and Spring Creeks. It is interesting while this last presentation, they have been stepping away from the origin of their board for things like conflict resolution on citizen's impacts. We spent months working on changing a Resolution that was written by the Board of County Commissioners instead of making recommendations for the changes we might see as appropriate. My problem with this recommendation about the roads is the EAB refused to recommend anything. They claimed they did not have the expertise; it was the County's job to do and so you heard nothing about it. What came out of the last EAB was that citizens need to come before the Commissioners and present directly. This is contrary to the purpose of the EAB. So, I'm coming to you as a personal thing. 301, 309, and 320 Roads were all repaired in the last two years; 215, 301 and 306 are roads that have been impacted longer by industry traffic than the other three roads that were repaired in the interim. The County, according to Jake Mall reported to the EAB past letters of agreement with each company to maintain and restore County Roads that the industry uses. So, why is the County not requiring compliance with that agreement? The industry signs our roads with signs taking credit for paving those roads that were done in the last two years. They damaged it; they did not maintain it so they had to do a big repair job. The industry says the County tells them what to do when and if they were living up to their agreements they would take care of those issues themselves; they

do not. The industry said priority is given only to areas that are populated. We are talking about an area that has been impacted for years and in areas they use and do not meet their agreements. In my estimation, they want the appearance of action without doing anything. All of this begs the question of the need for the EAB, which ties into what you just heard. Citizens I have talked to say I do not want to go to the EAB meetings, they do not do anything. It is industry dominated regardless of how you cut it. We have right now a citizen representative who is actually an operator. We have a city representative who works for the industry. So, the cities and the municipalities that come there, they have other options for remedying their problems but they also do not have a pit in their back yard or a pad or odors that the rest of us have. It is not the same. The Minutes that are written up about the EAB are incomplete and they trivialize some of the comments made at that board. Now, in the last few months, citizens are more or less dismissed, discussion has been cut off, and there are controls sitting there where it never existed before. The main purpose and persons are industry persons. When you talk about the lack of balance in the previous discussion, you are absolutely correct and it does affect how we do things. We cannot come up with any decisions because they will not take any action. The EAB was established by citizens for citizens and their impacts by the industry. Citizen issues are now put on the citizen to bring them before the Board of County Commissioner instead of the EAB making any recommendations. By-laws are not being followed and the mission is not being met. They readily admitted at the last EAB meeting, that they had not been doing the By-laws required such as quarterly reports to the Commissioners so how would you know what's going on in that committee. They are controlling the meetings and they are limiting citizen input at this point and time which is very difficult. I came here today to finish out the one purpose, which is, I would still like those three roads given a high priority by this County and that the industry be required to meet the terms of their agreement and get those roads maintained and restored at their expense so the citizens who are directly impacted can get some relief. Chairman Martin – Understands and that is also the agreement they do chip in on that particular issue and we cannot just give them carte blanche to go rebuilt the road. We have to do the approval and put it onto our schedule. Again, it may not be all of the roads that needs to be done by the industry, it might one on each end that the County needs to fund as well. Commissioner Houpt – We need to tighten up our policies. Marvin requested the roads the Commissioner want information on. Chairman Martin – County Road 306, 215 and 301 and then we will have the report back. Marvin – Yes, and we graveled he upper end on Wallace Creek side a little over a mile and it's been magged. Chairman Martin asked, then the lower part is where we need to repave. Marvin – That is on the Spring Creek side and 306 is being addressed. Jeff has the engineering on County Road 315 but there have been no plans made. The industry is going to re-pave the old chip seal for us this year. Commissioner Houpt asked about County Road 301 aka as Homes Mesa? Marvin stated this has always been a graveled road and there are no plans in the budget this year to pave that road just because industry is in there and it has always been a graveled road and we have not had plans to pave it. Chairman Martin suggested we might do this as a courtesy and make sure the issues are addressed and let us know. Commissioner Houpt – And make sure that surface is still appropriate for the use. Marvin – It is a graveled surface with mag so it did get rough this year after the spring when we had a wet spring so it did get potholes. Chairman Martin – Could you also have the timeline in reference to our next meeting on June 1st; we need an update so we can make adjustments. Linda Dixon – Wanted to piggyback on something Marion said; Betsy Suerth made the comment that the industry puts peer pressure on each other, she did not give any concrete examples of that. From what I have seen, I think its pressure to circle the wagons. When we asked about the spills no one owned up to it and I didn't think anyone from the industry say "X" company speak out, that was your truck – nothing like that. I do not think there is that kind of pressure. That is the frustration of watching this board operate, there are general statements made to make things look a certain way. The other thing, the 306 Road; I saw the newspaper articles and spoke with Mr. Martin and you misunderstood the placement of the ditches. Chairman Martin – Only one ditch; the one we repaired next to the road. Linda Dixon – This is the Connie Murray ditch and it does not carry water to the lower uses or Newroff's; Jeff made a suggestion, which is very good, being an engineer he could see the need for this. I assume you have these maps; but, I will you send you a map of the ditch where the lower users get their water out of and how that relates to the road. It is not along that closed portion of the road, not anywhere near that. Also for information, my two bothers spent all fall and most of the spring installing new head gates at the Division of Engineering request so the lower users could get their water. Chairman Martin – And it is on the ditch we are not talking about. The one we were talking about on 306 Road is the one, which Connie Murray gets her water from. Linda Dixon – Her water comes out of Spring Creek. Chairman Martin – Again, the only ditch we were talking about along the County Road and the access to that was the Connie Murray ditch. What is the name of it? Linda – The ditch that all of us get our water out of and Connie does as well is the Old Trustee, which comes out of Wallace Creek. Chairman Martin – So, that is not the one that is next to the County Road. Linda – No. The map I will send you will clear up the confusion.

POLICY DISCUSSION REGARDING COUNTY ROAD AND STATE HIGHWAY INTERSECTIONS IN GARFIELD COUNTY – FRED JARMAN

Marvin Stephens, Jeff Nelson Fred Jarman submitted the Policy Discussion for County Roads regarding Intersections with State Highways. Ed contributed. The last time was four (4) months ago. We worked on a brief memo with County policy issues. It lends itself to a work session for more time is needed; but this will introduce it. In the memorandum, Fred explained the following and asked the question at the end of his presentation.

BACKGROUND

Over the last several years, the Board of County Commissioners (the Board) has reviewed certain residential, commercial, and industrial development proposals, which have resulted in increased traffic to already stressed County and State Highway intersections. Further, the County has significant development proposals on the near horizon, which will place additional burden on existing intersections, roads and bridges. This development pressure has typically come in the form of small to large residential developments and industrial development projects related to the exploration and production of natural gas. As this development continues to occur, the County's road system continues to be severely impacted as well as intersections of County roads and State Highway intersections.

Most recently, on Monday, the Board instructed staff to specifically examine the intersection of County Road 300 and state Highway 6 & 24 (the Intersection) because of the immediate land use pressures that have been placed squarely in front of the Board. Per the direction of the Board, the County Engineering, Road and Bridge, and Planning Departments have met with the County Manager on this issue. This memo includes an analysis of the discussion points and possible options for the Board to consider regarding this intersection.

EXISTING INTERSECTION CONDITIONS :

The intersection consists of a two-lane county road (County Road 300) that intersects perpendicularly into State Highway 6 & 24 approximately 3.5 miles southwest of the Town of Parachute. This intersection has had a significant increase in traffic over the last 3 or 4 years as the oil and gas exploration and production has increased in that area south of the Colorado River. Companies in this activity are primarily Encana Oil and gas (USA), Noble Energy and Williams Production RMT with limited activity by Petro Hunter Operation Company. (The accompanying maps will depict the well and pipeline activity established in the area.) Regarding land uses in the area, the Board has also recently approved several Special Use Permits near the Intersection including EnCana's Orchard Unit Compressor Station, Frac Tech Industrial Support Facility, the Strong Contractor's Yard, Williams Compressor Station, and the Una Pipe Laydown Yard and the Una Gravel Pit. As the Board is aware, the County has received an application to develop an additional gravel pit on the west side of the Intersection. The County can expect additional land use requests to come in even though the Intersection needs improvement. The Intersection also falls outside of the Traffic Impact Fee area and was not slated for specific improvements in the County's capital Improvements Plan (CIP) completed in 1997. It was also excluded from any discussion in the proposed Transportation Master Plan (TMP) prepared by LSC Transportation Consultants, Inc. in 2006, which was not adopted by the Board. All of this activity continues to place significant pressure on the Intersection's safety and ability to operate at an acceptable Level of Service (LOS).

WHO'S RESPONSIBILITY IS IT TO IMPROVE THE INTERSECTION

This is the key question for this entire analysis. Roads that fall entirely within the County's jurisdiction are more easily dealt with however; this Intersection is under the jurisdiction of Garfield County and the Colorado Department of Transportation (CDOT). The 1997 CIP and the 2006 TMP specifically excluded any significant analyses on state highway / County intersections.

THE COUNTY'S CURRENT METHOD

The Board adopted a Capital Improvements Plan (CIP) in 1997, which was memorialized in Resolution 97-111. The purpose of this plan was to provide an analysis and a procedure to identify those roadways which are anticipate to be impacted by development through the year 2020 to such an extent that they will require capital improvements to provide acceptable Levels of Service (LOS). The CIP also provided the basis for the adoption of an Impact Fee by roadway / area to allocate the anticipated capital needs of the identified road upgrades to future development. Areas were analyzed in terms of anticipated populations and dwelling units. (Map Attached).

The County's CIP states that the lowest acceptable LOS for any roadway segment will be LOS E. [As you may be aware, LOS describes the level of congestion on a road at a given time. Using the scale A-F, a facility is rated for its level of congestion. The LOS calculations will produce the delay (seconds/vehicle) that the motorist experience at an intersection.] As part of the CIP effort, the County provided a traffic impact fee analysis that applied to residential and non-residential (commercial and industrial) uses; however, when the Board formally adopted the Traffic Impact Fee, it chose to only apply the fee to all Subdivision plans and plats within specific Traffic Study Areas. Fees were to be collected based on the Average Daily Trips (ADT) generated from such use and held by the County until the County decided to make improvements. Fees collected in a specific Study Area could only be spent in that same Study Area for capital improvements. The County's Subdivision regulations of 1984, as amended served as the regulatory trigger for requiring these fees. Section 4:94 of those regulations provided the following:

Off-site road impacts shall be evaluated for subdivisions through completion of a traffic study identifying the volume of traffic generated from the development, based on Trip Generation Rate calculations utilizing the most current Institute of Traffic Engineers, Trip Generation Manual, to establish an Average Daily Traffic (ADT).

The road impact fee shall be established as a result of entering the applicable data identified in the Road Impact Fee calculation Work Sheet located in Appendix A. Fifty percent (50%) of the road impact fees shall be collected at the Final Plat for a subdivision, if the affected County road project is scheduled to start within five years in a Capital Improvements Plan adopted by the Board of County Commissioners. All other road impact fees will be collected at the issuance of a building permit. Any road impact fees collected will be put into a separate interest bearing account in the County Treasurer's office, for each road that impact fees are collected. All fees collected and interest accrued must be spent on capital improvements to the specific road for which the fees were collected within twenty (20) years of the date that the fee is established. All capital expenditures must be consistent with the capital improvements plan used as a basis for establishing the fee. If after twenty (20) years, the fees collected have not been spent in accordance with the capital improvements plan used to establish the fee, all fees will be returned to the land owner of the property assessed an impact fee, with interest accrued. To the extend the County has expended funds consistent with a capital improvements plan for a particular road and a property owner has not paid a road impact fee as required for a building permit which establishes additional ADT, the impact fee shall be collect at the time a building permit is issued to recoup the expenditure. Any fees collected after the completion of an identified road project, will be credited to the appropriate project and will be used to reimburse the County for the funds advanced to complete the project. The County may use road impact fees for a specific road improvement identified as a critical facility with a high priority for health and safety reasons in a Capital Improvements Plan adopted by the Board of County Commissioners, in advance of the completion of the entire road improvement project. any such use of funds must be consistent with the basis for the impact fee. If, after the use of road impact fees for a critical facility road improvement, the County fails to complete the entire project identified in the capital improvements plan within the twenty (20) year period of collection, the proportionate share, with interest, will be returned to the owner of the property subject to the impact fee based on the actual amount of the expenditures made on a particular road system. As a part of the Capital Improvements Plan, the Board may determine that certain portions of the road improvements to a road are critical to complete, before there are any additional traffic generating uses added to the road. If a development is proposed before the County has scheduled to make the necessary improvements identified in the Capital Improvements Plan, the developer may be allowed to pay the total cost of the needed improvements prior to the County's schedule. The County will reimburse the portion of the cost that exceeds the amount that would be applicable for road impact fees, plus interest, by the time that the project had originally been scheduled to be completed. If the Board of County Commissioners has not established a base road cost per ADT for the area in question, the applicant will not be obligated to provide an analysis of the off-site road impacts.

THE RIO BLANCO APPROACH

This document establishes impact fees applied to new development in Rio Blanco County, ensuring that revenue is available to build and expand existing facilities for the general/administrative government departments and offices as the County grows. The implementation of the impact fee requires new development to pay its fair share facility

needs as anticipated in/by the year 2022. This report outlines two fee schedules. One for Administrative Public Facilities and another for Law Enforcement/Judicial Facilities. Without a revenue mechanism for expanding facilities, they will inevitably become crowded and result in inefficiencies -- decreasing overall government service levels to the entire population and business community. If the County has not charged new development for its fair share of the costs, then the taxpayers at large will bear the burden of building additional facilities, the need for which was generated by new development. This results in a de-facto subsidy of new growth by the existing taxpayers.

While the study is based upon extensive information from several sources and the calculations can be complex, the basic logic leading to impact fee is relatively simple and can be distilled to answering the following ten questions:

1. Does Rio Blanco County have a need for an impact fee to charge new development its share of the cost of expanding facilities currently housed in the Courthouse and Annex buildings?
2. Does Rio Blanco County have the legal authority to charge such a fee?
3. What is the current extent of the Courthouse and Annex buildings?
4. How do residential, commercial, and oil and gas land uses draw upon facilities for basic County services relative to one another?
5. How much does it cost to build or expand facilities like the Courthouse and Annex buildings?
6. What is the current level of service for facilities like the Courthouse and Annex buildings?
7. What should the fee amounts be?
8. How much revenue might the County expect the fees to yield?
9. Should credits or waivers be offered to any types of development?
10. What steps and considerations are involved in implementing the fee?

A lot of development issues and how to wrestle with these for everyone.

CDOT AUTHORITY / JURISDICTION

Look at documents and CDOT process and for County R 300 and 6 & 24. The general set of user groups would be the existing property owners that live up there – Wallace and Spring Creek, perhaps the Morissana Mesa, Battlement Mesa resident, so the people who live there and have the residential/agricultural uses have always used this access point, and then you have fairly recently, as of 2003 on, you began to see the ramp in activity, primarily the oil and gas, natural gas activity and that ranges from the preparation to drilling the well, to fracing and all the completion, so the life of the traffic that responds to one well is a very long life and carries a lot of trips. That's the second ground and then the third group is where the Strong PUD gets pulls in where you have development that the County does control. This is a major point in reading the memo on what land use the Board has chosen to regulate and what you have chosen not to regulate. Of the regulated type, you have the Strong PUD, Frac Tech SUP, those kinds of things – that is within your authority to deal with road impacts to a certain degree. The significant amount of pressure that freely use that intersection, you do not regulate which is the oil and gas. There is a major difference. By way of your County regulations that you have in place and the Comprehensive Plan that says there's a vested interest for this County to make sure that it's road systems operates in a safe manner. You can use as a Board; your authority to say I do not think we should approve "said" development because the impacts to a certain intersection are simply are unsafe unless that group can mitigate it. Commissioner Houpt – Go back to what you said about not regulating the industry, if they come to us for a SUP we do have the opportunity. Fred will come to that. It gets back to a strict impact fee for example; no, you cannot because the current impact fee is clearly for residential units only. There is no mechanism in place today to assess a certain fee on that activity. Chairman Martin – We had an agreement with them, \$5 million dollars was to be collected from 2006 forward. Marvin was asked if we know what the industry has contributed for the last two years. Marvin – Probably over \$22,000,000.00 for this year for Roan Creek and then close to \$5 million plus in the last two years. Chairman Martin – So we do have a mechanism in place. It is not an impact fee but this is available and we were able to use that money for those impacts. It is up to us if we do an intersection – that is a different story. We have not done that yet we have done the long strips. It has been in the priorities. We did look at the County Road 300 intersection. We met internally as a group and we met with some representatives of some of the oil and gas companies in Parachute before preparing this. Page 7 lays out a scheme on what may or may not be used to make improvements to that intersection. This memo was a broad policy type and is not meant to be how to fix that intersection. There are several assumptions. Some hinges on whether we could obtain monies from a certain grant program, the energy impact grant monies, the preliminary design that was commissioned out of this Board is all-inclusive. You have a \$2 million dollar price tag on that supposed design but it is not a heavily engineered design and Jeff can speak to that. There are other issues such as the SUP issue. It could be very significant. Commissioner Houpt – It also assumes the County would treat one area differently than others.

Commissioner Samson – Does the railroad ever contribute money to intersections? Jeff said in the eighteen to nineteen years he has been doing this, major railroad interchanges have never once contributed funds. They handle themselves. They are first right for right-of-way and they keep that in mind when they improve their interchanges.

Chairman Martin – They were given a patent by the US Congress. Crossings they will improve but intersections are up to whomever. They will contribute something if they are failing. The County has a capital improvement plan from 1997 by a private consultant, Dennis Stranger who established the fee impact system and identified projects. Specifically, it did not address intersections with state highways The Traffic impact study did not address all areas of the County so there is no mechanism to address impacts. The study actually put the mechanism for commercial and industrial only for traffic impact fees for residential. To date we have collected \$800,000.00 in road impact fees but these are all residential and there is no money that can be used for intersections. Fred referenced page 8, the scheme where there are some contributions here. This shows oil and gas take a quarter, Garfield County one quarter; we are lucky if we get an energy impact grant for a quarter and then other development and this was the George Strong's, the Frac Techs, the other developments that are coming – a quarter is their burden. Commissioner Houpt – Are you just bringing this up because we are thinking about that with all the other intersections that cross the County that we could do the same thing, because I do not want to talk about this project. I want to talk about policy. If you are bringing this up just to say, we could do the same thing across the County because if we did not it would cost \$50 million dollars. Commissioner Samson – He is using this as a model and an example. Fred – To answer Tresi, no that was not where I am headed with this. In fact, point it in the other direction. This is not the way to go. This is a build-up to get where we are thinking. This is a great question because your policy should be a broad based perspective of the entire County. This is not the only intersection you have with the state highway in the County.

Commissioner Samson – In comparison to this and Jeff is the one who has worked on 3 major intersections of this nature. Jeff – Of railroad crossings. Commissioner Samson – But we are not just talking just this or just railroad crossings, I am talking major intersections. What percentage of the cost was usually borne by the County to do that as compared to developers? Does it vary or was it a policy? Jeff – It varied, I said earlier I have been doing this from Florida to Colorado and it varies so widely. In Garfield County? Marvin – We had one on Hwy 6 with the New Creation Church. That was a minor one. Jeff - We have not even completed any of these since I have been here. Commissioner Samson – So we have never really been down this road before. Fred – That is why I raised the last two documents that used the County has commissioned that did involve CDOT and state highway system as part of that. This is new territory. Chairman Martin – We had one access during a liquor license, that was along Hwy 82 – Kurt Wigger in reference to his three entrances and also the safety factor. We have dealt with intersections and state highway before on uses. Jeff – It was not part of the planning. Fred – It was a direct access of three driveways on access to a state highway. Commissioner Samson asked if there was not a difference between a driveway and a major intersection. Fred agreed it was a major difference. Chairman Martin – This one crossed four lanes in both directions and that is the issue in reference to issuing that liquor license. We have had issues with state highways and access. Jeff – We have been in the planning process since I have been an employee of Garfield County through the ITPR for almost every single one of these intersections in the planning process only. The closest one that would have to relate to construction would be the 133-bridge crossing where there is a small piece of County road between Hwy 82 and Hwy 133. That would be the closest that went to construction. Fred - Based on all that, it is critical now to take a look at this from a policy standpoint so you are able to wrestle with these issues on a fair and equitable basis and that is where this memo takes you. On Page 8 here is where we get into what I think is important for you to contemplate. Traveler's Highlands and the memo points out in that discussion recently, you actually prohibited the release of building permits so you put a moratorium on Traveler's Highlands until that developer could get an access permit from CDOT to make that intersection, which is directly across the street from where we've been talking – that was your position – you said you need to go fix your problem and to that degree you put a moratorium on building permits. They formed an Improvements District and you have taken that line to manage their access and their issue. You did not contribute any quarter share to that intersection or require anyone else to do that, you said, you as the developer go fix that with CDOT. Chairman Martin – There is a difference there, it was a private road and not a County road. Fred – This is still the intersection of CR 300. Chairman Martin – It's still off a private road off of a private subdivision that had the requirement to do that and it wasn't the County right-of-way, not a public access, it was a private road – so there's a difference between County Road access to highway versus private road to highway – there's a difference. Fred – Then you asked about what activity has happened; this gives you a good example of where we have been. That was the County's position in the sense because state law frankly said you could not to provide any access unless it is a safe access, a permitted ability access. This has been discussed in numerous executive sessions on that very issue, so that is true of land use and true of building permits. So you still have to follow the state law.

WHO PAYS FOR WHAT

Page 2 is probably the most critical of the whole memo. This gets into improvement and we're not suggesting that this surely square on the County; the question is how much and then who should pay and then one of the criteria you had used and that's the crux of the thinking here. If you negotiate private contracts with whoever is a willing partner is one thing but it sets a bad policy/precedent for anybody else down the road to say, Jane Doe came in with her development and you've paid half of that intersection and I'm coming in and I really expect a check for half for mine too. That is where we really see this as a matter of spending County taxpayer's dollars, which has been talked about all morning. How do you do that fairly? You have a contingency that already pumps money into the Road and Bridge budget by way of the mill levy that fuels Marvin's budget; how then do you go back and it's a policy question and appropriately addressed by this Board, how do you go back and say okay we're going to continue to write checks out of the general fund for improvements that neither you understand what your obligation is as well as what the development's obligations is and is a question of fairness. This is really the crux of this and it is one thing to be able to negotiate when you have willing partners, but you cannot force them to come to the table. If you have a system in place then you can say we have looked at this fairly and the development will then know what its obligations are as they come in. This will protect the Board; but, also it is fair to Mr. Strong or anybody else, well I know what my obligation is. Don - Public or Local Improvement Districts in some cases takes a vote of the people and then the Board has to set the boundaries on who the folks are and this is a problematic issue. Chairman Martin – Every special district has to be voted on. In summary, the 1997 capital improvement plan cannot fix the problems that we have, the 2006 LLC study cannot fix the problems; CDOT is finically unequipped to participate at the moment; we have some mechanisms in place such as oversize/overweight and a fair way to apply some use. None of these is a panacea to fix the County's road system. This is an offset to help soften the cost because at the end of the day, depending on how this Board reacts, someone's writing a check and it's either the taxpayers or the developers, so the question is who writes the check and is it proportionally fair. This is a fairly simple issue but it's a matter of fairness. We're suggesting that based on where we are there's no quick fix today, we have problems today and we are suggesting you commission a study to take a look at this to provide you with the real mechanisms that you can chose from to see if it makes sense to you so there is a more equitable look at this so that someone doesn't get overburdened with gosh, I'm the last guy in but now I've got to raise this intersection permit to fix it for the other 30 people that came in before me. That is not a fair way to go and we have applicants that are hung and that should not be the policy of the County to force guys like this to deal with those issues. It should be a fair proportioned way to look at it. This is a real breakdown in our Land Use scenario and all three of the Commissioners have wrestled with that fairly recently. Another suggestion is to actively continue to participate in project prioritization with CDOT to see if there is a place and sometimes the squeaky wheel gets the oil. This is really meant to be an introduction to what we see as some of the root issues. Marvin – We need to have a Work Session to see where we need to go. This is a lot of information. Let's come up with an agreement if we can do this internally or does it need to go out. Our LLC may have a lot of information that we can use and compile our own. Chairman Martin – We have study upon study and it's time for us to just go ahead and put our priorities in and the direction we need is a Work Session. We need to make those decisions. Commissioner Houpt – We may find that we do need to update that study, it's been a few years and it's been brought back to us three times and certainly think we need to all read through it again; but it may not answer all of these questions. Marvin – At the end of the day we need a pot of money is what it boils

down to. Where that money comes from and how fair is it where it comes from, is what we have to answer.

Chairman Martin – The other issue we have is an increase of fees on top of the increase of fees the state just did to all those transportation folks. From the registration fee to the weight fees, license plates fees – these guys are going to pay double what they have in the past and now we want to do another fee this year; the sheriff’s fees, the fines on all of the transportation issues have gone up with the state patrol. Fees are not going to make it. We must just as well stop having the industry or anybody else use the highway because there will be many cars go off the road; we are losing jobs. We need to stop on top of the industry that way. The other one, CDOT, we are in there with Joe Elsen, we sympathize with Joe but even when we go to the ITP, it is not our priorities that play a role. It is a group and they have a strong voice in the money; we need to do our own priorities within Garfield County as we did once before not just regional but just Garfield County and sit down with Marvin and a bunch, make the decisions on all the studies. Marvin – One thing we need to think about in the future is us not going in the hole like a lot of other places are; we have good fund balance; we’ve been able to serve the people pretty well by saying there’s not going to be a lot of upgrades etc. We need to think about spending the great big bucks in the right spots.

Chairman Martin – Agreed and that is where we need to be. We have given money to consultants on and on and on; it is up to us to make some decisions. Commissioner Houpt –What I have heard from you today is that the latest study does not answer the questions we have at hand. Fred – As it directly connects with CDOT highways, no. You do not have a study in place that talks about this – this was not the position of the Board when the study was done. Commissioner Houpt – So there needs to be some kind of updated recommendation or study conducted. This is huge and it is not the only issue that needs to be addressed. Chairman Martin – Another study and another two years and then we have to implement it. Marvin suggested to sit down as a group with the Board in a work session and take what we have and see where we need to go and maybe a lot of it is already there. We may have to put out a study for a small amount or maybe just see how we are going to improve intersections. A lot of information is there.

Jeff – There is quite a bit of information. Commissioner Samson – The point is well taken along with Fred, by doing a fair policy we are going to protect everyone and ourselves as well as developers as well as industry. We will protect everybody and that is a good point. The main point I hear you saying Joe is that CDOT’s to blame. Joe – We are financially unequipped. Chairman Martin – The only reason is because the priorities that have been chosen and if you change priorities you have money to do everything we need. The other issue is the impact fees and increase recommendations on housing that drives the price of housing to another \$8,000.00 – it is a vicious cycle. We need to find a different mechanism. And that doesn’t take the impact to the commercial folks that doing concrete to the gravel going over the same roads. None of that construction has any impact in reference to that impact fee it is just the homeowner. Fred – That is a great point and none the studies we have commissioned deal with any of that. So that’s why we’re suggesting that you actually do a study that gets to the heart of these issues. Chairman Martin – We know that already. Commissioner Houpt – Let’s see where we get in a work session. We may find this is too complex to scribble on a piece of paper; we may need some experts. Marvin – We want growth in Garfield County or I think we do so the people will want to come here and I do not know that we want to be so restrictive that we run people away or people who have been here for several generations or more. Fred – The one thing to add is in using the data that we have, the studies that we have, the information that you’ve learned, also it still has to be consistent with Senate Bill 15 for example so that whatever you decide to do, it’s still legally defensible in court. That underlying current may be tested. A discussion was held with regard to weight limits for agricultural. Marvin clarified that we follow CDOT rules on agricultural weight limits. Don stated we have been challenged already by other industries. Jeff clarified that today’s presentation was only to work on a solution for the issue of County roads meeting state road interchanges. Chairman Martin – And Joe’s folks at the Department of Transportation, also the Port of Entry have an oversize overweight permit that they collect which goes into the fund which is then distributed to the Counties etc through the Highway Users Tax Fund which now you’re going to double tax them on that same road and that will be a challenge as well. Jeff – The bottom line is this, if they are telling us we are going to shut you down unless you improve these interchanges, these interchanges cost a certain amount of money – where does the money come from. Commissioner Houpt asked if Fred wanted to schedule a workshop. Marvin wants to do so. Fred wanted to see what the expectations of the Board would be. Marvin – Then we could get direction and know the direction we should march. The direction to staff is to schedule a work session. Fred will present a number of dates.

CONSIDER A REQUEST FOR AN AMENDED FINAL PLAT FOR LOTS 5 AND 6, ST. FINNBAR FARM SUBDIVISION TO RECONFIGURE AND EXPAND THE EXISTING BUILDING ENVELOPES. THIS REQUEST IS LOCATED EAST OF CARBONDALE, SOUTH OF HIGHWAY 82 ON THE WEST SIDE OF COUNTY ROAD 100. APPLICANT; FINNBAR, LLC – KATHY EASTLEY

Kathy Eastley, Deb Quinn, and Ben Genshaft, Esq. from Thomas Law Firm representing the Roaring Fork Farm, LLC and Finnbar LLC were present. This is a public meeting so notice was required.

Kathy submitted the following exhibits for the record: Exhibit A – Garfield County Zoning Resolution of 1978 as amended; Exhibit B – Garfield County Subdivision Regulations of 1984 as amended; Exhibit C – Application; Exhibit D – Staff Memorandum; Exhibit E – Staff Memorandum from May 1, 2006 Board of County Commissioners Public Meeting; and Exhibit F – Copy of proposed plat. Chairman Martin entered the Exhibits.

Kathy stated this is an amended plat for building envelope for Lot 5 and Lot 6 of the St. Finnbar Farm Subdivision on the west side of County Road 100 just south of Highway 82. Lot 5 encompasses 13,407 acres and Lot 6 - 11,493-acres. When the original plat was approved in 2001, there were issues with the floodplain and wetlands – building envelopes were not to affect these area. Since 2001, the historically meadows and wetlands have stopped.

DESCRIPTION OF THE PROPOSAL

The owner of Lots 5 and 6 in St. Finnbar Farm Subdivision is requesting an amendment for the subject lots in order to expand the existing building envelopes. St. Finnbar Farms is a subdivision located north of Blue Creek with the final plat approval granted in 2001. The proximity of the Blue Creek floodplain and related wetlands resulted in the buildable area of the lots being limited by building envelopes in order that improvements remain outside of both the floodplain and wetlands. Subsequent studies have resulted in a decrease in area delineated as jurisdictional wetlands subject to U.S. Army Corps of Engineers (USACOE); therefore, the applicant seeks to enlarge the area in which construction of a single-family home could occur on each of the lots. Gary Beach, Beach Environmental, LLC performed a wetland study on the subject lots in 2007 and found that historically irrigated meadows had dried up due to a ten year period of non-irrigation of the area resulting in a substantial reduction of the wetlands area on the two lots. A letter from the USACOE dated April 23, 2008 concurs with the 2007 delineation thereby approving the revised jurisdictional wetland area on Lots 5 and 6.

HISTORY

St. Finnbar Farms Subdivision is subject to site constraints including the 100-year floodplain of Blue Creek and jurisdictional wetlands and the original building envelopes were configured to avoid these areas.

A prior request for an amended plat (building envelope amendment on Lots 5 and 6) was requested in 2006 and conditionally approved by the Board of County Commissioners at a Public Meeting held on May 1, 2006. One of the conditions of approval included: *The applicant shall present a letter from the US Army Corps of Engineers that agrees with the changes to the mapped jurisdictional wetlands. Additionally, this verification shall include a new map, submitted to the Planning Department that delineates the newly mapped wetlands as approved by the Corps. This map shall also delineate a 20-foot buffer either 1) around the wetlands and the 100-year floodplain or 2) around the building envelope to be platted as such on the amended plat.*

Exhibit E contains the staff report from the May 1, 2006, meeting.

The Board shall not approve an amended plat unless the applicant has satisfied the following criteria:

- A. All Garfield County zoning requirements will be met;
- B. All lots created will have legal access to a public right-of-way and any necessary access easements have been obtained or are in the process of being obtained;
- C. Provision has been made for an adequate source of water in terms of both the legal and physical quality, quantity and dependability, and a suitable type of sewage disposal to serve each proposed lot;
- D. All state and local environmental health and safety requirements have been met or are in the process of being met;
- E. Provision has been made for any required road or storm drainage improvements;
- F. Fire protection has been approved by the appropriate fire district;
- G. Any necessary drainage, irrigation or utility easements have been obtained or are in the process of being obtained; and
- H. School fees, taxes and special assessments have been paid.

STAFF RECOMMENDATION

Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this request subject to the following conditions and authorize the chairman to sign the amended plat.

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. Prior to issuance of a building or grading permit for the site(s) the Applicant shall provide a map of the revised jurisdictional wetlands on Lots 5 and 6 as approved in the letter dated April 23, 2008 from the USACOE.

Ben Genshaft - We are trying to complete what happened a few years ago. I am back here today to complete this and it seems pretty clear to me we would not have any problems complying with your conditions and I'll work with the Planning Department to make sure they are comfortable with whatever amount is produced so that the Army Corp is comfortable and the County is comfortable and everyone can clearly see the delineation of the wetlands. Kathy stated they would also request the Chairman to sign the mylar if the application is approved. Commissioner Samson moved that we approve the amended plat for lots 5 and 6 in St. Finnbar Farm Subdivision with the 2 recommendations by staff and the Chair authorized to sign the mylar. Commissioner Houpt second.

In favor: Samson – aye Martin – aye Houpt – aye

EXECUTIVE SESSION – Don DeFord identified the remaining items to be discussed in Executive Session as: LB Rose - the status of that and advise on the SIA for the project; discuss with the Board the draft of easement on Crouch 162A and we will need public direction; discuss the status of independent referees for the Board of Equalization and a legal issue Commissioner Houpt has raised on the evaluation process; and obtain some direction from the Board on Battlement Mesa trails. A motion was made by Commissioner Samson to go into an Executive Session. Commissioner Houpt seconded. Motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session. Motion carried.

Action Taken:

A Notice of default in a Subdivision Improvement Agreement dated September 13, 1999 with LB Rose Ranch, LLC and Board of County Commissioners

Commissioner Houpt made a motion to approve the sending of that and authorize the Chair to sign. Commissioner Samson – Seconded. In favor: Houpt – aye Samson – Aye Martin - aye

BOARD OF EQUALIZATION

Don asked if the Board prefer he come back to them with a more formal written statement on cost rather than leaving it as a budget supplement. The Board concurred.

Adrienne Crouch – County Road 162A

Lastly, Don stated a meeting or so ago it was his understanding that the Board directed his office to send a temporary construction easement proposal to Adrienne Crouch and would like authority to do that in the form he presented to the Board today. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

COMMISSIONER REPORT

Commissioner Samson – I attended the Energy Summit in Craig on Thursday and Friday – very well attended. The place was packed. I learned a lot; Friday we had a lunch meeting and former Governor's Lamm and Owens were both there, spoke, and answered questions; we had many experts in the energy field with talk and it was very informative and glad I attended – I wish the two of you had been there but understood they had previous engagements. Tresi had attended once before. The other things is to briefly report that I had some people call me and wanted to see if it would be possible for minutes of our meetings to be put on the website in a more timely fashion and we're working on that; and also wanted to know if it would be possible to have the public be able to access the public materials. Jean told me she has a copy and anyone can see it at any time. Commissioner Houpt – Attended the State River Meeting with the Colorado River District on Tuesday in Craig and it was a very interesting recap of all the studies going on the Frying Pan, Roaring Fork and Colorado River - they have everything on line with that; Human Services Commission met on Wednesday to talk about grants; Thursday – Thompson Creek Coalition meeting - they are concerned about that region and all the leasing of the area - Mike King was there to talk about gas leasing. LoVa Trail ribbon cutting on Friday. Chairman Martin – Met with BLM and Forest Service - 3 federal units

that have proven out to be worthy and they have to buy them back - 126,000 acres in 1956 cannot be dissolved as they are under federal rule and have to be produced. At the state and federal level, Ken Salazar, Department of Interior and Forest Service met in Phoenix to discuss various issues and they are meeting with the state director and local field manager as well as Meeker and Grand Junction - very interesting options not available. More information has been requested and they have asked Ken Salazar to find out. Phoenix - BLM National Training Facility for all field managers to cooperate with and what we expect land planning, socio-economic and enforcement with land use, road less issues and mineral rights. About 80 people attended. This week I will be in Oregon for WAIR meeting with 15 different states. Commissioner Houpt stated there is some solution on the road less rule. Chairman Martin - Thursday – May 21 – 7:30 a.m. in Rifle with Carter Mathis; Thursday from 10a.m. – 4p.m. a tour of the Sutey Ranch. Next week – meet with City Council at 6:30 pm on the 27th street improvements and South Bridge and City of Glenwood Springs. Council on Aging is okay until we meet on June 1, 2009. Silt – May 28th from 5 p.m. – 9 p.m. at the Silt Park affair for Dennis Davidson retirement from National Resource Conservation District conservation. Attended the Communications Board meeting on May 11th. Tuesday we will assemble at the Midland Point building at 10 a.m. We will adjourn the meeting to Tuesday May 19th and to the 21st for the tour of the Sutey Ranch meeting at the Town of Carbondale at 10 a.m. Direction from legal is to post the special meeting with the City of Glenwood on Southbridge on Wednesday at 6:30 p.m., May 27th. This is a special meeting. After that meeting, we will adjourn. Suggestion - Draft a letter to the editor regarding the taxpayers rise in property valuations to help the County constituents understand the taxes, address their concerns and explain how it is calculated based on 2007 values. This might alleviate many concerns. Don – This is a policy discussion and suggested this be on the June 1st agenda or give direction to Ed or Don to draft a letter. The Board concurred.

RECESS

CONTINUE MEETING UNTIL MAY 19, 2009 AT 10:00 A.M. WHERE TWO FOLKS WILL BE TOURING A BUILDING ON MIDLAND AVENUE FOR POTENTIAL USE

Attest:

Chairman of the Board

PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS MAY 18, 2009

REQUEST DESIGNATION TO WAIVE OPERATOR REQUESTS FOR INCREASED SPACING – JUDY JORDAN

Judy Jordan stated she was here a few weeks ago with Bill Barrett Corporation and the request on their part to increase the drilling spacing unit that they had just by waiver. This was about 3-4 weeks and they had a designation under order from COGCC that there was only well pads they could put within a given area under the order. They were restricted by some of the infrastructure that remained on the pad from a previous owner and they had asked if they could build another pad. They had to get a waiver from the County to do that. Judy projected some of the maps for the Board that showed where the pads were and explained the restrictions they were under and why they needed to build another pad. The Board of County Commissioners then okayed that waiver basically allowing BBC to construct another pad so they could proceed with drilling. The question was, when BBC first approached Judy about that waiver, they were hoping to proceed the next week with having built this new pad. Judy could not give then that waiver because I did not have the authority to do so because the Board had not delegated that authority to her. Their understanding was that I could give that waiver to them as the Local Government Designee (LGC) because that was the practice previously. Under a prior board the authority to give a waiver under those circumstances which is actually a variance where they pined in and not able to proceed with drilling just because of some type of a logistical constraint and had previously been able to obtain the waiver fairly quickly from the LGC, but because we hadn't had the new Board delegate that authority to Judy, she was not able to proceed with the waiver. The question is, whether the Board wants to go ahead and delegate this kind of authority strictly for these kinds of waiver situations where there is a density for a number of pads that kind exists in a certain area. Commissioner Houpt – Isn't that for every situation. It is basically putting that decision to make any kind of variance on the number of pads you could have in the drilling field. Judy said yes, it would be for the density of the pads. Commissioner Houpt believes this in many land use questions and if we did this, I would want to make sure that you would bring that, before you make variance decisions, bring back those issues that are in residential areas or other unique areas that would be impacted by having another pad. It is very difficult to predict what kind of requests would come forward. Chairman Martin - And since this was a special field order on the first one and the neighbors were protesting, that is why it came to us as well. There was a study and many other things that went along with the hearing. This was when the new pad was discussed, when they had four pads even though they bought the property the owner still said only four pads. The owners of the adjoining property also had issue with that. Even if we gave you the designation which could still have the hearings in front of us and this Board would make that determination to ratify your decision one way or the other. So, why not just bring it to this Board the first time. Commissioner Houpt did not remember this presentation. Chairman Martin - this was underground spacing. Commissioner Houpt – If we made a decision previously then she did not understand why Judy would not be able to carry that forward. Commissioner Samson said she did for that one. She's asking for in the future. This one is already taken care of. Judy – The only reason to do this is the timing. It would take 2-weeks to get on the agenda and the problems mapped out so she could describe to the Board what is being requested. That would be assuming there isn't a 4th Monday involved. Otherwise, it would be at least 3-weeks before she could appear before the Board. Under those circumstances, BBC was looking for a waiver request within a day or two, as they wanted to drill. Commissioner Houpt would think we need a written policy before we changed that designation because if there was a pad that the neighbors wanted to protest, this is their opportunity to do that and that should not be eliminated. Commissioner Samson – Isn't that how it's been had done this in the past and you are asking for an extension of that authority. And, Commissioner Houpt wants a change in the policy. Commissioner Houpt – I assumed that those would come to us. Chairman Martin – No. Commissioner Houpt – Yes, because we were supposed to be receiving these. A variance can be very small or it can be very large. We did not have a formal policy that said that and that is why Judy is here today that said the LGD could make those variances without coming to the Board. Commissioner Samson asked Judy if she was given this in that past or was it just

assumed. Judy – It was not personally given to me, but it had been given to the LGD before I arrived and continued once I was in that position, but yes, the previous Board had delegated that authority. Commissioner Houpt – Do we have that on paper? I would really like to see these policies. Judy – The reason I know that Commissioners; Don told me that was in the duties. Commissioner Houpt asked if we have that as part of our policy. Don – Is it written? Commissioner Houpt – Yes, because we really did not receive anything on this. Don – I think when it did occur, if you pull the job description up; it is on there. I would have to see it to make sure. Commissioner Houpt – I think what would be really beneficial is if you pull the job description, you guys came up with some policy proposals on how you believe – I don't want to stand in the way of you doing your job, but I want to have a policy so we're all on the same page here. And have that come back because I think it would be premature to make a decision. Don suggested pulling the minutes because the time the position was created, which is now a few years ago, there was an extensive public discussion of the position and the job function and I remember distinctly that this was brought to the Board to establish the job description for this position. Now, I need to see those minutes and job description to see if this specific issue was addressed but it should have been included in that because the Local Designee position is one that is established in state regulations and so we had to address that. Commissioner Houpt – And, I don't disagree with that; but sometimes I think there are larger land uses that go along with that and so with our new Land Use Code our director of building and planning can make a decision on what can be administrative and what should come to the Board. I am thinking that maybe that is the same type of call that I would expect Judy, as the LGD, as well. Some of them would be easy administrative but I would really like a more formal vision. Commissioner Samson thinks he may have seen this but was not sure. Commissioner Houpt wants to have all the information in front of us and a discussion before we change anything. Chairman Martin voiced his concern saying you are dangerously close to a conflict of interest in reference to sitting on the Board setting policy for the Oil and Gas Liaison for the County, making these determinations and then also making policy and decisions for the state. You have to be very careful on that – it is getting close. Commissioner Houpt – I do not think so. Chairman Martin - In my opinion it is and I think that you need to pull in your horns a little bit there and to say hey, am I on the County to make these policy changes and change the job description to match the state or if you're on the state and making decisions on oil and gas. Commissioner Houpt – I think we're all partners is trying to regulate energy development together and what I think is important as a County Commissioner; to make sure that we are looking at the land use concerns and I have a great deal of respect for Judy Jordan and the job she does as a liaison and I think this is really key to how we precede as County Commissioners on land use issues. Chairman Martin – My point exactly, you either need to be a state or a County Commissioner. Commissioner Houpt – Well, I am only on the commission because I am a Commissioner that is the way – it is a local official on this board and I do not think that is part of this discussion. Chair Martin – It is to me. Commissioner Houpt – What I am requesting is just more information so we can be clear in case there are other questions that you have. However, I can see how most probably 90% of the times, it would be an administrative decision. Judy – One of the things, I bring this to you, not because I necessarily want to make those decision and wrestle on who makes that decision. Really, the question to this is on, it takes more time for the decision to be made at the Commissioner's level which is an inconvenience to the operators and so I'm bringing this to you really just in my duties in terms of considering what they have to contend with to get their drilling and their acquisition done. So, the one side is what the time is for them and whether there's a hold up that involved in terms of bringing the question to the Board of County Commissioners. The other side is if it is made as an administrative decision then it is the operator and me sitting in the office looking at the logistical constraints that they are facing which would be the same things that you would be looking at but it would be done publically. Therefore, those other neighbors would not have an opportunity in the same way to voice their opinions and concerns. I think it's a balancing act that you might want to consider in terms of what's the inconvenience to the operator versus what's the opportunity for the public to have some comment on it and to me I can see both ways and that's why I put the question to you where you'll like to have the answer lie. Chairman Martin – With the new rules and regulations the neighbors would have an opinion and they'd be able to voice that opinion and call for an on-site inspection as well as intervention by the County by voicing that view; which you would bring to us, show that and we could intervene. Yes, the neighbors are going to be there, yes, they are impacted, yes the new rules and regulations allow that to happen and so if it's in the job description we need to continue the policy, it's worked for as long as the job has been there, all you have to do is call up like you've done before, say, there's a spacing issue in this, shall we go ahead and talk about it or not and you've made those calls before. Jess did that, before that, the other three LGD's did and it worked very well and if we have a real contentious item it comes up anyway and we can go ahead and have our hearing. Commissioner Houpt – But, we just need to make sure and as part of the discussion, make sure that Judy is communicating with the surrounding landowners too, to know if it is something that should be called up, so, that has to be a big part of that as well. You meet with the industry but you also make sure that there is no concern from the public. Then, that triggers a hearing. Commissioner Samson – So, Judy do you feel good about coming back next time and we could have a copy of the job description so I could actually look at that and decide what is in that. Chairman Martin – We'll consider the designation officially until we read those rules and regulations and will come back and make a determination if we need to change that or not. Don - Based on my memory of that, you might want copy of minutes adopted as well because there was a long discussion of the position.

Attest:

Chairman of the Board

JUNE 1, 2009

**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 1, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marina Clayton Deputy to the 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

FIVE YEAR MASTER CONTRACT WITH THE DIVISION OF CRIMINAL JUSTICE FOR COMMUNITY CORRECTIONS – DALE HANCOCK

Previously the Board received a five-year contract for community corrections. Dale has routed that contract through Patty Fredrickson who made comments in terms of the formal concerns the legal department expresses with respect to doing business with the State of Colorado. Dale is asking that the Chair be authorized to sign. It amounts to about \$866,000.00 revenue from the State; \$37.73 per day for the inmates housed at the community correction facility in Garfield County and throughout the State. Commissioner Samson - I move we approve the five-year master contract with the Division of Criminal Justice for Community Corrections. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

DISCUSSION - CONSTRUCTION OF FACILITIES FOR MOUNTAIN FAMILY HEALTH AND HOUSING AUTHORITY AT THE DEPARTMENT OF HUMAN SERVICES BUILDING – DAVE ADAMSON, JIM NEU, ESQ., AND RANDY WITHEE

Mountain Family Health Centers will build a 9,400 square foot facility with 9 exam rooms, 1 procedure room and a waiting area, laboratory, administrative offices, a small teaching room, conference/lunch room and other common areas. The facility will also include two dental operatories. The Rifle facility will be designed for further expansion in 4-6 years to accommodate 9 additional primary care exam rooms. The total estimated cost of the project is \$2.2 million (\$1.9 million design and construction, \$300K equipment). The project is being supported by the Colorado Department of Local Affairs, the Colorado Health Foundation, the Caring for Colorado Foundation, several other state and local foundations, and the American Recovery and Reinvestment Act.

Dave gave a presentation and handouts. In his presentation, he explained the organizational budget, staff utilized in Glenwood Springs, number of patients seen, Saturday hours, age groups of patients seen, private funding and finding a dentist for a dental facility. Commissioner Houpt asked what they needed from the Board. Commissioner Samson asked about the progress on finding the property owners and will no one come back later saying we should not have built on this property. Carolyn said that is part of the instruction she needs from the Board; how much further does she go. There may be some Pile relatives in the Paonia area, some in Wisconsin and some in Bolder, and it will take significant work to track them down. Carolyn asked if they wanted them to keep looking, or do you think the risk is low enough. Commissioner Samson asked about the legalities; do you think we should go ahead with this and Carolyn stated this is a risk issue and the Board has to decide. Jim stated looking at the deed restrictions; there are risks, but remote. In this instance, Mountain Valley Health Center will take all that risk. The actual risk, the Pile family would have to know to come in and know they have a deed restriction; he thinks the County is meeting its obligations with part of the fairgrounds being on this property. What would the Piles be getting out of this by trying to enforce? The only thing they could do is ask for this medical facility, that is helping the under privileged, be removed. They do not get the property back, they cannot get any money out of it and when you think through how that would actually play out; why would anyone do that. He thinks the remoteness, is so out there that it is worth going forward. Commissioner Samson asked if they could not demand a financial settlement. Jim stated no; the property would revert back to the heirs, the family, but they can't revert all the property back because you still have part of the fairgrounds on it. Commissioner Houpt stated that one sentence clearly allows this type of use. If the Board deems it a public use that is a necessity in the County, she does not know how they can argue against it and Jim agreed. Don stated he has dealt with this issue for 20 some years and he thinks Jim has characterized this well. You are talking about a remote risk, primarily because it relies on enforcement by the heirs of the Pile family. Don stated it is difficult to find all the heirs which makes enforcement unlikely; however, we have an obligation to tell you there is some risk and the Board has to decide. Don feels it is important to realize this is a private use of public ground although it has a public benefit as the Board has determined. Carolyn said there are a couple of things she would like to have as public record. The Board needs to deem this a public purpose. Not only does that help with the deed restriction; but it also helps you get over the constitutional issues regarding the interactions between private corporations and the County Government. Which is of course using the taxpayer's money? The second thing interestingly though the statutes do not give you the right to set up a community health center, they give you the right to run a public hospital. What we can rely on in the County Powers Act, is your ability to manage county owned property as long as the use you are putting county owned property to is one that is for the benefit for the citizens of Garfield County. Dave has given you plenty of information on how this project in Rifle will help the citizens of Garfield County. Ed stated as far as supporting this; all of his departments are very supportive of this and have been intimately involved in the planning since August. Even if we place this facility on our site, it is a long-term lease and we still own the ground. In addition, we still have fairground uses on the Pile property. The track is on that property and Ed thinks they can also structure the parking so that they can meet over flow parking needs for the fairground as well. Chairman Martin stated that the City of Rifle needs to approve the facility in zoning as well as its construction

Ed stated Rifle City Council is very supportive of this project going forward. Carolyn asked Ed if there was a land use permit of any variety needed from the City or is it just a building permit. Ed thought it was just a building permit. This is envisioned to be a 30 + 10 + 10 year lease; it will be structured very much like the hangar leases at the airport where we require a punch list review at 30, 40 and 50 years in order to ensure that the building still looks nice and conforms to the standards to the rest of the campus. Jim went through the list of issues; first, they will have a cooperative agreement between Mountain Family Health Centers and the County, similar to how the justice center was built in Rifle. They were hoping to have one construction contract; but right now, he is not sure if they will be able to with Federal funding and all the additional requirements. The County will be involved the entire time and will be administering the DOLA Grant on behalf of Mountain Family; this will be discussed in the cooperative agreement. Jim explained utilizing a land lease; using the airport lease and they are looking at a 12,000 square foot building footprint. He talked about access rights through the campus and parking spaces. Mountain Family will pay rent, which will be increased \$1,000.00 every five years. There will definitely be a first right of refusal for the County because this will be a building with very little debt to equity ratio and if the County chose to at that time, it could utilize the building. Carolyn stated understanding future appropriations. Jim said there will be the typical indemnity insurance provisions and one question is the title of the building at the end of the term. The hangar leases at the airport gives the title of the building back to the County, and they need to see how their lenders and their Board views that. Mountain Valley intends to keep up this facility the entire time. It will not depreciate in 50 years.

Need to figure out what they will do at the end; if Mountain Family is still there in 50 years they do not want to have it pulled out from under them. Ed said that one thing that relates to Randy; they are trying to arrange for the County to build their building and then build theirs at the same time. It may not be possible, they may have to separate. Ed said Mountain Family would like to have Randy oversee the construction effort and make sure it all blends together. Lisa Dawson spoke with the County's auditor, on Friday, and he said he had no problem setting up an agency fund for this. Carolyn said they still have a way to go and they need to calendar this and get back to the Board. There has to be a clearer understanding as to what money Dave is using. There is a big difference between USDA and private funding. Jim said this will dictate the timing and you will not see anything until they get the details. He asked if there were any issues the Board would like them to explore with staff. Chairman Martin asked; is it that we are going to use the land we need to find a public purpose or do we deem it a public purpose to move forward. Commissioner Houpt stated today we need a motion to approve staff to move forward with Mountain Family Health Centers on work on the cooperative agreement and the land lease and she would deem Mountain Family Health Centers as a benefit to the citizens of Garfield County with a public purpose. Ed asked if we should proceed with Randy's services. Commissioner Houpt said yes. Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

Housing Authority

Ed stated he thought the intent was to have them placed on that campus as well. It looks like there are some difficulties in putting Lynn Renick's building and Geneva's building together. It may have to be a separate facilities so there is not a condominium arrangement. There are also issues related to funding with Geneva; she has roughly half of the cost of the facility and the rest would have to be borrowed. Don said there were issues on the condominiums; he is not familiar with why Geneva needs to purchase a facility, or to expand her funds on their own stand-alone facility. It was a difficult proposition setting up a condominium operation and it is also a government facility and would affect the use of the parcel as well. Without the source of funding, we do not know what encumbrances may be needed to secure that funding in the nature of a loan or something of that nature. Finally, they were trying to tie down the actual origin of the monies that are currently available through Geneva's office to make sure there are no restrictions that came with those funds because they came from a variety of sources, some including the County. Don did not know today if Randy needed direction to go forward because originally this came forward in the context of going out for a design built contract and he does not know where they are on that issue right now. Ed said he does not think they are ready to integrate Geneva's facility into our facility. He suggests they go ahead with their project and add Geneva's building at a later date, since it has to be separate anyway. Commissioner Houpt said when we have more information the Commission will have to look into it. Don said they were assuming they had the permission of the Board to proceed and work on this issue as staff; but he has not seen final approval, or final direction to move forward from the Board. He does not anticipate that until they have something firmer to present. Commissioner Houpt said they have not seen enough information to make a decision. Ed asked if in concept, does it make sense to have the housing authority in that complex? Commissioner Houpt said they are beginning to see more and more Human Services campuses around the country and they seem to make a great deal of sense. This is a unique piece of property; she thinks that needs to play a part in the decision. Carolyn asked Ed if the housing authority clearly wanted to own something, they do not want to rent from us. Ed said they clearly want to own the building. Commissioner Houpt said it was not clear to her if they could actually own a building on top of our layers. She supposes they could because the hospital has for years. Ed said they would like to continue working with the housing authority but they really want to get the Mountain Family one going.

REQUEST FOR APPROVAL OF TWO NEW MEMBERS FOR THE HUMAN SERVICES COMMISSION

Letters were received from Rebecca Ruland, Parachute, Colorado and Sonja K.H. Linman, Glenwood Springs, Colorado for these positions. Commissioner Houpt – I make a motion we approve the appointment of Rebecca Ruland and Sonja Linman to the Garfield County Human Service Commission. Commissioner Samson – Second.

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

REQUEST FOR MATCH FUNDING FOR TWO TRAVELER VANS FROM COLORADO DEPARTMENT OF TRANSPORTATION GRANTS – MILDRED ALSDORF

A letter was received from Dave Sturges, Acting Chair, Senior Programs Advisory Board, Garfield County Dept. of Human Services asking the commission to accept a letter from the Senior Programs Advisory Board as their formal support of the Roaring Fork Transportation Authority's request for match funding in order to receive grants from the Colorado Department of Transportation for 2 Traveler Vans. The Colorado Department of Transportation grants require a 20% match for the purchase of two additional vans, and the Commissioners' authorization to cover the match amount of \$22,118.00. Ed stated this is a unique request for another vehicle; we usually do one per year and they are requesting two. Mildred passed out a letter from Dan Blankenship, with RAFTA. She stated they have the opportunity to get two vans. Federal and State give 80% and Travelers has to come up with 20%; Mildred is coming to the Board to ask for a match. She explained they would be cut-away vans, room for two wheelchairs, and 8 to 10 passengers. The mileage on the vans are not high and they thought if they waited another couple of years to buy more; they would look more favorable on them. The mileage on the vans now are under 40 and 50,000. Ed said they would need to approve moving money. He thought there was \$10,000.00 in the budget now. Judy added the BOCC would actually own the vans. Commissioner Houpt – I make a motion we approve the allocation of \$22,118.00 as a local match for the purchase of two new vans for the Traveler Program and direct staff to identify the amount for the budget for the first supplement. Commissioner Samson–Second.

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

APPROVAL AND SIGNATURE OF THE CITY OF GLENWOOD SPRINGS DISCRETIONARY GRANT FOR THE SENIOR NUTRITION PROGRAM – JUDY MARTIN

A City of Glenwood Springs Grant Contract is being presented for signature and the recipient agrees to use said Discretionary Funds as set forth in the application submitted to City Council of Glenwood Springs, CO. Payment of the grant awards will be made as the money is received through sales tax collections and is available. They are asking that the Commission will let them know when Human Services, or an event, needs money so they can time the payments throughout the year. The amount awarded is \$15,000.00. Judy is asking for approval on the grant award. Commissioner Houpt – So moved. Commissioner Samson –Second.

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

AUTHORIZE THE BOCC CHAIRMAN TO SIGN THE DOLA CONTRACT FOR THE SHERIFF AND HUMAN SERVICES ANNEXES – RANDY WITHEE

In March 2009, staff presented the County's request for DOLA funding to the Energy and Mineral Impact Assistance Advisory Committee in support for the construction of the Sheriff's annex and Human Service annex. The first part of May, staff received notification from the executive director of DOLA that he/she concurred with the committee's recommendation of providing funding of \$600,000.00 for each project and enter into a contract for each grant. The grant contracts were received within the last week. Staff recommends the BOCC authorize the Chair to sign contracts with the State of Colorado upon final review/acceptance by both the County and DOLA of any revisions. Randy said last week they received the contract information from DOLA revised and it has been forwarded to Don for review. Randy is asking approval from the Board for the Chairman's signature on contracts for the Sheriff annex and the Human Services annex. Don asked if DOLA agreed to change and Randy stated they made the changes and the revision. Don stated he only had a few quick statements on the form of the contract; this form is new and is improved from the State grant contracts he has reviewed. The contract requires that the County segregates the funds we receive from DOLA, and Don believes that has been done. It also has certain insurance requirements of the sub-contractor; which for us is the contractor and Randy is aware of those and should not have a problem on the insurance issues. The indemnification provisions are much improved over previous State contracts; there is a provision that allows the State, but not the County, to terminate this contract because of non-appropriation and Don finds this odd. There are no hurdles in this contract with the revisions that Randy has made and he sees no reason not to go forward; following the same practice you have in the past and accept the State requirements. Commissioner Samson – I move that the Chair be authorized to sign the contract with the State of Colorado; upon final review and acceptance by the County and DOLA of any revisions for the two (2) \$600,000.00 each project, concerning the Sheriff and Human Services Annexes. Commissioner Houpt – Second.

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

INSTRUMENT LANDING SYSTEM – REPAIR OR REPLACE – BRIAN CONDIE

The old equipment (distance measuring equipment, localizer and the Glide Slope) dates back to the 1980's and has become unreliable, defaulting or going into alarm, an average of five times a month. The system is no longer supportable as the company that made the system is no longer in business; replacement parts are also not available. Two solutions: renovation of the computer software or the replacement of the entire system. The computer software upgrade will replace the computer sections of the ILS system while continuing to use the existing antennas and beacons. The County would continue to pay for annual maintenance currently \$36,000.00/year along with liability and replacement insurance between \$1,000.00 to \$4,000.00 per year. The renovation would cost \$315,000.00 and the State Aeronautics Division is willing to entertain a grant for \$150,000.00. From the attached worksheets, they find that at a 5% rate of inflation for the next twenty years, they come out in the positive by \$1,510,144.00 if they renovate the existing system. At 10% inflation, they go into the negative of \$2,019,842.00 over the same time. Brian explained how critical the system is to the airport. It is aircraft guidance into a mountain region at night. Commissioner Houpt had a question about two things in the packet that do not seem consistent. You talk about the replacement cost being \$1.1 million that the County would be responsible for; but in the letter from the FAA, they talk about the FAA being responsible for the purchase of the program. Brian said it is called a reimbursable agreement; but we are not reimbursed anything. We give the FAA the money and they buy the system. The only way to get reimbursed is to have it "placed named" in Congress. Your Congressman has to say it is vital airport and we are putting it in. It takes a long time and there is no guarantee we get the money we need. Commissioner Houpt said Brian's recommendation is to replace. Brian said he does not know what the County budget is; the airport is drawing a lot of money from the County in the next two years, and a lot of it is not reimbursable from FAA funds. Ed stated if we repaired the existing and decided we wanted to replace it down the road; is that possible and Brian stated yes. Commissioner Houpt said the renovation cost is not inexpensive. Commissioner Samson stated they need to be on the same page regarding pricing. Commissioner Houpt asked Brian when they would find out if we get money and Brian stated November. Commissioner Houpt asked if he needed to do this before November and Brian stated June 15. Commissioner Houpt said; then we are going to be spending \$300,000.00. Brian stated they could plan on \$315,000.00 and hope we get \$150,000.00 back. Brian said we also have the liability and the \$36,000.00 per maintenance cost which is doable. We can do the replacement later; the quandary we have is that we are right at the 7.8% on annual escalation for maintenance on the existing system; which is the breakeven point. The only guarantee you have is by spending the \$1.2 Million dollars. Commissioner Houpt asked Brian; if we spend \$315,000.00 plus the \$36,000.00 plus the insurance, \$4,000.00; you are looking at \$370,000.00 by the time you get finished, with no guarantee we are reimbursed \$150,000.00. That is a third of what we would pay for a new system and it would take a number of years for \$36,000.00 to add up to \$1.2 million. Can it be a long-term use? Brian stated the replacement would last 20 years. Brian stated they have \$900,000.00 in the budget this year; but it is offset by 95% or \$850,000.00 by the FAA, which they have now said they cannot do. Commissioner Houpt said if you look at your tables; it is a risk. Commissioner Samson thinks this is a perfect example of spending money that is not budgeted. We have more and more people coming to us and asking us for money. He wants to know how much was in the Commissioners discretionary fund to begin with. Commissioner Houpt said this is totally out side; and Commissioner Samson said he understood that but it is all wrapped together. This is big bucks and we approved all the capital improvements, which he does not have a problem with. However, this is \$1.15 million dollars on top of that and all the other little things we have done. He stated he is not begrudging those people anything. Nevertheless, there will be other people; we need to have a dialogue as to what is going to go on here. In his estimation, we cannot continue to do everything for everyone. He is not sure if he is prepared to say whether he is going to spend an addition to this \$1.15 million for this; he is prepared to table this and think about what we are going to do in the future for money. Commissioner Houpt asked if they could table this for a week and Brian stated sure. Brian said this is not something that has just come out of the blue. They have been working with the FAA for the past 5 years. The FAA stated the facilities or the IAP money would take care of this. When neither of them received money this year; they said we could not fund it; you are on your own. Brian stated there was no way he could have put this in the budget last year and that is why they are coming to the Board. Commissioner Houpt asked Brian; there is a fund that Eagle County is accessing for an interchange to their airport at the Federal level. It is totally separate from any other transportation money; but it is for transportation. She does not know if this would qualify; but have you looked at all the various pots that are available now. Brian said our airport engineer looked at all available funding, PRT looked, and the FAA and Eagle airport is eligible for different funds because they are a commercial airport. Commissioner Houpt stated this is general transportation so it is not just airports. Carolyn stated it is probably under the ARRA however; and no GA airports are getting any of that

recovery money. Chairman Martin stated under the TPR this project has been in place for quite a while; several years in this intersection. It has not made the priority list of the intermountain TPR; it is a private project for the airport and they are using other funds. The aviation and the transportation funds are under the same budget; the highways get a certain amount and the airports get another amount. Commissioner Houpt stated that anything is worth looking into. Ed said looking at the next couple of years, through 2011, as being the difficult times. After that, he thinks they will stabilize and have some fairly predictable revenue streams again. Ed's view is that Brian does the repairs right now and you have the opportunity to get \$150,000.00 out of the State as well as a part of those repairs. Then 3-4 years down the road, if we decide we want to convert to a new system; we do it. Chairman Martin said actually what we should do is build up the fund. Chairman Samson - I move to table this to our June 8, 2009 meeting. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

DRAFT IGA WITH THE CITY OF RIFLE FOR WATER AND SANITARY SEWER – BRIAN CONDIE

Carolyn said they do not have a final draft to bring to the Board; what they have is a draft that Jim has prepared. Brian and our consulting engineer have spent a lot of time on this; Randy and Carolyn have gone through this, and Carolyn has to get some language changes back to Jim. There is one particular area Carolyn has some concern about hidden costs by the City. At this point Brian has some conceptual issues he wants to talk about and then they will come back with a real draft. Brian said this goes back to the antiquated system of the airport, water, sanitary and sewer, and the attempt to upgrade through a loop system. This would mean we would have to go off our master meter, and that requires us to enter into a new agreement with the City of Rifle. He has been working on this for the last eight months. They have taken three different IGA's with the City of Rifle and basically wrapped them all into one. There was some confusion about definitions of airport property; that has been taken care of by Jim. Jim Neu said they have, from the mid 80's, a pre-annexation agreement regarding the airport land partner's property and the airport; we have the County donation when the County received the road and bridge property. He thinks there are four massive agreements and they are just throwing those away and operating with the new IGA; which basically makes the airport out of City water recipient. It will be very clean, your water customer, your tenants, and the hangars are separate. When the airport upgrades all the water infrastructure, the City will own and operate the main lines; which will then be taken off of Brian's desk. Brian said there are still several county buildings they will get in City rates, because of all the grievance. Jim and Carolyn both stated maybe; Brian will have to ask on Wednesday. Right now the entire airport is out of City water rights, so if you want the County.... Brian stated road and bridge would keep their in City rights. Right now, the county facilities at the airport are out of City and his request on Wednesday will be that they are included with the road and bridge shop; but the County facilities will receive in City water rates. The tenants are out of City and will pay as such. Jim stated the only other issue was for the fire flow for the hangars; they are trying to find a way that the City can operate their water system. There is not a lot of use up there and the water tank is kept low; because it needs to turn over to meet water quality standards and Brian needs the tank higher so that the fire flow in the hangars is better. Brian said including an emergency back-up generator down at the lift station. Jim explained what would basically happen; the tank is not high enough and they can't operate it high enough, or the water won't turn over. If there is a fire then they need a booster pump at the bottom to make that pressure; what happens if the electricity goes out right when you need that. Commissioner Houpt asked how much is an emergency generator. Brian said the engineer identified this back in March \$100,000.00 to \$175,000.00 for that. That has not been programmed into Brian's fund yet. Commissioner Houpt asked; along with the agreement, you need to come back with a request for a budget supplement. Brian explained they are modeling the flow rate, which will determine the size of the generator. This is a draft to inform you of what they are doing and they are presenting the draft to the City of Rifle. Bob Howard will be involved as he was listed on the other agreements. Jim said Bob Howard has already agreed; all those have gone away in the pre-annexation agreement its self. Commissioner Samson asked what is the difference between what has charged rate wise in and out of City and Jim said double. Carolyn asked if Jim needed a formal letter and Jim said they could do this informally on Wednesday at the meeting. It will actually be in the actual IGA; they are basically bringing the concept to the Board and a concept to the City Council.

XCEL ENERGY AIRPORT RELOCATION – MARK KUBESA AND BRIAN CONDIE

Jon Price from Xcel Energy has completed the design and estimate to relocate a portion of Xcel Energy's 25KV, overhead electric lines to clear the proposed work for the airport expansion project. The estimate does not include relocation of the overhead lines along County Road 319, which he will provide in a separate estimate. The cost of this electric project is \$150,423.00 with the following contingencies:

1. An easement is granted by Garfield County for the new downguys by the intersection of County Road 346 and the existing County Road 319
2. Utility permits be granted by the City of Rifle and Garfield County Road department for the installation of the electric lines

Carolyn had a couple of issues to work out; this is Xcel Grand Junction, these are the distribution guys not the transmission guys. There are a couple of things they have asked us to do in this informal letter agreement; Carolyn does not have a problem with an informal letter agreement, it is still a contract. But they are saying we have to give them utility permits for the installation of the electric lines. Does that mean we get to charge our road and bridge permit fee, and are these lines going to be in the new right-of-way? Or is this going to be an easement across airport property. The second part of that; they are asking us to promise that the City of Rifle will grant utility permits. We do not control the City of Rifle. An easement is granted for the new downguys by the intersection of 346 and 319. It is not the new alignment; it is the old alignment. Mark stated this is a temporary relocation; they need to move a power line out of the way so they can do some grading. (Mark passed out copies of diagrams) Carolyn stated if it is temporary; they do not need an easement they need a temporary right-of-way. Mark stated correct; he showed alignments on his diagrams and where they needed to move the power line. Carolyn stated she needed to know legally; what is the quality of the right that Xcel Public Service has right now? If we were forcing them to move out of a place where they already have a legal right, that is one thing, if not then we would follow our normal road and bridge permitting. We will give them a permit to be on our road; but we are not going to give you a land right; an easement. It sounds like you really do not need the easement for the new downguys; that's the temporary part correct? Mark stated that part of that blue alignment would be permanent. It is actually existing already; some of it exists in the service align to the City of Rifle. They are using an existing alignment to move this line too so they do not have to build any new poles. Once they cut the road out, they will move it to the new orange alignment, or the ultimate orange alignment. Commissioner Houpt asked why it could not be permanently attached to the blue

alignment. Mark explained that it actually serves the areas to the east of the airport and the blue circuit serves areas to the west of the airport. Carolyn stated the problem is; they are asking you to commit now to give them the easements, and normally we do not give utility companies easements within our right-of-ways. Mark said the existing blue alignment is located on Xcel property and it continues in an easement granted by Continental Rifle before they acquired the property, and then it continues through the existing right-of-way. Brian asked if they were requesting that we go for a permit instead of an easement. Carolyn said she needed to know more of the underlying facts before she can comment. Commissioner Houpt said that Carolyn needs more time and asked what the time frame was for having this approved. She asked if they could have this back next Monday. Carolyn said that as a matter of policy you have said no easements on County right-of-ways. Mark said a week delay would be fine. Brian asked what information they needed by Wednesday. Commissioner Houpt stated they needed to provide Carolyn with information. Carolyn said they also need to know about them trying to obligate us to do something we cannot control. The City of Rifle needs to be involved.

APPROVAL FOR IGA FOR 27TH SOUTH GRAND TRAFFIC SIGNAL – MATT ANDERSON

Matt is looking for approval for signature of the IGA with Glenwood Springs for improvements to 27th Street and South Grand Avenue. Commissioner Houpt said she does not remember agreeing to this. She remembers agreeing to the roundabout. Don said that was why it was in front of them today. There is no final agreement on this. Ed said they talked about it as part of the budget; it was this and the roundabout. They were packaged by the City of Glenwood as a group and we included both of them in the budget process. Commissioner Houpt said when they had the meeting last year with the City, we talked specifically about the roundabout and she asked if they had minutes on this. The IGA was already signed on the roundabout; this is for the light. This means we have to take partial responsibility for that light; she does not think the light will work once the roundabout is put in. Why do we have two different IGA's? Don said they were different projects; they were different discussion. His position, for several months, there has been no formal approval of this project by the County that he could find. That is why the IGA is on your regular agenda rather than on the consent agenda. Commissioner Houpt said to Don; you did not remember it either. Don stated that his office checked for this several months ago; maybe a year ago actually to see what IGA's were in place, or what commitments had been made. With that said if it is included in the budget, that is still not an IGA agreement; but the funding has been approved if the IGA is approved. Ed said he believe that Mike McGill made a presentation on both of these in this room. Commissioner Samson asked Commissioner Houpt if she did not want to do this. Commissioner Houpt said she doesn't remember agreeing to do this; she remembers agreeing to the round-a-bout and sharing the cost of that round-a-bout, and she remembers the City still trying to decide if they could put a round-a-bout in on South Grand and 27th, or whether they would need to do a stop light. Once they moved ahead with the stop light; did we hear back from them. Obviously, we must have because it was put in the budget. Chairman Martin explained the round-a-bout wasn't working, it wasn't feasible, there wasn't enough property, the bank problem was there as well as the access to the bridge; distance, etc. so they went with the stop light. Matt stated they could get the minutes and hold off until next week. Don said the reason it is on the regular agenda today is to see if you want to agree to this or not. It goes to Commissioner Samson; do you want to do this or not. If you do, you want to sign the agreement. Commissioner Samson asked; its \$85,500.00 correct and Ed stated yes. Commissioner Samson - I move we approve the governmental agreement with 27th and South Grand Avenue traffic signal with the City of Glenwood for an amount not-to-exceed \$85,500.00 as previously budgeted. Commissioner Houpt –Second but she knows they have had conversations about certain road projects in the area that they would work with the City on. She thinks this IGA should have been in place before they actually did the work. She will support this because it is in our budget; but it is going to be hard for her to support IGA's in the future if the work has already been completed. This really should have been accomplished before anything was put in place. Chairman Martin explained there was a discussion, there was an agreement, it was budgeted and we need to research it and make sure the minutes are in place. Chairman Houpt stated there was no formal approval of the work that was actually done that we would have agreed to. It is disconcerting.

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

APPROVAL FOR CONTRACT AWARD FOR ENTERTAINMENT AT THE GARFIELD COUNTY FAIR – MATT ANDERSON

Matt is recommending authorization for the award of contracts for two performers for the county fair. There are two contracts:

1. Jamie O'Niel (Buddy Lee Attractions) \$15,000.00
2. Joey and Rory (William Morris Agency, LLC) \$15,000.00

Commissioner Samson - I move we award the contract to Buddy Lee Attractions in an amount not-to-exceed \$15,000.00 and to William Morris Agency in an amount not-to-exceed \$15,000.00 for the County Fair contracts for entertainment at the County Fair. Commissioner Houpt – Second.

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

APPROVAL FOR CONTRACT AWARD FOR ARCHITECTURAL SERVICES – MATT ANDERSON

Matt is recommending approval for an award of contract to Sun Designs Architects, Mr. Dean Moffat, for a not-to-exceed of \$18,000.00. This is for the interior conceptual design of a potential newly acquired building, contingent on contractor signature. Chairman Martin stated we already have Sopris Engineering; they already do those services under a professional services contract why do we have another one to award to do the same job that we already have on contract. Ed explained the Board asked them to place the agreement with Sun Designs. Commissioner Houpt stated it is a geothermal building; he designed the building and they thought it would be best to work with him on design. Matt stated that under our procurement code we have an exemption from competition for licensed professionals for short-term contracts, such as this. Matt wanted to note that with the not-to-exceed cost we do not have to go up to the \$18,000.00. We will be paying an hourly cost, and they would like to have specific guidelines on what information he is to submit on his invoices so we can appropriately monitor that, and we are paying for the work accomplished. Ed stated they needed to effect an agreement with the owner of the facility before we engage these services. Commissioner Houpt – I make a motion we approve the professional services contract, Architectural Design Services with Sun Designs Architects in an amount not-to-exceed \$18,000.00, contingent upon the consummation of a purchase agreement. Commissioner Samson – Second; he asked where they came up with the \$18,000.00. Matt stated on the scope of services. Matt felt it was a little high; but we do not have to pay \$18,000.00. They will monitor and the hourly rates are reasonable. Chairman Martin felt we already have an architect who could

take those floor plans and give us an idea. He does not feel we need expertise regarding the geothermal wall. He believes all architects understand that. Commissioner Samson asked what we would save by going with Sun Design. Matt explained the hourly wages and the rates were the same. Commissioner Samson asked Randy to give his opinion. Randy said the hourly rate is the same and it will be the amount of hours each individual puts into the project. Sun Design knows the floor plan better; he can get the product to us sooner because he has all the drawings. Sopris would have to get all that information from Sun Design and start fresh. Sun Design might be able to get this done quicker and cheaper than the \$18,000.00. Chairman Martin stated it is an empty shell; there is not much on the floor. Randy explained he has all the information, floor plan, everything.

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

APPROVAL FOR CONTRACT AWARD FOR ENGINEERING SERVICES FOR THE AIRPORT WATER AND SEWER – MATT ANDERSON

This contract is for approval to award the engineering services for the airport water and sewer design. 20 Proposals were received in response to this solicitation and were scored based on selected criteria. Matt is recommending approval for award of contract to Vision Land for an amount not to exceed \$124,200.00. Commissioner Samson said either he does not understand things or things were not done correctly. To begin; looking at the table, we have 12 different firms evaluated. There are about 15 firms on the chart; looking at the evaluations, they are all over the board. For example look at SJCE for cost proposal, A gives it a 50, B gives it a 105, C gives it a 170 and D gives it a 50. Do ABCD have expertise in other things; there is no consistency. Matt explained the process on how they put out the solicitation. Commissioner Samson wanted to see the prices of all the applicants and Matt showed him a copy. From this day forward, they will provide the Commissioners with that information. Commissioner Houpt – I make motion to approve the award contract to Vision Land for an amount not-to-exceed \$124,200.00 for engineering services for the airport water and sewage design. Commissioner Samson – Second.

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

APPROVAL FOR CONTRACT AWARD FOR THE CHIP SEAL SERVICES AT VARIOUS GARFIELD COUNTY ROADS – MATT ANDERSON AND KRAIG AND MARVIN STEPHENS

Two bids were received for this requirement:

1. GMCO LLC of Colorado	\$839,283.45
2. Oldcastle SW Group	\$968,892.97

Matt is recommending approval to award GMCO LLC of Colorado for an amount not-to-exceed \$839,283.45. Ed would like to bundle all Road and Bridge topics together. Marvin explained why he thought it was only local vendors, cost etc. Commissioner Houpt asked; when this happens generally, do you let these vendors know about Amendment 54 and the fact there were only two bidders. Matt stated yes and he cautions them to make sure they read, and it would be at their risk. Commissioner Houpt – I make a motion to approve the award to CMCO LLC for an amount not-to-exceed \$839,283.45 contingent upon contracts signature for chip sealing to various roads in Garfield County. Commissioner Houpt asked if they had a list of those roads attached. Matt stated he did not have them here but he does have them. Marvin said before you state a not-to-exceed; the bids are coming in pretty reasonable and he has a little extra money... Commissioner Samson wanted to ask a question before Marvin got into that; the money that was appropriated for this, was under \$200,000.00 correct, and Matt stated correct. Marvin wants to spend the savings he has on chip seal; he will be bringing asphalt, which is a large saving, and he would like to be able to spend that money on the roads. Chairman Martin stated if you do not exceed budget and there is contingency, a request to continue, he thinks that has been a standard. Don said there should be some type of a record on the amount the Board is authorizing for expenditure on a chip and seal contract. Marvin stated as soon as he gets his asphalt and everything together he would bring in a list of roads he would like to add on to his saving. Don asked if they could do that as a contract amendment. In another words award a contract based on what was sent out for bid and then amend that to include additional roads when he comes back. Matt stated if it is within scope, they could do an amendment. If it is out of scope, they will have to re-solicit. Don said that is what he would suggest rather than trying to do it today. Commissioner Houpt said that is her motion. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

APPROVAL FOR CONTRACT AWARD FOR A TRACTOR AND FLAIL MOWER FOR ROAD AND BRIDGE – MATT ANDERSON

Two bids were received for this requirement:

1. Berthod Motors	\$37,815.22
2. Western Implement	\$41,567.00

Matt is recommending approval to award Berthod Motors for an amount not-to-exceed \$37,815.00. Commissioner Samson – So moved. Commissioner Houpt – Second, in an amount not-to-exceed \$37,815.22.

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

MAG ON SPRING CREEK HILL (COUNTY ROAD 306) - \$1,452.00 – MARVIN STEPHENS

Marvin stated this road has been magged. Marvin asked if there were any questions and Commissioner Samson asked how long the mag would last. Marvin stated it depends on whether they have a lot of rain, or a dry spell, traffic etc. If there is a lot of truck traffic, we will probably have to do it twice; some roads three times.

PAVING ON COUNTY ROAD 306 – 4” DEPTH FOR 2.17 MILES - \$611,714.50 – MARVIN STEPHENS

Marvin stated; they had chip seal in there from years before and a lot has been destroyed. They negotiated with the industry to fix the roads and it is just about done, if they did not get done last week they would finish this week.

NEW GRAVEL AND MAG ON WALLACE CREEK ROAD (COUNTY ROAD 306) FOR ¾ MILES - \$31,192.00 – MARVIN STEPHENS

Marvin stated Nobel has done some new graveling on this road and explained how this was accomplished.

MAG. COUNTY ROAD 301 - \$13,242.00

Marvin said there were some concerns and complaints about the dust on this road from citizens. It has been completed with the mag. He did have a complaint on one corner and Marvin is having an assistant foreman checking that this morning.

COUNTY ROAD 215 IS ON-GOING – MARVIN STEPHENS

Marvin stated 215 is ongoing to fix, build and repair. Jeff came up with about \$20 Million dollars to accomplish this task. It is approximately 10 miles long. There is a lot of industry there and they are not as interested in cost sharing

as they are on other roads. Marvin feels it is because there are not a lot of people living on that road; it is mostly industry. Ed asked Marvin if he is planning to look at roads they received back from Silt this year. Marvin said he has not had the opportunity to do a scope of work on these roads. Chairman Martin would like to have a workshop to look at the number one priorities of road and bridge. He would also like to look at issues out there that are still outstanding and have not been touched for 10 years.

DISCUSSION AND RECOMMENDATIONS FOR FAIRGROUNDS DUE DILIGENCE – MATT ANDERSON

Matt is attending this meeting to seek guidance and provide information on this subject. The BOCC requested information is provided to determine whether this requirement could be solicited as a sole source requirement or a competitive solicitation. The Fleischer Company submitted a scope of work (copy presented to the Board). Listed are two possible factors for this requirement, which could determine a sole source:

1. Fleischer Company noted with the information they have already provided; a RFP process would not be a fair process.
2. Previous requirements similar to this requirement showed a risk level of delay to the project would be high.

Matt stated there is no action he is asking for today. He wanted to let the Board know their findings and look at the scope of services for the due diligence. In the scope of services, there is a detailed list of the deliverables they would provide. As far as sole source verses RFP; Matt is concerned about two things, again he feels it is the Board's decision about risks and probability of outcomes. There is one note the Fleischer Company had, number 1. above. Fleischer feels if it was to go out to an RFP that would be unfair. Matt stated previous requirements, similar to this, they did go out to an RFP, and generally, Matt said they do an RFP for this type of service, and they put in a risk factor level, which determines a risk of delay to the project. This obviously, he does not know the need of the time requirements for this particular project, depending on the risk those are the two concerns he has. Everything else he has looked at; as far as any unique salient characteristics to this project, they already have intimate knowledge of what has been done. If they were to go out for an RFP, those would be factors related into it. Don said one issue he wanted to point out; a practice issue related somewhat to what Matt is talking about. In the past when we have done for instance; design/build by contracts by RFP, we have actually disqualified proposers who participated in the County early in the process because of unfair advantage; because of their knowledge. Commissioner Houpt said this is an interesting proposal because it is not one that was driven by us. When you talk about timing, she does not think there is a rush to accomplish this; but there are some big questions that need to be answered before we can entertain the idea. These are things she probably would have done, even creating a vision, and that is finding out what kind of market support there is for the County. Matt said just reading through the scope of work, he didn't see a lot of that type of service in there. He knows they have not decided to move forward with this or not. Chairman Martin said based upon the public input he has received since the presentation was done, as well as the year prior to that and the discussion; we do not need to move forward. The loyalty is to the citizens that were there; they proposed it for the use. Understand that someone could make a little more money and commercial base could grow or now grow on the risk factor. He thinks they need to leave it where it is and thank the Fleischer Company; but he has no desire or inclination to move forward. Commissioner Houpt said she does not have a good sense of whether this is appropriate timing in terms of our budget. She would personally want to do this with a vote of the people on bonding; because then you have a buy-in from the full County on that. She would be hesitant to do a single source contract on this. She appreciates the work and the vision that Fleischer has had; but she thinks they took a risk in moving forward before talking to us about our vision and where we want to go with it. Commissioner Samson said he agrees. They had a vision and they are begging to go forward; but he wants to make it perfectly clear, because he got many phone calls and was asked why we were spending \$70,000.00. He had to explain to many people that the County didn't spend a dime on this. Fleischer took it upon themselves. To answer your question Commissioner Houpt; he has thought a lot about this and we have many things on the table, and maybe someday, the fairgrounds will leave its present location and that is a maybe. He does not think the timing is right and times are a little uncertain and this is where he stands.

PROPOSED CHANGE TO FINANCE PROCEDURES, BENEFITS GROUPS – LISA DAWSON

Finance would like to make a change to procedures to calculate PDO and MSL accruals and holiday pay for regular part-time employees (Exhibit A). Finance software uses "Benefit Groups" to accrue PDO and MSL on a prorated basis and pay holidays. Currently there are 40 defined Benefit Groups, which is very cumbersome to maintain and increases the chance for error with payroll. Health insurance is not prorated. Employees working 30 hours or more receive full health insurance benefits. The change does not affect changes to health insurance benefits for part time employees. Finance proposes to reduce the number of Benefit Groups to three levels resulting in 12 Benefit Groups (Exhibit B provided). Finance feels they will have fewer benefit groups to update and maintain saving staff time and utilizing software more efficiently. The benefits for employees who work less than 40 hours a week will accrue PDO and MSL hours and receive holiday pay at a higher percentage than in years past, while still being cost efficient to the County. Commissioner Samson stated his wife works for the County; 30 hours per week. He asked Lisa if this would affect her and Lisa stated yes. He asked if he should step out of the conversation. Don said if he felt uncomfortable participating; yes he should do that. Commissioner Samson said his wife was directly in this. Obviously, he cannot always do that if they are going to talk about employees in general; but this is a small slice of the pie and he decided to back out of this conversation. Lisa stated they do not normally bring procedural changes in front of the Board. This is a result of our interpretation of how the HR policy is written. Lisa wanted to pass it by the Board for their approval and find out if the Board had any concerns about the direction her department was going in. Part-time employees in Garfield County, who work 50% of the time or more, receive benefits. Employees working 30 hours or more receive 100% of health insurance benefits; they are not making any change to that. The change we are proposing affects PDO and MSL, which is vacation time and sick time accrual. The policy states, the policy is pretty broad, it says a regular part-time employee assigned to work 50% or more accrued PDO on a pro-rated basis and it says the same statement for MSL. Currently that has been interrupted as a breakdown of 12 different levels of these benefit groups. These benefit groups is the software mechanism used to calculate the accruals. These 12 different levels produce 40 different benefit groups and every time we do any update to the annual holidays, or if we make changes, we have to touch each of those 40 groups. It is pretty time consuming for my staff, it opens it up for some opportunities for error with payroll, and she thinks it introduces a level of complexity that is difficult for supervisors to understand. What she is proposing to do is to reduce those 12

levels to 3 levels, which would align the PDO and MSL accrual more closely to the standard for health insurance. For employees that are working 30 or more hours a week, they would accrue PDO and MSL at 100%, which in her view is similar to how they get their health insurance benefits. For employees working 20-29 hours per week they would only accrue at 73% of the total. She thinks there are advantages for the County for this. The cost to the County for making this change, the annual cost, is less than ¼ of 1% to the total expenditures that we pay out for wages. She thinks the cost is a minimal cost. Commissioner Houpt asked if she knew what that was. Lisa stated yes it is about \$30,000.00 and our annual wage budget is about \$20 million. Commissioner Houpt – Okay. Lisa thinks it is easier for supervisors to understand. She also thinks that during this economic downturn many of the employees that are affected by this are the customer service type employees. If the counter traffic decreases slightly, because of the economic downturn, which would give the supervisor the opportunity to adjust staff wages, and it would not affect the benefits that the employee would get. She would think that would be a little bit easier for a supervisor to negotiate with staff perhaps. Chairman Martin asked if any employee was losing anything. Lisa said no. No employees are losing anything. Ed said this really allows us to avoid managing to the exception and start developing an approach that deals with benefit groups as a general... Chairman Martin stated that John, Georgia and Jean are here; do you have any comments? Ed stated the Sheriff could not be here and asked, first off that he be taken off the agenda; but he said that he fully supports this concept. Georgia stated they have met with Lisa, she made her presentation to us prior to this and John, and, I, and Jean Alberico all met. Jean is the one that brought this to our attention and one of our concerns is that we feel this is a policy change not a procedural change. The reason we feel it is a policy change is its' real dollars going to real people. We interrupt the personnel and procedures manual differently than is being interrupted by the finance department. We feel pro-rata is pro-rata individually. Chairman Martin asked; you want to see the policy change and go through that particular hearing instead of the approach we are taking now? We can all meet on it and make a policy change? George said we realize that the Board of County Commissioners makes the policy changes. Yes, we are in the process of updating our personnel and procedures manual and we think that is the appropriate time to be discussing this and making the change. Chairman Martin asked if there was anything negative that they see about the particular policy. Georgia said we do think that it is an equity question and we will have many people asking to go to the 30 hours. The 30 hours in my office, part-time work would be accommodating the employee not accommodating what is best for my office. Commissioner Houpt said; but you would be determining how many hours that employee would work. Georgia said yes, I do have a part-time person now and she is part-time because it bests suites her schedule. Commissioner Houpt said; but I am not sure I understand what your concern is about this. Georgia said I think it is an equity issue. I think the full-time people would feel that the part-timers are getting a benefit that they have not really earned. Chairman Martin asked John Gorman if that is what he saw also. John Gorman said he has also one part-time person and that under this new regime that part-time person with PDO, MSL and holiday pay would get an immediate 33 1/3% increase in benefit. I think it would be well for us to take a look at, not only the cost to the County in dollars and cents; but to take a more measured approach and examine in various departments how any such change might be perceived from a morale standpoint among the various populations of employees. Commissioner Houpt asked primarily full-time. John said primarily the full-time, yes. Another words, if you are going to increase my benefits by 1/3, I am not going to have a problem with that. But if I'm sitting next to somebody, you see what I mean? I understand the argument you know there is a benefit called health insurance that is not accrued to a person unless and until they work a minimum of 30 hours a week. I also agree with this being an actual policy change, and it may be the Commissioners opinion to make that policy change; but when the manual says pro-rata, unless there is a specific definition to pro-rate that is different from the commonly understood definition of pro-rata, it means according to the ratio. I see that as a policy thing, and just to be internally consistent, so that when anybody looks at how we are operating, they see we are being consistent with our own policy manual. Ed said but we are not. If that were the case then we would be charging folks who work 30 hours a week more for their health benefits. Is that what you want? John said well that has not been an issue. Another words; should the people who work more than 40 hours charge them less? Ed said that is my point. There is nothing fair in life and there is nothing fair in benefits. It is what makes sense for the organization, are we managing to the exception, or are we managing for the benefit of the organization. John said this sounds like we are managing to the exception. I am just asking that we are internally consistent with the documents by which we operate. Chairman Martin said I think we have enough questions on both sides of this issue to schedule this again for a more in depth sit-down. John stated; because this is a policy matter and it affects so many people, I think it might be well to schedule something so that more department heads are part of the discussion. Chairman Martin said; the other thing is, are we going to give Lisa and her crew a lot of brain damage. We are going to come together with the policy change request, or a financial request change; but I still think that you are right John; I think there are too many questions that you are uncomfortable with for us to go forward. I would like to do a workshop and even a special meeting. Not on Monday, just on this one subject and bring it back for a policy change. Commissioner Houpt said; we already have a meeting scheduled to review or we are working on scheduling. Ed said no we do not. Commissioner Houpt stated we are working on scheduling a meeting for the personnel policy manual; this would be the perfect time to discuss this in conjunction with that. Chairman Martin said they we are looking at August, maybe even October. Commissioner Houpt said Linda is working on July right now. Carolyn asked Ed; is this a discussion you could have with your department heads, at your department head meeting prior to all the elected getting together. Ed said yes; but he did not think they had a problem with it. Catherine Ross stated no they do not. Chairman Martin stated the information, the questions, and examples, the other elected officials are entitled to have, and Chairman Martin thinks it is a courtesy that we definitely need to extend. Lou has also, with his letter, said that he would support that. Ed said he supports this. Chairman Martin stated obviously we need to see if there is any body in his department that would be affected that he is not aware of. Same with Georgia, John, and Jean. Marian Clayton said she needed to say something for Jean. She said that this went into effect this last pay period. Lisa said no. Marian said that is what Jean said. Georgia said our understanding is that they earned on their pay checks, part-time people earned. Lisa said they did earn it; we can reverse that out. There is a Memorial Day holiday that occurred in May, that will be paid out in the next pay period and we can, we will not be putting this into effect. We have not put this into effect. Chairman Martin said; not this proposal in place, but it is still under the existing. Lisa said right. Carolyn said; I was just going to ask a factual question, do we know where these employees are, how many people are in elected offices, how many people are in departments, so when we meet on the personnel manual you could bring that to us. Lisa stated yes. I actually have that data right here. Chairman Martin said we do not need to share ahead of time; just wait until that meeting. These

folks can do their research, do their talking, get their insight and bring that to the meeting. Ed asked; Lisa how many are in the elected offices? Lisa said there are four in Jeans office and we have it broken down by dollar amount rather than head count here. Commissioner Houpt said I think that one of major points that was raised was how would this impact people who are working full-time right now. Will they say well, I can go down to 30 hours and still get the same benefits? Ed said; but that is the decision of the supervisor not the employee. Lisa said and from the finance standpoint, to me that is viewed as a cost savings. If you have someone in your staff who can go down to 30 hours a week, that's saving you 10 hours a week if they are willing to do that, and you know if you can offer that flexibility without them losing some benefits, in Lisa's view at least it's okay. Commissioner Houpt said unless you need those hours, I mean these folks need people at the counter and are working with people on the phone. Ed said but once again, that is their decision that is the supervisor's decision. Commissioner Houpt said it sounds like this might be a good thing to discuss when we discuss the personnel policy manual. Katherine Ross said we could discuss it in our personnel and procedure manual; but I would like to make some general comments, because Lisa's payroll team did ask me for my input and viewpoint on this. One of the first questions I asked was really. We have all those groupings because it is A-typical to have all those groupings. PDO and MSL are a benefit and it is very typical to group benefits. Meaning this many hours to this many hours, that is my first comment. My second comment actually echoes something you said; whether an employee, how many hours an employee works really is a supervisor's decision. Now there are some, again we are far from the empire with a lot of writing; it depends on the supervisor's style, and how they relate to their employees. Some allow their employee to make the choice; but the supervisor holds the responsibility. Finally with the commonality of the groupings, which is very typical national wide, is 30 hours and more. I am very supportive of it and my second big question, which to me was more important actually than the really, I am surprised we do it that way; who does it hurt. Because if there is any change, I try to keep the balance there; but if nothing else, benefit employees, and it does not hurt any employees. It actually benefits employees. From HR's point of view, it is considered very typical and very equitable. I am highly supportive of it. My concern, although I have no control over it, would be any errors that would end up hurting employees, and it bothers me that there is so many different groups where errors can occur. That is what makes me uncomfortable on the consistency and equitable. Commissioner Houpt asked if this is pretty much a national standard for grouping. Katherine said yes very typical. Commissioner Houpt said that helps; but I do not disagree with Georgia and John that this might be more of a policy decision than procedural, and since we are discussing the policy manual, it would be good to see how the wording aligns with this as well. Katherine said she sees this procedural as opposed to policy. I see it as a payroll procedure. In my view, it does not violate the policy; but I have no problem with inviting them to the meeting. Chairman Martin said again, through the request of the other elected officials I would like to have more information and run down some of the scenarios. I think we need to include them in that policy discussion. I think that's where we need to go and get those questions answered and everyone feels comfortable moving forward with a better policy and a better approach to financing, saving us time, money etc. Lisa said okay, great. Georgia said Ed brought up something as far as the equability of the health insurance and how does this affect retirement. Where else are we doing the prorate for benefits, retirement, health insurance, MSL, PDO, I mean it probably encompasses more correct? Katherine said it is just the benefits. Georgia said perhaps it should be looked at as a whole you know. Georgia called the town of Carbondale and their pro-rata is not 30 hours. Commissioner Houpt said; but this makes it more consistent with what we do with health benefits. Georgia said, yes; but I think instead of pulling little bits and pieces out to look at it as a whole, which would bring us to another issue, I do think the finance department could bring invaluable information about the policy, that we are proposing, that they would tell us how they are really interpreting what our words are saying on other issues with the payroll. Chairman Martin said that could be part of the discussion on the policy as well. Commissioner Houpt asked if this would bring all of the benefits in line if we made this change. Lisa said it kind of does, the health insurance, under 30 hours you don't get anything. We are offering between 20-29 hours to giving 73%, so it is not quite the same but it is a lot closer. Carolyn asked Lisa, what about retirement, I cannot remember. Lisa said it is based on hours. Carolyn said so it is really pro-rata. Ed said he thought it kicked in at 30. Chairman Martin said 30 hours is where retirement kicks in, 29 hours you would not have any retirement. Carolyn asked Georgia; are you suggesting that you should look at a pro-rata basis for health insurance as well; we should look at the whole package. Katherine said; we cannot control much of that and that is what I mean by its typical nationwide. The health insurance is controlled by the carrier. John said so that's just the toggle, you're on or your off. Catherine said yes regarding on or off. Georgia said I was saying to look at all the benefits. Ed said; you are suggesting we start charging your part-time employees more money for their health care. Commissioner Houpt said I do not want this to start changing everything. I can see the value in creating a process that makes more sense and aligns better with the benefits that we have in place. I think if you start revamping the whole benefits question, then you do start injuring people and I am not sure I am willing to go that route right now. Georgia said; I am just saying to have the information in front of us to know how these decisions and what they represent in our personnel policy. Chairman Martin said the overall factor, that Tres is avoiding, is going to be the impact of revenue, and benefits, etc. That is when we get really tough on making decisions like this on what we can and can't keep. We may see that, and we may have those hard decisions; but right at the present time, we have enough cushion to discuss this in depth. Get your questions together and bring them forward so we can make a procedural change or a policy change. At least you will be satisfied that all of your questions have been answered and we are not just doing it with 2 days notice. Commissioner Houpt said, in the mean time, if you have specific information you want from Lisa, ask her for that before the meeting. Does that work? Lisa – Sure. Chairman Martin said we have the administration's point of view, we have the sheriff's point of view and we will need the other elected officials. Catherine said they would be at the meeting.

Executive Session:

Ed stated he had one executive session item related to the joint project with Rifle and guidance on Senate Bill 232 money.

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION AND APPROVAL OF RESOLUTION ADDING MUNICIPALITIES TO ENERGY ADVISORY BOARD

The resolution amends paragraph 13 of Resolution 04-40 to add the following members, each of which will have one full vote on all actions requiring a vote of the EAB:

- a. City of Glenwood Springs

- b. Town of Carbondale
- c. Town of New Castle

Don stated this was on the agenda for their last meeting and he has continued to put this forward because the Board expressed some urgency, as it related to the designation of municipalities as participants in the Energy Advisory Board. Don did talk with Betsy, Chair of the EAB last week about this resolution. The EAB's resolution, which is more comprehensive than this, is still a work in progress. Because of the direction Don received from the Board on municipalities, Don continues to put this resolution forward. It is Don's sense that the Board wanted to go forward with this action and then consider more comprehensive amendments later. If you agree, then you need to authorize the Chair to sign this resolution designating Glenwood Springs, Carbondale, and New Castle as participants in the EAB under the terms of the existing resolution for the EAB. Chairman Martin said he thought that the resolutions that Carbondale and Glenwood Springs passed in reference to energy development, Chairman Martin needs to see what those resolutions were also. That is a factor of the chemistry and make-up of the energy development. Commissioner Houpt – I make a motion we approve the resolution amending resolution 04-40 concerning the establishment of the Garfield County Energy Advisory Board to include the City of Glenwood Springs, Town of Carbondale, and the Town of New Castle. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Carolyn asked if Chairman Martin wanted staff to get these resolutions for him. Chairman Martin stated yes, and he also wanted to see Pitkin County, he would just like to see them as they affect the Energy Advisory Board, the chemistry, the make-up, and the feelings that are there. Commissioner Houpt would also like the Clean Water Act.

WOODRIDGE TRANSFER TO WOODWARD (AIRPORT 5FL, 3/2/09): (1) APPROVAL OF ADDED SUBSECTION; (2) DISCUSSION, APPROVAL AND SIGNATURE AUTHORITY – RELINQUISHMENT DOCUMENT; AND (3) ORDER OF RECORDING – CAROLYN DAHLGREN

The BOCC voted at a noticed public hearing on March 2, 2009 to authorize the leasehold rights and the license and privilege to conduct aeronautical activities as a hangar operator on lease parcel 5FL. The Completion date; before August 31, 2009 the hangar and associated improvements will be completed. The initial term of the lease and agreement was for a period of twenty years, beginning October 8, 2007 and ending October 7, 2027 ("Base Term"). Woodward became the lessee and operator under this private hanger agreement effective March 3, 2009; therefore, Woodward shall have the right to extend the term for two ten year period. During the base term and any extension term(s), lease rates shall be adjusted in accordance with the provision of Section V.B. Woodward has no responsibility for rent due, whether paid or not, October 8, 2007, through March 2, 2009. Woodward shall pay to the BOCC the following annual rent beginning March 3, 2009, prorated for the calendar year 2009. Agreements affecting airport utilities: it is specifically understood by the parties that the agreements made in this Section VIII are subject to that certain City of Rifle, Garfield County, and Airport Land Partners Limited Pre-Annexation/Infrastructure and Zoning and Subdivision Agreement. Carolyn stated instead of being on the consent agent; this Woodridge to Woodward transfer on 5FL, she had to schedule on the County Attorney's time, as it is different from when you last saw this. You approved this as an "assignment" back in March 2009; but when she looked at the assignment document that Mr. Woodridge, the original tenant and Mr. Woodward, the replacement tenant had done; it did not refer to the correct document. There was no such document in the Clerk and Records records; therefore, you would have a wildcard if you were doing a property search. Carolyn created a document that properly named the parties, the 5FL and showed the Boards approval. The original document that the two companies did, would go first in the records. Then the relinquishment and termination document would show you approve Woodridge relinquishing, and you terminated all of his operating rights, and then the third document would be the new lease to Mr. Woodward. Chairman Martin's signature has not been done on the relinquishment document and Carolyn needed to bring the lease back because it has a new paragraph the Board has not seen. Carolyn is asking for Chairman Martin's signature on the relinquishment termination document and the Boards approval of the changes to the form lease. Commissioner Houpt- So moved. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION/APPROVAL OF AMENDMENT TO TOLLING AGREEMENT WITH WILLIAM PRODUCTION RMT COMPANY

In connection with the Assessor's ongoing audits of various oil and gas producers within the County, this Board previously agreed to a statute of limitation on the Tolling Agreement with Williams Production RMT Company, in connection with its audit for tax year 2002 (copy provided). Following receipt of the preliminary audit findings, Williams Production RMT Company requested an additional 30 days to respond to that letter. John Gorman was willing to provide that extension of time provided Williams agreed to extend the Tolling Agreement for another 30 days (Amendment provided). The due date for Williams to respond to the preliminary audit findings was May 21, 2009; with the extension, the response is due no later than June 22, 2009. The request in front of the Board today is to approve the Amendment to the Tolling Agreement and authorize the Chair to sign. Don stated he is asking for a motion to authorize the Chair to sign the amendment to the tolling agreement with Williams Energy. Commissioner Houpt- So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don has an additional item involving the Assessor; contract provisions and enforcement of those provisions visa-v Martindale; need a discussion on the current status of County Road 306; Barbara needs to provide you with information, as you know it relates to parties with litigation with the County; Cassie has four items to discuss including an update on the Elk Creek litigation, the Sills litigation and code enforcement with Williams Energy; Carolyn needs to provide legal advice concerning the Whistle blower provisions of the stimulus packages; discuss the current status of negotiations on property acquisition for a new administration building in Glenwood Springs and receive potentially public direction from the Board; advice on Human Services Commission; Cassie needs to discuss code enforcement related to the Birchfield properties and Hardy as well.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Grants – Sales Tax Recovery Distribution

- f. Liquor License Renewals for Retolisa LLC d/b/a Columbine Restaurant in Rifle; Shadetree Enterprises Inc. d/b/a The Guzzler on Battlement Mesa; Kum and Go Store #929 on Battlement Mesa; Sassy Sisters LLC d/b/a Trappers Lake Lodge & Resort – Jean Alberico
- g. Approval of Memorandum of Understanding Between Garfield County and LoVa – Matt Anderson
- h. Approval of Resolution Amending Certain Provisions of Resolution No. 05-48 Concerning the control of Dogs and Enacting the Pet Animal Control and Licensing Resolution for Garfield County, Colorado

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - h; carried. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of Executive Session; motion carried.

Action Taken:

Elk Creek: Don stated regarding code enforcement on Elk Creek; they would like the Board to authorize the Chair for settlement for a resolution. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

Don stated regarding the Zapata property; he would like the Board to authorize a dismissal. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Williams Energy SUP: Don stated regarding Williams Energy SUP; he would like the Board to withdraw public direction against as they have completed most of work. Commissioner Samson – So moved. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

Hardy Property: Don litigation regarding the Hardy property. I need a motion to go forward against the property owner and go for civil fines. Commissioner Samson – So moved. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Birchfield Property: Don – I need a motion to impose fines for various code violations. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Martindale Agreement: Don- Regarding the agreement between the County and Martindale, I would like the Board to waive the specific provision of the contract, as there is no undue conflict in the nature of client relationship. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

Don – It is complicated in addressing Martindale and suggested the Board do this by written correspondence; therefore, I would ask you to authorize the Chair and the Assessor to sign the letter. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Sills Property: Don stated regarding the Sills property; we would like Cathy Edinger on behalf of Building and Planning and Bob Prendergast to be authorized to go to small claims for Sills for unpaid fees. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Regular Agenda – Public Meetings:

CONSIDER AN AMENDMENT TO THE EXTENSION OF THE 1-YEAR EXPIRATION DATE TO FILE A FINAL PLAT FOR VALLEY VIEW COMMONS APPROVED ON MAY 11, 2009 AND AUTHORIZE THE CHAIRMAN TO SIGN THE RESOLUTION OF APPROVAL – APPLICANT; DARTER, LLC – JOHN NIEWOEHNER

Planner David Pesnichak submitted the following exhibits at the May 11 meeting: Exhibit A –Proposed Amended Resolution of Signature; Exhibit B – Staff report for request to extend 1-year expiration dated May 11, 2009; Exhibit C – Garfield County Land Use Resolution of 2008 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000 and Exhibit E – Staff memorandum. Chairman Martin entered Exhibits A – E into the record.

On Monday, May 19, 2008, the Board of County Commissioners approved the Preliminary Plan Application for the Valley View Commons Subdivision (See Resolution 2008-72, Exhibit C). This approval, with conditions, entailed subdividing the 7.9-acre property in Battlement Mesa into 4 lots to accommodate 56 residential multi-family dwelling units and potential future self-storage units. This approval provided the Applicant, Darter, LLC, 1 year to file a final plat application to Garfield County, which was to expire on May 19, 2009. On May 11, 2009, the BOCC approved a one-year extension for the Applicant to file the file plat.

AMENDMENT: Upon drafting the resolution for the Darter LLC extension, it has become evident that the September 4 (LOC expiration date) due date for the Applicant to guarantee security, either by extending the existing LOC or proposing an alternate form, does not leave adequate time for the County to draw on the LOC if necessary. As a result, Staff proposes a change to the due date from September 4 as discussed in the last meeting to July 15. A Resolution of Approval has been drafted for the Chairman’s signature should the BOCC find the change workable. The Applicant has been consulted on this date and based on feedback staff believes that the Applicant is amenable to this proposed change. John Niewoehner explained; at the May 11th meeting, the Board approved the extension of a preliminary plan for Valley View Commons, located in Battlement Mesa. Right now, this site has been graded under the grading permit. They have a letter of credit, which provides a financial guarantee that this land will be put back to its original condition if for some reason the project does not go forward. The applicant asked that they have a choice of either extending their letter of credit or offering an alternative financial security such as cash, or a lien on the property. The planning staff would like to see these papers prior to September and is asking that the resolution be amended to provide this information to us by July 15th. Commissioner Houpt asked; when we talked about this extension, did we talk about the fact it was graded already and John stated yes. Staff recommends we include in the resolution the requirement that they provide, by July 15th, either extending the existing letter of credit, or provide us with an alternative method to provide adequate security to guarantee the reclamation of the site. Commissioner Samson – I move to grant a 1-year extension to the property owner to file a final plat prior to May 19, 2010 with the staff’s recommendations also placed with that. Commissioner Houpt stated and you approve the resolution as presented today? Commissioner Samson stated yes and Commissioner Houpt seconded.

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

Regular Agenda – Public Hearings:

CONSIDER A SPECIAL USE PERMIT FOR EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF A NATURAL RESOURCE FOR GRAVEL EXTRACTION ON A PROPERTY LOCATED SOUTH OF PARACHUTE AT THE SOUTHWEST CORNER OF HIGHWAY 6 AND COUNTY ROAD 300 – APPLICANTS; SPECIALTY RESTAURANTS CORPORATION AND

STOCKTON RESTAURANT CORPORATION AS PROPERTY OWNERS AND RTZ INDUSTRIAL LLC AS OPERATION – KATHY EASTLEY

Tim Thulson was present. A letter was received from Tim Thulson, Balcomb & Green, P.C. requesting an extension of the hearing to July 13, 2009. Prior to this request, the applicant will provide the Public Notices for June 1, 2009 hearing. Kathy explained they wanted to go through the public requirements and then request a continuance until July 13th. 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. He asked Kathy if she wanted to present exhibits, she stated not at this time. Commissioner Houpt stated the only concern she had is how notice will be given to people again in a month and a half. Tim stated they would not; we have proved the public notice now and the people who were interested would be here today. Chairman Martin asked if the continuance was public information or was it just today you were going to continue. Tim stated it was Wednesday. Commissioner Houpt stated she did not have an objection to this continuance; but it is important for the people who are noticed that it is not going to happen today, but will happen into the future. She is not talking about going through the whole formal process of re-noticing people. In the past, we have had people send letters to let them know the date of the hearing has been changed, or published in the paper again. If you keep your posting up; you can change the date to July 13th. There has to be a good way of letting people know. Chairman Martin explained on our public notice; our agenda is published Thursday, the week before, and that would be one of the topics indicating it is a continued meeting. Commissioner Houpt said she would like to see letters going out to the people they formally noticed and she asked if it was hundreds of people and Tim and Don stated yes. Don said we do not have a standard notice procedure set in our code for continued matters. One of the concerns Don has is about when we make up a process, such as this, notice is a jurisdictional requirement. The applicant met that to open the hearing today by your own determination. Don is concerned that now if we set up an alternative procedure; the failure to meet the subsequent notice requirements may or may not be jurisdictional. Commissioner Houpt said we have done this in the past when it is a continuation of more than a couple of weeks; she is fine with letting this go, but she thinks this board needs to come up with a policy on opening hearings, and then not having the hearing for a month and a half. Don said he agrees; if the Board wants to follow a practice under some criteria when re-notification is required, he thinks that is fine. Your code should specify that so everyone is aware what the requirements are. Don suggests, since the issue has been raised today, we can discuss in our Tuesday legal planning meeting and perhaps develop a process to bring back to the Board. Commissioner Houpt said she is fine with moving this to July 13th. Chairman Martin said he thinks they are following the proper policy they have had in place for many years. We have a request to continue to July 13th at 1:00 p.m. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONTINUED HEARING FROM MAY 4, 2009 TO CONSIDER APPROVAL OF A LIMITED IMPACT REVIEW PERMIT FOR THE CIRCLE B PRODUCED WATER STORAGE FACILITY #4 IN THE RURAL ZONE DISTRICT, LOCATED IN SECTION 35, T6S, R92 W, SILT – APPLICANT; BILL BARRETT CORPORATION – DUSTY DUNBAR

Doug Dennison, Scott DeNoto, Matthew Barber, and Monty S. were present. Don asked if the noticing requirement were met last time and the Board advised it was via letters mailed. Don asked if they did in fact send letters to all of the property owners, they originally sent notification for the first hearing. Doug Dennison said they were mailed on May 5th and the posting was modified to reflect the new hearing date. Don asked when they altered the posting and they stated it was done on May 5th. Chairman Martin swore in the speakers. Planner Dusty Dunbar submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Unified Land Use Resolution, as amended (ULUR, the Zoning Code); Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff Report; Exhibit G – E-mail, GarCo Environmental Health Manager, Jim Rada, dated April 20, 2009; Exhibit H – Letter, GarCo Vegetation Management Department, Steve Anthony, Director, revised, dated April 30, 2009; Exhibit I – E-mail, GarCo Planning Department Project Engineer, John Niewoehner, PE, dated February 6, 2009; Exhibit J – Letter, GarCo Road and Bridge Department, Jake Mall, Administrative Foreman, dated April 22, 2009, revised May 27, 2009; Exhibit K – Letter, Burning Mountains Fire Protection District, Orrin Moon, Assistant Fire Marshal, dated April 23, 2009; Exhibit L – Letter, Aspen Valley Land Trust, Martha Cochran, Executive Director, dated May 4, 2009; Exhibit M – E-mail, Guccini, Debbie, Adjacent property owner, noticing deficiency comment, dated April 24, 2009; Exhibit N – Letter, Price, Donald G., Adjacent property owner, in support of traffic and fresh water use reduction, use of tanks rather than open pond, visual mitigation measures, dated April 23, 2009; Exhibit O – Letter, Response from Applicant, dated May 25, 2009; Exhibit P – Staff Powerpoint; Exhibit Q – Dusty presented today; a letter response and wildlife letter from Matt Barber, Bill Barrett Corporation, dated May 28 and Exhibit R – Letter from Lisa Brackens submitted to the Board, dated June 1, 2009. Chairman Martin entered Exhibits A – R into the record.

Planner Dusty Dunbar explained: The Applicant proposes to install a storage facility for the treatment/storage of produced water on an expanded COGCC well pad, 10 acres in size. This facility has been designed to replace an open water pond/storage facility (Well Pad #6) about which there were a number of concerns, including threat to wildlife and complaints from adjacent property owners due to odor and view scape issues. It is proposed that produced water generated from existing and proposed wells in the area be gathered and re-used in operations. Produced water that is not treated and re-used in area operations, such as fracing, shall be treated at an approved facility or injected into the new salt-water disposal well, presently in the permitting process (labeled as SWD well on site plan). Gathering of the produced water will be done primarily through existing pipelines, although some trucking shall be part of the application.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties through conditions of approval that mitigate these effects,
- the proposed is required to operated within compliance levels for noise and to mitigate glare and other emanations,

Staff recommends the Board approve the request for a Limited Impact Review Permit for the Produced Water Storage Facility at Circle B Well Pad #4 for Bill Barrett Corporation LLC 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. Vibration generated: the Produced Water Storage Facility 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 Produced Water Storage Facility 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 Produced Water Storage Facility shall 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.
7. All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors (sage green) to reduce glare and make the facility less conspicuous.
8. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes and COGCC Series 800.
9. Electrical pumps and generators shall be used to reduce emissions and noise.
10. Lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
11. A safety meeting that includes fire/wildfire response planning, updating of maps / contact lists, securing a hazardous materials permit, and a site inspection shall be performed with the fire service provider (Burning Mountains Fire Protection District) no less than annually.
12. Dust mitigation on the sites and access roads shall be performed to prevent fugitive dust.
13. The spill containment measures shall include electronic 'fail-safe' alert system, manifolds between the tanks, tank enclosures, a durable synthetic membrane liner for the entire tank basin and an earthen berm.
14. To ensure safety to wildlife and domestic animals as well as to ensure that habitat considerations are addressed:
 - a. Division of Wildlife 'wildlife friendly' fencing shall serve as the guide for fencing on the site,
 - b. A bear-proof dumpster or waste container shall be provided on the site,
 - c. When the pit associated with the installation of the salt-water disposal well is installed and contains liquid, that pit (pond) shall be lined, mesh fenced around the pond perimeter, and netted over the top to prevent access by wildlife that might be attracted to the liquid there. An escape mechanism shall be incorporated in the pond's design by which an animal or human being can escape the pond in the event they inadvertently fall into it.
 - d. No domestic animals, such as dogs, shall accompany employees or subcontractors to the site.
 - e. Construction be limited to the 'Ideal construction periods' listed in Table 1 on page 5 of the Wildlife Assessment and Mitigation Report, those being: May 1- 15, July 16- November 30, and reduction of the sagebrush/pinyon/juniper plant community shall be minimized.
15. Prior to the issuance of the permit, financial contribution towards road maintenance on Chipperfield Lane, as per GarCo Road & Bridge Department, as well as traffic control plans and proper permits from GarCo Road & Bridge for overweight/oversize vehicles shall be in place.
16. Prior to issuance of the Permit, a reclamation security of \$4000 per acre shall be submitted for the 10-acre site disturbance, as per the Garfield County Vegetation Manager. If the use as a produced water storage / treatment facility is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Limited Impact Review Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).

Should a financial security of equal value for equal purpose be required by COGCC permit, the County shall consider provisions for returning the financial security by considering a written request and justification from the Applicant to the BOCC.

17. No less than 5 days before operation commences, the Applicant shall provide notification to the Garfield County Environmental Health Department that the facility has met all CDPHE air quality emission control, notice and permitting requirements.
18. Proper building or grading permits shall be secured from Garfield County prior to construction.
19. Amendment to this permit may be considered under a Limited Impact Review Amendment.

Discussion: Commissioner Houpt asked, when we talk about traffic, are we talking about 24 hours a day, seven days a week traffic flow? You had an 8-6:00 time. Dusty stated that was a requirement of the code and it was not represented by the applicant having any kind of restriction for the use; but in conversations the applicants representative said it was likely they would be behaving under that requirement, and it could be a condition of approval for the 8-6:00.

Commissioner Houpt asked on ADT's; are we talking about 34 trucks or 34 round trips? Is it a round trip or a one way trip and Dusty stated a round trip. Commission Houpt re-stated 34 trucks and the applicant stated it is trucks. Scott stated this facility would be a significant benefit not only to Garfield County, in the immediate area and across their operating area. It allows for extensive recycling and reuse; not only the truck traffic issue; but you have heard that issue time and time again. Their ability to reuse water and not have to truck in water new water for every drilling and completion operation, and to keep those waters in the field verses trucking them out for disposal. Again, significant reduction of truck traffic, reduced dust, noise, odors etc. For every well frac job they do, on a daily basis; you are

looking at 250 trucks, round trip, per day for those sorts of operations. They have made significant revisions to this facility plan based on both County and citizen input. Scott explained the revisions they made on location and changes to the pit storage. There were four issues they addressed in their May 28 letter that they are asking for changes in the final recommendation. Commissioner Houpt asked about the height of the tanks and how this fits into the topography of the area. What are people going to be seeing? Scott stated mostly nothing; the tanks are 25 foot in height. They have done a visual resource analysis, from Chipperfield Lane as well as from the south; the topography helps hide the location. It can be seen from the far western end of Chipperfield Lane; that is approximately less than one mile away. An 8-foot fence would not do anything to obstruct the top portion of those tanks, obviously. Commissioner Houpt asked Scott to talk about the pit that will go along with the salt water. Scott said that was one of the issues they wanted to bring up; they do not believe it is applicable to this application. This is a standalone salt water disposal, permitted to the Oil and Gas Commission that they would be constructing and drilling and completing whether they had this facility or not. They basically need a disposal facility to cross their field. To answer your question; it is a reserve pit, that is all it is. It is for the drilling of the well and it will not be used for completion operations; no pit needed there. When the well is done, and the fluids removed, the pit will be reclaimed. For this application, no pit whatsoever is included. Commissioner Houpt asked how many sites would be accessing this water facility. Scott answered all of our sites potentially. Scott addressed truck trips; the 34 for operations means 17 round trip trucks. One of those 34 is in and one of those 34 is out, so 17 per day during operations, on average. Commissioner Houpt stated; if a well is being fraced or drilled offsite, will that number increase if it is a well that is off site. Scott stated no; his understanding is, any new wells that are not already piped to that facility, will be piped to that facility. Michael Smith – 795 County Road 326, Chipperfield Lane. He showed pictures, from Dusty's power point and explained this is what he sees from his property (four tanks). Michael wanted to go back to a comment he felt Dusty made in error; industrial activity was only after the purchase of this 280-acres by Bill Barrett Corporation. That is when the industrial activity started, it continues and they want more and more with no mitigation. He has asked them to put a berm in front of this; no cannot do that, too expensive, and under law we (Barrett) do not have to do that. He has asked them to build a berm on his property, no cannot do that. He would plant trees and keep them alive on his side of the property because the irrigation across the street is not going to happen. This is what he has to live with the rest of his life. Let's get to the fumes; unless I die from them first. How do they even propose or think in their wildest dreams that you can fully capture all the emissions and odors? That did not happen across the street from him when he had people coming to his property helping him plant trees. We were standing out in front throwing up on the ground from the emissions. Is this reserved pit going to be lined? He hopes so because the pit that is across from his house was not and it was buried less than 350 feet from his front door. Truck traffic; oh my God, everybody in this room gets to go home and put their head down somewhere and enjoy a night's peace and quiet and sleep. He does not because the trucks come approximately every 2 hours to this pad that is close to my house. They have their back-up thing; beep, beep. Garfield County road and bridge has not kept up with the maintenance of the road. It looks like a couple of IED's went off in it. If they want that road reclaimed, then it will turn into what it was before the pot holes, it was a racetrack. Garfield County, Sheriff's department says to me there is no way we can enforce the speed limit up there because we just do not have enough deputies. Well sorry for you, sorry for me; I lose again. If they are going to reclaim it they are going to do it right; it better have several speed bumps in it so that once it is travelable again and safe, the activity and the speed will be held down to a minimum. Two things Dusty did say; wild fire and lighting, is there a fire suppression system on this plan at all? If there isn't the fire people, in the protection he has see in the few fires they have had; he has watched them run around, in one instance, for a good 15 – 20 minutes before they found the site of the fire. That is a concern for us people who were in a formerly agricultural area. He does not consider himself to be in an agricultural area anymore; it is totally industrial and if you allow this type of construction it will be nothing but industrial. Many people have moved from our area, as they could not take it anymore. He guesses the citizenry of Garfield County; as far as industry is concerned, they would love us all to move out. Commissioner Houpt asked Mr. Smith; it has been represented that this facility would help to cut down on truck traffic, what is your response to that. Michael said they were told it would be better after the drilling was done across the street. Our pathway to our neighborhood was designated the only pathway. There is fracing going on now, there are rigs being brought in to less than ½ mile east of Divide Creek; but they go by us, why? He does not understand it; it is a designated truck route now. How did that happen? There has to be other ways to get in and out of these points east. Why do they have to come from 7-8 miles west to get back to that point? Commissioner Houpt stated it was a good question they should look at. Chairman Martin said he thought it was because the road was built to that standard. That is why road and bridge made a recommendation for the shortest haul or the least impact. Again that is another issue we have to deal with. Some road was going to be chosen; you have to be the chosen few that had the road improvement; but you also got the truck traffic. Michael said; well he did not get a road improvement. You can go down 313 and every ones got a pad into their driveway approximately 25 feet paved by the County. We did not get that on 326. Chairman Martin asked if Bill Barrett was the only one using 326. Michael wanted the Board to review Lisa Brackens concerns in her e-mail and he would like to add to that; lightening and wild fires is going to make farms very vulnerable. Even if they were empty of processed water and/or drain, you still have potentially explosive fumes and vapors inside these steel tanks. Commissioner Houpt asked if Michael was familiar with the proposed area for the tank farm and Michael stated as explained to him it is just north of where the previous pits were. Commissioner Houpt asked if it was visible from his home. Michael stated that possibly the top of them, maybe. Commissioner Houpt stated there has been a great deal of discussion over the years about the ability for Barrett to use the land in a manner that will not impact neighbors. Michael stated he and his wife really feel this is wrong and it always has been. The location of this pad, right across from his house, was unconscionable. He talked about someone else who have to pick where their pad went and it was about 1,000 feet from the home. Kelly Protz – 1237 County Road 336 directly north of this proposed site. He would agree with many things Mike said. He feels it has, over time, became a real feel of an industrial area mostly because of truck traffic and noise. He fully understands the need for these facilities and what they are all about. He feels Barrett has done many things in a positive manner, and their concerns are very legitimated. His concern is the truck traffic; we have been living with it for the last 5 years at least. The idea of cutting down on traffic is a wonderful thing. He said he would have to see it to believe it. One thing that takes place on 326 Road that intensifies the truck traffic noise its self is the grade these truck have to pull. From Mikes property onto the east, ¾ of a mile it is a very steep grade causing heavy trucks to gear down and pull really hard up, and it is around the clock night and day. Going uphill is one thing; they make a lot of noise going uphill, downhill is a whole other thing. They put up with the engine brakes. If Barrett was to pretend that, they could do something about that by saying, hey Mr. Contractor you will not use your engine brakes going down these hills. Guess what not everybody gets that memo, they do not. Mr. Protz's proposal is this; he feels that part of this noise

reduction of trucks could be handled in this fashion. This is a proposal and he would like his neighbor's feedback. You have two entrances to this property currently, one at the very east end, across from Toby's house his adjoining property at the top of the big long grade. Then they have the west end down there, and the well pads across from Mikes, and the one back in further on the south; access roads already exist. To him a road that tied in another ¼ mile extension road from that road going across your own property back in from the west coming into this facility would be a lesser pull for these trucks; both up and down. Go across the Barrett property on a diagonal. Barrett would know where I am talking about. Go across from that pad that exists in front of Mike's house; go down to your pad to the south, if there was a branch off of that, back into this tank farm, it makes sense to him. Pat Smith – 326 Chipperfield. Mike covered everything that upsets her; but her main concern is enough is enough. She does not want the tank farm because accidents happen. They sub-contract things out so if anything happens we have no recourse because one will bind the other and it just goes on and on. She feels it will be extremely intrusive and as Mike said, it will be a totally industrial area at that time. If you saw in the picture, the sagebrush, that lights up on fire so easily, and they all live too close. Debbie Guccini – 1355 326 Road right across from Circle B. Debbie stated they do a lot of work with Circle B; they have been really good to us. She has a few questions; first question is, up there on the presentation, she saw Dusty had put operating time 8-6:00. Debbie thinks they misunderstood what that said; she believes that is for heavy traffic going in there for working on the construction part. This is not the hours that the trucks are going to run. Her next comment; she was under the impression this was going to be on 5-acres. Maybe it is just the tanks on the 5-acres and the rest is on the other 5 or whatever. Is the drilling traffic really going to lessen if you put this water reduction site in; no! We will still have the drilling traffic; all that will be changed is just the water truck traffic. We live where the road they would be using to go up to pad 4. Our thoughts were to have them cut across on their own property. Let them ruin their property not ours. Let them go through the corner; one of the comments we had made to them previously on this was, well they did not want to upset one of the neighbors there. That is why they did not want to go across; but they have all the rest of us that are in line. Barrett is the only one that uses Chipperfield Road; they have pads that go from 6 Lazy K, they access that from the community road, they go by Kelly's house, we have had trucks in the canyon. If it cuts down on the water hauling, that is great; but it is not going to cut down on the drilling traffic. They have proposed a whole bunch of wells, so these are just some of our questions. She would like to see them go across.

Don Elkins – 0530 County Road 326 and has been there 16 years. Since then there has been in the neighborhood of 20 houses built and 90% are not agriculture anymore. He still runs cows, he still puts up hay and Barrett has dealt him pretty fairly he thinks. They have a pad close on his place that is closer to his house than Mike's is to his house. Personally, he thinks Barrett has done a fair job of trying to control the dust and that kind of stuff. Don is irrigating Circle B property and he is over there every day. He realizes there is a lot of traffic. I was born in this county 71 years ago; he doesn't like to tear up this country better than anyone else; but we all do need energy, it's got to come from somewhere. We have to live with what we have; he would rather see tanks than he would houses. Commissioner Samson asked Don how far he lived from the closest pad. Don said he would guess cross-country ¾ to a mile maybe from the pad 150 feet. Pat Smith respectfully asked the Board to drive down Chipperfield Road before they made a decision and see what we will be looking at. She believes you have to see it in order to understand. Chairman Martin explained they have to make a decision based on the facts today; however, he has been down Chipperfield Road. Michael said to Don's comment, the pad he is talking about is not in front of his house. You have to go out of his house and go down the road to see the pad that he is referring to. Kelly said to him they were talking about height of tanks, the place they did move this site to is better than it could have been. Wouldn't it be a good opportunity, whenever you do the excavation for this proposed site, couldn't you incorporate that into the ground more? Scott (Barrett) stated he was not going to address the Circle B number one facility; it is not part of this facility, the one that is directly across from Mr. Smith. We have heard from Mr. Smith on that contrary to what you heard here we have done a number of things at that facility to try to address those issues. Regarding our facility, certainly the traffic pertains to both of them. The paved road issue, becoming a racetrack; that is always a concern when you make a better road surface. As far as we are concerned, Garfield County are the folks that will decide how best to deal with that issue. Barrett has many contractors working for them; they try to address with these folks issues about Jake brakes, and it is not 100%. The fire and lightening issue; they have had these discussions with the Burning Mountain folks; they have met all the requirements there. Any facility, anywhere that has these tanks, has the same potential issues. All the tanks are grounded, for this facility if the fire department felt it would be an additional safety benefit, we could install a lightening rod as well here. We have sufficient fail-safe shutdown systems to prevent additional fluids from going to the system if something were to occur. They will meet with Orin Moon as part of the requirement of the application. They have had discussions with Orin and provided aerial maps, showing the routes to and from the facility. The alternative route; they have heard this from Mr. Protz and some of the others at a public meeting they held and all these things are give and take. Certainly, there is a cost to that; what they have is an existing route that is designated and designed for this type of traffic. They have groups like the Aspen Valley Land Trust as well as the Division of Wildlife, who absolutely do not want a new route, a permanent disturbance cut through the middle of that property. Those are the things we weigh and balance when we decide what makes the most sense here. We have already constructed the private road on the east side of the property, should be number 2, Chipperfield and then down to number 4 and down to the 6 location on the east side. Excavating the tank battery Kelly Protz's last comment, we are in some discussions with some folks about potentially doing that. He is not going to guarantee that at this point; but he will say visibility from Chipperfield Lane is not an issue for this facility. He does not see anything gained by doing that. It is a big expense when you start moving that kind of dirt; but he will leave it that he has talked to some folks about potentially doing that to a couple of 3 feet depth to reduce the height of the tank batteries. Again, that will not change any of the view sheds for any of the folks here today. The only place you can see those tanks is from the far west, close to a mile away. Drilling truck traffic per say and/or completion truck traffic for the equipment involved to Debbie's point; certainly will not change because of this facility. Those trucks are required for the drilling and for the actual completion operations. The only trucking that will be reduced, significantly reduced, will be the water hauling. Without this type of facility and having to truck the water because the water is the biggest transportation issue they have. You are looking at, just for a frame of reference, 250 trucks per day; one way in and one way out for every frac they do on a well out there. That is a daily basis for us; we are doing 2 fracs per day. Commissioner Houpt asked if that would be piped instead, and Scott answered correct. Commissioner Houpt said going back to the truck traffic when you establish a facility like this, for 20 years that will be people's reality who are living in the area. Because of that my question is how important is it to have 24 hour access to the treatment facility instead of access during the day and shutting off at night and maybe storing that water until the morning. Scott said the hours of operation are 8-6:00 for construction, well maintenance and things like that. For the

operation of the facility we prefer to have a 24-hour operation; however, the vast majority of those trucks are going to be during day light hours. Maybe a 7-7:00 would be reasonable. They have to have the ability; if they do not have a pipe that can bring the water to that facility and we have water, you have to have the ability to bring trucks in there. As a matter of course, all the water is going to be piped in 24 hours a day and the truck will be running day light hours. Commissioner Houpt asked what kind of emergency could you foresee. Scott said storage volumes elsewhere; we do not have the ability to keep water on locations. Commissioner Houpt asked if they could foresee that or is it something you could have a condition of certain hours unless there is an emergency situation and that's recorded. It seems to her they would know when you are going to run out of storage in another area before it happens. Marty said many of the situations might not be emergencies. If we run out of storage at one facility, we need to transfer water from this facility to the storage facility. If we have equipment breakage on a frac job that is something we cannot control. We are pumping about 20,000 barrels a day and if that frac job does not happen that day; we have to move water. Scott said they are constantly moving water and that is the issue there. On the piping system itself, if a pump went down, for a short term you might have to truck water for what Marty is talking about. This might happen after hours so they have to have the ability to do that. Commissioner Samson stated he is hearing conflicting reports. You say no one will be able to see the facility from their house and Scott said that is correct. Commissioner Samson said the new road to connect the two what did you discuss about that? Scott said the Division of Wildlife and Aspen Valley Trust do not want them putting another road through with a permanent disturbance. In addition, Barrett has spent a lot of money on the existing access and would prefer to continue to use that. Commissioner Houpt said it is always a dilemma public health versus wildlife. It is a very interesting conversation; we are not talking about a well pad, where you will drill and the activity will move away. We are talking about a facility that will have on-going 7 day a week activity, and by your own testimony, it will be, at times, 24 hours a day. We have to measure what kind of impact that offers the folks who are living in the middle of this. Scott said without this facility and just with the salt-water disposal well there; same thing, all that water would be trucked to saltwater disposal well. We would not have the facility to store it in and it would potentially be a 24 hour; if we did not have the piping ability to go to a facility like that, and just had that salt-water disposal well there, we would be using that access route and it would be all trucks. Commissioner Samson asked if that made it the best place to put it with those criteria. Scott said it is centrally located; we own the surface and that helps. Strategically they are dividing their operating areas into thirds and this is sort of the middle third of that operating area. Again, to limit the length of pipelines as well as to limit the length of any truck traffic that would have to go to a facility, we need them centrally located; yes. Commissioner Houpt stated she wanted to have a better understanding of what the proposal was from the neighbors on the road cutting across; where that would be accessed from Chipperfield Lane. A map was put on the screen and an explanation was given on how this would all happen. Chairman Martin stated they had a letter from Martha Cochran on limiting of traffic and the intrusion corridor. Don wanted to give a factual clarification on the recommendation from staff number 15 as it relates to road improvements. The recommended condition is a financial commitment to do maintenance on the road; looking at Exhibit J from Jake Mall, from road and bridge. Jake indicates there is some type of agreement between road and bridge and Bill Barrett Corporation. Since this is a condition of approval, Don is inquiring whether there is an actual financial commitment in terms of monetary amount that would be paid to road and bridge to do road improvements. The answer from one of the applicants was yes sir. Don asked what that was and the applicant answered he thought it was verbal at this point. Chairman Martin explained that would be 2 inch overlays; referred to Exhibit A. Don asked the applicant if they will pay whatever the cost is for a 2-inch overlay and they replied yes. Don stated and the County will be responsible for bringing the base up to standard and they answered correct. Toby asked if they were paving to the end of Chipperfield or only to the road they are using. Chairman Martin said it says 326; so he will have to see the measurements that Jack Mall has. He stated he can only read from the exhibit he has, and it says there will be a 2-inch overlay on Chipperfield Lane. Scott said they have agreed to go to the end of that road. Dusty reviewed the conditions and stated it would be easier to have Scott review the ones he wants changed. Dusty stated the applicant does have a concern with the ideal construction periods. Scott stated the first concern is Article 7, 7-201 that talks about no adverse affect to agriculture lands. This deals with the salt water disposal well and the associated pit with it; they are requesting it be removed from this application as it is a standalone facility and has nothing to do; we build whether this facility is built or not. We are asking that all references be removed regarding that. Commissioner Houpt asked if that permit was already in. Scott said they are expecting the approval of that permit within the next week or two so yes it is in to the Oil and Gas Commission. On page 2 Article 7, 7-202 talks about protection of wild life habitat areas; this is the idea of construction periods, they have received a letter from the Wild Life WestWater out of Grand Junction that says; if you want to construct during this period through July 15th as long as you sent a biologist out there and he surveyed there were any actual physical nests on what would be the disturbed are, that would be sufficient. An alternative if you found a nest near the edge you would not have to destroy you would put a buffer around it of 10 meters. What they would recommend they would include the biologist to look for the nest; but as well completing the construction of those two facilities simultaneously, they would like the ability to do that. Not being a biologist, being a geologist his opinion would be that the wild life would appreciate getting that done versus having a much longer construction period. The third item is the next one down regarding reclamation 7-212 and he thinks Dusty handled this well, and they are comfortable with that. They have bonding out there for the producing facility towards the east edge of the property, they have bonding for the disposal well, and they will seek the bonding for the additional piece that is not covered by either of those two reclamation bonds when they apply for a centralized waste facility permit from the COGCC. What they would request is that the only piece that needs to be bonded at present is that piece that is not bonded by the other two bonds. They can provide that information. The last one is the last point on the last page, condition of approval number 16; talks about the reclamation in 60 days and he stated when you talk about reclamation a big piece of that is re-vegetation. Scott wanted to make sure that the re-vegetation piece allowed us to re-vegetate in a growing period spring or fall. They recommend a change within one growing season. Dusty stated the language for the reclamation security; there are two different kinds of reclamation securities that have been forwarded in relation to these permits. The Board has put this language into place for longer things that are going to be on site longer than 3 years and have a lot more infrastructure to remove, and it is a boilerplate language that has been in place for compressor stations for whatever installation is going to be there for a long time. It has to do with the site and not necessarily the vegetation security. The vegetation security is a component of that and it says that it has to be initiated; it does not say it has to be completed. This was the guidance Dusty received from Deb Quinn, attorney's office. Dusty stated she does not believe there would be a need to change the language in Condition 16. Chairman Martin said the reason is because it says initiated and not completed, and Dusty stated correct. Scott was agreeable to that. Dusty wanted to clarify the comment about industrial use and the conservation easement; the mineral use pre-dated

the conservation easement. The conservation easement pre-dated the industrial. As for the wild life conditions for activities during the assessment do you have a recommendation for a modification to the condition number E of 14? Commissioner Houpt asked if she meant having a wildlife biologist go in and Dusty stated yes. Chairman Martin said he thought they agreed to that and Commissioner Houpt said the Board is the ones who need to agree to have that happen. She is also wondering was this something that ABLT wanted in there. Dusty stated no that is actually language from the wildlife report that was part of the application. Commissioner Houpt said she is having problems with the whole notion assuming that all of the traffic, for a very large facility will be there for 20 years and go down this Chipperfield Lane, and the idea that no other alternative route had been looked at which would have less impact on the neighbors. Marty said the change of the route would affect 3 houses. If we cut across BBC's property; the truck water will not affect 3 different households, but the traffic going up through the community road will continue to remain the same. Commissioner Houpt said the people in the audience, who live on the road are agreeing with you. Toby stated Barrett are really good guys and has worked with them. If they cut across their own property; something that hasn't been talked about, we have an intersection at their road that they want to continue to use, and the community road comes off there which is where Kelly lives. If they did cut across their own property, they will lessen the traffic at the intersection just for the tank facility. If you have been up there and looked at the intersection, it is a narrow intersection. Trucks have to line up to go down; the intersection is congested. He thinks what Kelly is suggesting; which he agrees with, if they cut across their own property, their normal drilling traffic and water trucks that go to 6 Lazy K will still continue all the way up Chipperfield. The traffic for this facility would not go to that intersection; it would go across their own property, which would lessen the traffic up at the top of Chipperfield. He knows it is expensive and it will be tough for them to do. Commissioner Houpt stated it is really expensive to do a road overlay also. Chairman Martin stated the impact would be with this facility and not the other. You are looking at a 2-inch overlay on Chipperfield Lane versus them building a new road across their own property and then we are looking at no improvement on Chipperfield except for maintenance. Everybody pays for it. Commissioner Houpt knows this road and she sees this facility as being very large and very long term, and she does not think the traffic impacts were researched well on this. Marty said trucks will be turning at a 90-degree angle right in front of the house. If there was an alternative road built, that is where it would be. Commissioner Houpt said she thinks they did a tremendous job working with ABLT on this. She just wishes they would have done a fabulous job working with the neighbors on this too; because it is not like sighting a well pad. Where you sited it is great; but the largest impact is the traffic impact. Scott said; we are talking about 17 trucks a day, during the operational period. We reviewed that, met amongst ourselves, and then met with the neighbors as well, and we heard these things from them at the same time. They looked at that and considered those things and the wildlife issues, and I need to get Toby, at the next DOW meeting by the way because he will be my advocate there. So they did review that, and it was considered and they deemed this to be the better option for the area. So on your earlier question; it was extensively reviewed. Commissioner Houpt appreciated that. Where is your condition for traffic? Dusty stated condition 15 relates to most anything related to transportation. Because the hours of operation were related to storage and repair, it was not a restriction on the hour of operation for the travel. Chairman Martin said you also have to know that the operation oil and gas and development and drilling goes on 24 hours a day once started; has to be completed. That bi-product is there coming 24 hours a day and to say it is only good for 12 hours a day; you have a real hazard. Commissioner Houpt said you could say during day light hours except in case of an emergency. She thinks there are ways to create a more workable atmosphere for this. Commissioner Samson asked if she was talking about drilling. Commissioner Houpt said no, I am talking about truck traffic coming in and out of ... Marty said right now with the standard operating procedures; the hours are daylight hours, but there are probably two or three instances every week that they have to haul water in. To be committed to a day light operation would be very difficult for their operations. Scott stated if they did not have the ability to haul to the water storage facility, they would have to haul to the salt-water disposal well right next-door and dispose of the water. Monty's issue is we have nowhere to take it. Chairman Martin said or you would have to haul down to some other facility that you would have to contract with. Commissioner Houpt stated; come on guys, I'm talking about, you told me, about an hour and ½ ago that you haul during daylight hours unless there is an emergency. Scott said; we said for the most part. It depends how you define emergency. Scott said his definition of emergency might not be the same as Mr. Smiths. As long as we had storage for water, that is not an emergency. If we do not have storage for water; then it becomes an emergency. Commissioner Houpt stated; with this facility, since everything needs to be moved up, will that reduce tanks from other pads too, or is this just going to be.... Marty said it would reduce tanks from other pads. Commissioner Houpt said it could eliminate the pits after the drilling process. Scott said in many cases not in every case. Hollis Barrington - Think of this as storage; 60,000 barrels of storage luckily coincided with a down turn in the industry. We started fracing less and producing less water. If we were still at that same pace, you would have seen about 30,000 barrels a day extra water physically trucked down the highways that could not go to that facility. This facility, more than anything, is a holding for 40,000 barrels of water that is not essential today; but might be essential for fracing a well that can be moved by a pipeline 99% of the time, and get to a rig whether it is on Chipperfield, or to the north, or to the west. They can maneuver this water just about anywhere. It allows us to physically hold the water so we do not have to go to Mr. Roderick or, he is not sure who they are buying water from; but if you buy water from someone, you're trucking it. So if I do not have 40,000 barrels of water here and I am fracing like crazy up on 6 Lazy K and I need water and I don't have a facility like this to pull physically from, by a pipe, then we will be trucking down Chipperfield and up community road with 30,000 barrels a day. This is just kind of a heart that holds the water and pumps back and forth. The truck traffic that is going in here now, right now, we have as many wells physically piped directly to our pipeline system as we can physically move right now. There are pressure limitations depending on topography and wells etc. But they have as many physically, as we can, coming to this facility or other facilities via pipeline. It is narrowed down right now to where it is at its peak and dropping off. So the truck traffic physically coming here, whether it's coming here for this facility or the salt water disposal facility; which will also take a fairly significant number of tanks to hold it. We have an SUV over on Roderick; which is real similar, this is a smaller facility pump wish and shoe size wise if it is just a disposal well. But we still need those tanks. We lose the ability when we do not put the 40,000 barrels of storage in just maintaining that. If you are not using it, you have to haul it, if you cannot store it. Commissioner Houpt asked where does the 17-truck number come in; would you say that is at the high? Hollis Barrington said that is what we are currently doing that is irreversible right now; we have to do something with that truck water right now physically. The alternative is instead of coming down and going in here; we go down Chipperfield and he continued to show different routes. They stated they are not going to add any more wells; they could add another 1,000 wells in there. He explained how the water flowed and how it saves wear and tear on county roads. Commissioner Houpt asked if they felt like they

have mitigated the traffic as far down as you could go. You said there are wells you did not pipe in yet. Hollis said we have not; they work constantly and their goal is to get 100% of their wells in a pipeline and eliminate... There is certain truck traffic you can never eliminate; you cannot eliminate your oil hauling. There is oil hauling both out of this facility and the wells on this footprint. You cannot get all your water and oil separated so there is a constant battle of trying to separate your tanks so you need a truck to go in there, a hot oil truck, or a water truck to roll these tanks. It has to be cleaned and physically hauled off; so you do have maintenance issues with every facility; that is not included in the 17 trucks. If you have to count trucks that come physically to the site; it will be more than 17 because there is inherent operations going on with the 5 or 6 producing wells on the site already. The 17 is strictly what it will take to get our oil hauled out of there and there should not be a lot of oil. The more we use this facility and refine the pipeline in the area; the less, it is usually ½ to 1 ½% oil in train in water physically. Most of the water that will be coming to this facility is going to be water that has already been through that process once. The amount of oil in these tanks should be at a very minimal amount. So there is very little trucks associated with hauling oil off this site. There are a couple of trucks associated with maintenance and the rest are physically hauling the salt water. Commissioner Houpt asked if the salt water could be piped. Hollis said again, we have restrictions based on topography, landowners do not want us going across, you have to get into our pipeline system so there will be islands out there where we have to physically truck because we cannot get a pipeline across. Commissioner Houpt asked; but you are going to be piping some of the salt water? Hollis said yes we pipe a lot of salt water. Commissioner Houpt said she was thinking of the injection well and this. Chairman Martin said same water. Hollis explained those 17 trucks will go to their salt-water disposal well, put in tanks, or it will come to this facility. It is exactly the same water. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye Samson – aye Martin - aye Commissioner Houpt stated everyone knows she has a very difficult time seeing areas turn into more industrialized areas. She remembers when this application was brought forward previously and she thinks they have come a long way from that time and she appreciates that. Her real concerns are when, and not just with you guys, we have had these permits in front of us in the past. But when you have these large long term facilities that service many different wells around the area situated in a residential area; that creates, in this case, a traffic impact that will last for the duration, but she thinks they have done a tremendous job mitigating through pipelines and location. She also understands there is a real need for finding storage for produced water. We are having real problems throughout the county of people dumping things illegally. She thinks that all of us would rather see the produced water treated properly instead of dumped along the side of the road. She would like to add to condition 15 and add some language that talks about the number not to exceed 17 trucks per day for this facility. Chairman Martin said the other issue would be how do you separate those from the ones that are going in there on operations, on a daily basis that have already been approved, and have to be there. Who is going to go out there and physically do that? It will be self-reporting and self-regulating. Commissioner Houpt stated it is self-regulating. But it also sends the message that we appreciate the pipelines they have put in and what's been represented. Of course, everything that has been represented today represents that it is going to be 17 truck trips today; she guesses there is no need to add the language. We are on record with that representation. Chairman Martin stated only if in the motion you refer to all statements that were made by the applicant. Commissioner Samson – I move to approve a limited impact review permit to allow the installation of a produced water storage facility at Circle B well pad number 4 for Bill Barrett Corporation LLC with the conditions provided by staff, and all statements by the applicant in representing the permit. Commissioner Houpt asked if he wanted to do anything with the timing of the development whether he wanted to allow a qualified biologist to come in and work with them on the construction. She would say that condition 14 e, would be to request you say at the end.... Dusty added a modification that incorporates that as written in the presentation; it says unless necessary or field verified by a certified wildlife biologist and mitigated with a 10 meter buffer around the nest until the nesting birds have left. Commissioner Houpt – Second. Chairman Martin said you said clarify that includes water-engineering recommendation all of them or just the one. Commissioner Houpt stated just the one. Don said his only concern is clarity of the records, so staff knows what to do. Commissioner Samson made a motion, Commissioner Houpt made a number of statements and he needs to know if Commissioner Samson added to that... Commissioner Samson said he accepts the changes. Dusty stated there was a question asked whether there are four conditions in the West Engineering letter, and that is one incorporated, and do you want to modify this differently. Chairman Martin explained they are trying to do the potential nesting. It needs to be undisturbed at a certain time and to do the clearing at a given time. If they find a nest, there is a buffer. All four recommendations from West Water need to be added to that, not just number 4. That is what his clarification was because it really does protect the species. Commissioner Samson stated; to make sure everyone is on the same page we will incorporate all four. Dusty asked what they preferred to add to condition 14 e. Would you like it to say with the conditions set forth in the letter of 5/29/09 from Michael at West Water Engineering? Commissioner Houpt stated yes. Commissioner Houpt thinks it is going to be really important to follow this and take a good look at Chipperfield Lane as a haul route and the fact that it is a dead end. They get all of the traffic going in and out and she thinks if they approve this today it is incumbent on this County, and this Board to take a good look at that and get a better understanding of what kind of impacts are occurring. If she does end-up voting to support this, it's only because she believes that what has been presented to the Board, it's the best approach to cutting down on truck traffic. She thinks they could go a lot further in accomplishing that and the county needs to take a good look of all of our haul routes and look at the impact it is having on people who are living in our rural areas in Garfield County. Commissioner Samson said he agrees with her; but you cannot have it both ways, right. Either you are going to have to have the truck traffic, or you are going to have to have this kind of a facility. So if we don't, and he agrees with what Commissioner Houpt said and he thinks John does too; but if we don't have that there, then we will have more truck traffic to take that produced water someplace else. Commissioner Houpt said that is true; but what she is saying the traffic over and above that. We need to look at if it is appropriate to have a haul route that is a dead end road. We, as a county, need to do better planning than that. Commissioner Samson agreed. In favor: Houpt – aye Samson – aye Martin - aye

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JUNE 8, 2009

**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 8, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

COUNTY MANAGER UPDATE: ED GREEN

SUTEY RANCH LETTER OF SUPPORT

George Newman, Andy Wisner, Davis Farrar, Dorothea Farris and Todd Robinson were present. The Sutey Ranch was discussed in-depth on May 4, 2009. The Commissioners and others took a tour of the ranch. Commissioner Samson said he had plenty of time to think about it. Gunnison and Eagle counties have given Garfield County a letter of support. Commissioner Houpt – There is some language for the BLM that is important; she received an e-mail about this language. Fred will prepare the letter and it is very important to include no motorized vehicles and minerals. David Farrar – He is an avid user of the area and is in favor of keeping the water rights and a Comprehensive Plan that BLM will have to go through. Commissioner Houpt inquired about the management of Red Hill. Davis – Red Hill is going through their development process. Commissioner Houpt – Pitkin County is still discussing this and they will be meeting on June 16, 2009. She said she would be supportive of this as well. Ed – Dorothea said one part of Mount Sopris would become private land. Davis – The access is a long skinny piece other than through the Prince Creek Subdivision. The fact that this becomes private land the Sutey Ranch is very important and the exchange should be fair. Commissioner Houpt – Pitkin County has their set of concerns. Commissioner Samson said he would move that the administration develop a letter of support to Representation Salazar and Senator Udall concerning the Sutey Ranch. Commissioner Houpt seconded the motion. In addition, make sure those specific details are addressed. Fred will submit a draft and this will turn the land from rural to public lands.

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

27TH STREET AND MIDLAND AVENUE

Mike McDill, PE from the City of Glenwood Springs and Ed Green presented the IGA to provide funds for the City in an amount not to exceed eighty-five thousand five hundred dollars (\$85,500.00) to reimburse the City for half of the local share of the construction of the improvements. This is for the improvements at 27th Street and South Grand Avenue including construction of a traffic signal. The City will use these funds to reimburse the City Street Fund for a portion of the construction of the improvements. Upon signing this agreement, it shall be in effect and all actions must be completed on or before December 31, 2009 unless renewed prior to that date. Ed submitted the minutes and added that Commissioner Houpt sees that we did discuss this previously. He added that the City had originally asked for \$200,000.00. Ed stated that on October 1, 2008, they wrote us back and our share is \$85,500.00 for both projects. This was approved and is in the budget for \$85,500. Commissioner Houpt stated for the record that she had been incorrect when she stated last week that the traffic light had not been discussed.

ILS REPAIR OR REPLACE – BRIAN CONDIE

Brian Condie and Don DeFord were present. Brian – This is a follow-up from last week. One of the main questions was the budget balance for capital funds for 2011. The finance department gave me numbers, which seem to decline each year. Brian's recommendation is to repair the existing ILS. We come out to the same cost per year as the new one would for the next 20 years and that will last us for 10 year. We can save our capital funds for 2011 and beyond. Ed concurred that we should save fund balances over the next two years as much as possible. Brian said this cost is \$315,000.00 to proceed and then he will request \$150,000.00 from the State as matching funds. Don – Will this require a budget supplement? Brian – Yes this month so we will have it operational next year. This is in the budget per Brian but it was offset by 95% of revenue. Commissioner Samson made a motion that we approve for a not to exceed amount of \$315,000.00 to repair the ILS repair. Commissioner Houpt seconded the motion.

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

POWER LINE CONTRACT – CAROLYN DAHLGREN AND MARK KUBESA

Carolyn Dahlgren and Mark Kubesa from PRT Consulting, Inc presented.

A letter and a West Utility Plan from Jon Price, Xcel Energy in Grand Junction was submitted stating the design and estimate to relocate a portion of Xcel Energy's 25VK overhead electric lines to clear the proposed work for the Garfield County Airport expansion project has been completed. The estimate does not include relocation of the overhead lines along County Road 319. This would be provided as a separate estimate. The estimate of this project is \$160,423.00 and is due prior to construction; it is also subject to the following contingencies.

1. An easement is granted by Garfield County for the new downguys by the intersection of CR 346 and the existing CR 319; and
2. Utility Permits be granted by the City of Rifle for the Garfield County road department for the installation of the electric lines.

These estimates are valid for 90-days from May 19, 2009. The signature of the Chairman is necessary to consummate the agreement. Brian said they had a meeting with the Rifle City Council and they are supportive of the Airport. Carolyn has spoken with Mr. Price and the Attorney. We are actually only talking about Phase I. She explained how the lines would be placed; the FAA agrees. The City of Rifle has a franchise agreement with Xcel. She agreed with Brian that the utility permits would be issued by the City of Rifle. They are not asking the County to guarantee what was going to be done. Therefore, Carolyn's concerns are taken care of. The Board will get a Phase II and the entire cost will be over \$300,000.00. Commissioner Samson so moved that we authorize the power line contract with Xcel in an amount not-to-exceed \$160,423.00. Commissioner Houpt seconded the motion.

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

BRIAN - CITY OF RIFLE

Brian met with the City of Rifle Council last week and they were very friendly to the airport and look forward to the project moving forward. Commissioner Samson said they helped us on our water rights. Brian – For the hangers they did and the IGA will hopefully be done next month.

FAA GRANT OFFER – BRIAN CONDIE

Brian reported that the FAA grant offer has been held up. We opened bids on Thursday for the runway expansion project for this year. We got numbers on that and Brian is adding the project cost and engineering cost into that

number. The e-mail received from FAA told me they would try to get the grant to me by Friday but he was not able to pull all the numbers together. We are expecting a \$13.5 million grant up to a \$14 million grant that is what they are telling me now. We need to get all of the cost in there. Therefore, my request to the Board is to authorize the Chair to sign this year's FAA grant for the airport upgrade project. We are doing this in advance because next week we are coming to you with three releases to contracts and probably with a contract with Kelly Trucking who is the low bidder for our project of \$11 million dollars. If we do not get it all done next week we cannot start on the July 6th, which means we start missing our deadlines and we cannot afford that. Hans gave me a letter and we are assured for the grant, he just has not finalized the numbers yet. My request is that the Chair be authorized to sign. Brian clarified for Commissioner Samson that it was \$13.5 million but it could be \$14 million or more depending on how much of the extra program cost we can include in that from the FAA. Commissioner Hought – You want authorization for the Chairman to sign the grant offer with the FAA. Brian said this means we would be responsible for 5% of that which is in the budget. Commissioner Hought so moved. Commissioner Samson seconded the motion. In favor: Hought – aye Martin – aye Samson - aye

APPROVAL FOR AWARD OF CONTRACT FOR TWO EACH CRACK SEALERS FOR ROAD AND BRIDGE – MATT ANDERSON

Matt Anderson and Marvin Stephens were present. Matt submitted the recommended Board award contract to Vance Brothers, Inc. for the purchase of (2) Crack Sealers for Road and Bridge. The not-to-exceed price of \$92,300.00 was requested to be approved. The period of performance for this contract is that the equipment will be delivered in 6-weeks after receipt of the order. Matt stated there were two offeror's: Vance Brothers, Inc. for \$92,300.00 and Denver Industrial Sales & Service Co for \$98,997.00. Marvin said they would travel to see them this week. This award will be brought back next week.

APPROVAL FOR CONTRACT AWARD FOR PAVING/ASPHALT TO VARIOUS ROADS THROUGHOUT GARFIELD COUNTY – MATT ANDERSON

Matt Anderson, Kraig Kuberry and Marvin Stephens were present. Matt submitted the recommended Board award contract to Frontier Paving to provide paving services for various County roads for a not-to-exceed amount of \$2,856,223.92. The performance period will be from June 8, 2009 through December 31, 2009. Matt stated there were five offeror's: Frontier Paving - \$2,856,223.92 for 10 of 10; Grand River - \$230,361.60 for 2 of 10; Elam - \$273,608.00 for 2 of 10; LaFarge \$3,082,948.40 for 10 of 10; and United - \$3,179,051.01 for 8 of 10. Marvin had budgeted \$5 plus million. They will have money left and Marvin would like to do some work on County Road 301. Commissioner Samson made a motion to award the contract to Frontier Paving for a not to exceed \$2,856,223.92 for paving/asphalt for the ten identified County roads. Commissioner Hought seconded the motion. Marvin will bring back the savings and a discussion regarding additional roads. In favor: Hought – aye Martin – aye Samson - aye

RIDE THE ROCKIES – MARVIN STEPHENS

Marvin Stephens presented the Special Events Road Permit Application for the Denver Post Ride the Rockies event to be held on June 13th and June 19th with the following roads effective – Sunday 6-14-09 - State Highway 82; County Road 154, County Road 109, County Road 108, and State Highway 133; and on Friday, 6-19-09 State Highway 82. Marvin stated they have done an excellent job of coordinating this with the Sheriff and Road and Bridge. As soon as they receive the bond and insurance, the permit will be issued. This is for information only.

JUNE 12TH CYCLING EVENT – MARVIN STEPHENS

Marvin Stephens presented the Special Event Road Permit Application for the Leg Breaker Time Trial to be held on June 12, 2009 involving County Road 109 leaving Thompson Creek Bridge and heading north approximately 5-miles to a turnaround point near the Iron Bridge turn off. There will be approximately 100 – 150 riders. The event will begin at 5:30 a.m., the last rider will be off the road by 7:30 p.m. Safety equipment, personnel will be provided, and the road will not need to be closed to traffic. Registration and start of the event will be held on the roadside near Colorado Rocky Mountain School. This is for information only.

MOTOR POOL POLICY – MATT HUTCHISON

Matt Hutchison presented the Motor Pool Policy and an Executive Summary: The economic environment mandates that states, counties and cities pursue efficiencies in all governmental operations. It is the County's responsibility to the taxpayers to develop a management plan for the Garfield County vehicle fleet. This plan is designed to provide detail policies and procedures for improving the safety, administration, and operation of the County's vehicle fleet. The Garfield County Motor Pool Coordinator (MC) oversees and manages all Garfield County owned vehicles and the Motor Pool Fleet Management Plan. The Personnel Policies and Procedures Manual also govern the use of motor vehicles and equipment by Garfield County employees; and therefore, must be reviewed prior to operating County vehicles. Matt is requesting the Board approve the Motor Pool Policy. Commissioner Hought – Regarding vehicle replacement, I would like to add under the replacement vehicles that fuel efficiency or hybrids will be a priority. Also a question on who cleans the car by taking it to the car wash. Matt said the last person should be the one who cleans the vehicles. Commissioner Hought feels there needs to be a formal process; very often, the car is not clean. Marvin suggested hiring a person who will clean and keep the cars in good condition. Ed - We could go out for an RFP. Commissioner Hought made a motion to approve the Fleet Management Plan as presented and would like the cover page to include the date for the record on when it was approved. Commissioner Samson - Second In favor: Hought – aye Martin – aye Samson - aye

RELEASE OF ROAD BOND – DEB FISCUS

Marvin Stephens and Deb Fiscus were present. Julia Eaglin submitted the letter to Deb Fiscus from Plains Exploration and Production Company (PEP) requesting cancellation of the Bond No. RLB0007420 stating the property has been sold and the bond is currently covered by the new owner, OXY. Commissioner Samson moved to release the bond for \$500,000 to Plains Exploration. Commissioner Hought seconded the motion. Marvin – Deb is the new office manager and she is doing a very good job. In favor: Hought – aye Martin – aye Samson - aye

Executive Session - Ed's items – Land negotiation and legal guidance with several prospective land purchases; payroll and compensation issues in the Sheriff's office

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don stated he had one item on the new County Administration Building and anticipates a public discussion and direction; he needs an executive session to provide legal advice and review of the memorandum and direction of further involvement with legal staff on acquisition action. Fred noted legal advice and direction on a code enforcement issue on the Hardy property and to provide an update on the litigation in the Sheriff's office.

Commissioner Samson gave kudos to Chris; he had two different parties let him know they were very pleased with Chris' quick action of enforcements. Commissioner Samson so moved to go into Executive Session; Commissioner Houpt seconded. Motion carried. Don stated that a tape was not available in Executive Session and he needed to make a record that we have concluded the legal portion of the Executive Session and the portion in which legal advice has been rendered to the Board. The Executive Session record has now resumed. Commissioner Houpt moved to come out of Executive Session. Commissioner Samson seconded. Motion carried.

Public Action:

Par Forms

Don said a brief discussion is in order under State law; the elected officials including the Sheriff and others as well as the Board of County Commissioner must jointly agree under the wording of applicable statutes to a pay and compensation plan. As part of the pay and compensation plan certain salary levels have been set and therefore, in order to vary from those, as Don understands the enforcement of your policy, either the County Administration must approve any variance or the Board of County Commissioners must be by direction of the Chair. Chairman Martin said we had received a request for the Administrator to the Board to make that decision and give him direction, so that motion would be the direction either to follow or not to follow that Par Form and Policy. Commissioner Houpt – There were several requests actually. However, the one request that I would make a motion on is that we direct our County Manager to move forward on the Par Form for a new employee in the Sheriff's department in the kitchen, understanding that we are not changing the policy. It does not make sense for us to add to something after the fact, which we are being in the position of doing. Also, understanding that this person has been working and needs to be paid. I do not anticipate responding in this manner in the future; I am assuming we will be able work through this with the Sheriff's department. Chairman Martin – With the clarification of the policy, etc? Commissioner Samson – Second. I agree with the comments that Commissioner Houpt said concerning the motion.

In favor: Houpt – aye Martin – aye Samson – aye Chairman Martin - We will direct Mr. Green to sign that form.

Letter to the Sheriff

Discussion was held of directing staff to prepare a draft of a letter for the Board's consideration at the next BOCC meeting generally relating to the role of the Board, the role of the Sheriff and the Administration and the adoption of the Sheriff's budget. Don added this needs to be set as an agenda item where the Sheriff can attend. Chairman Martin – There are several flags showing themselves that we need to respond back to him in a written form to advise him of certain policies, practices, etc. and also advise in reference to the budget, Personnel Policy, pay policies, etc. That item can be addressed in a single letter to the Sheriff. Commissioner Houpt – My motion would be to direct staff administration, the legal department and the finance department to work on a letter to respond to some concerns on the Sheriff's wage budget analysis as brought forward by the finance department; and also, to address the issue of hiring bonuses and the hiring of new employees that is compatible with our policies in the County and compatible with the budget that's been set for the Sheriff. Chairman Martin – This will be adopted in and agreed with the policies to be addressed. Commissioner Samson – Second. Don – In that motion, is that to be the subject to be discussed and considered at your next Board meeting. Commissioner Houpt – Yes. Commissioner Samson – Concurred.

In favor: Houpt – aye Martin – aye Samson – aye

Hardy Litigation – Code Enforcement

Don said the Hardy property has been brought into substantial compliance and we are asking the Board to withdraw direction to the Legal Department to proceed with litigation regarding that property. Commissioner Houpt – So moved. Commissioner Samson – Second. Chairman Martin – And the grounds have been found that it is no longer needed. Don – Correct.

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

CONSIDERATION AND DIRECTION ON ACQUISITION OF NEW COUNTY ADMINISTRATION BUILDING

Don DeFord, John Gorman, Georgia Chamberlain and Jean Alberico were present. Don understands that there are property specific issues that are still the subject of negotiation and asked if the Board wanted to proceed with public discussion. Commissioner Houpt – It is important for us to note that we are looking in Glenwood for a location or building where we can move the elected officials. It would be a building for the Clerk & Recorder's office, the Assessor's office, the Treasurer's office and the Board of County Commissioners. We are looking at downtown options and looking at options outside of the downtown corridor that are in Glenwood Springs. There are pros and cons to everything we are looking at and we are working very closely with the elected officials to make sure that whatever we decide on is going to be the best solution for serving the public in Garfield County. This is strictly for clarification as the public is hearing that we are looking at different things in Glenwood Springs. We are looking at the benefits of various opportunities and that may be in the core of Glenwood Springs, or it may be outside the core. Chairman Martin – I agree except naming the elected officials as the target is also a subject of discussion. I also look at it as a possible new judicial center for the District Attorney and Judges in reference to security, the location, etc. but that is a consideration on my part instead of removing the elected officials. Again, that is up for discussion and the location, negotiation, etc as well as the involvement of everyone concerned. We just want the public to know that we are looking at four locations. Commissioner Houpt – For me a real driving factor is our budget. We are going to see a huge decline in a few years and so whatever decision we make we need to make sure we are working within our budgetary constraints and our being good a Stewart of the pubic assets putting those to the best possible manner. Chairman Martin – And with that we have also made an offer and have received a counter offer; what is the direction to staff in reference to that counter offer? Don – We do need direction in that regard. That is more propriety specific than the discussion that was set for agenda. However, we do need direction to staff without getting into actual negotiated amounts, which are confidential. We need direction as to whether or not the existing counter offer, do you wish to reject that offer, offer a new contract or respond to the existing counter offer. Commissioner Houpt – I would make a motion that we reject the counter offer that came to us and hold for a money offer that we made on that building with the parameters that we've given to staff and make sure all the pieces are retained in that offer. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Opposed: Martin – aye

CONSENT AGENDA:

- a. Approve Bills
- b. Changes to Prior Warrant List
- c. Authorize the Chairman to sign the Daler/Swanson Subdivision Exemption Plat. Applicant is Aaron Daler – David Pesnichak

Commissioner Houpt so moved to approve the Consent Agenda. Commissioner Samson seconded the motion.

In favor: Houpt – aye Martin – aye Samson – aye

ASSESSOR - ABATEMENT FOR MID VALLEY BAPTIST CHURCH – ABATEMENT NO. 08-116 – SCHEDULE NO. R011060 – LISA WARDER

Chairman Martin swore in the speakers. Lisa Warder presented the abatement for Mid Valley Baptist Church stating the taxes assessed against the property for tax years 2006 and 2007 are incorrect. On August 29, 2007, the Division of Property Taxation determined that exemption should be granted effective January 1, 2006, per file number 23-01070-02. The abatement for 2006 is \$1,655.84 and for 2007, \$2,189.12.

Commissioner Samson – How could a church be taxed? Lisa responded they must apply to the Division of Property Taxation since the church purchased a taxable property. This is a normal procedure and a lag time is associated. A motion was made to close the public hearing by Commissioner Samson and seconded by Commissioner Houpt. Motion carried. Commissioner Samson made a motion to approve the abatement for Mid Valley Baptist Church – Abatement No. 08-116 – Schedule No. R011060 in the amount for 2006 - \$1,655.84 and for 2007 - \$2,189.12. Commissioner Houpt seconded the motion. In favor: Houpt – aye Martin – aye Samson – aye

LITTLE BRITCHES RODEO – ROD ZANG

Commissioner Samson stated we are still waiting on the finalization and asked to table this. The Board concurred.

COMMUNITY SERVICES BLOCK GRANT PROPOSAL FOR UTILIZATION OF AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING – DIANE WATKINS AND TRICIA MURRAY

Carolyn reviewed the notification. The underling federal grant required public notification per Carolyn. The requirement was met. Chairman Martin accepted the notification and swore in the speakers. Diane Watkins and Tricia Murray submitted the CSBG grant application for American Recovery and Reinvestment Act funds to the Department of Local Affairs (DOLA) for a grant in the amount of \$70,562.00 to assist residents of Garfield County whose income is at or below 200% of the federal poverty guideline levels. The goal of the stimulus money, which is being provided by a formula to all eligible entities in Colorado to help reduce poverty and assist individuals in achieving self-sufficiency. The primary focus of the grant is on employment-related activities including job training. With this money, we hope to service up to 200 individuals; the grant application states at least 100 persons will be referred to the program during the timeframe of the program; July 1, 2009 through September 30, 2010. They earn certificates in the National Currier Readiness Program and the certificates are for reading, information applied to mathematics and locating information. Therefore, we want to run this program in both CMC campuses. The referral process will come from many organizations and it is not limited to just human services. They will also come from the emergency services agencies, CMC, workforce centers, and they will all come to a central place and from there we will do the assessment and see if they are within the 200% of poverty level because those are the people we can serve with this money. Carolyn clarified this was for the application only. If the Department gets the grant, it will come through DOLA. She asked if the BOCC would be seeing both a DOLA contract and a contract with CMC or do you know yet. Diane said we do not know that yet. Commissioner Houpt made a motion to close the public hearing. Commissioner Samson - Second. Motion carried. Commissioner Houpt –I'll make a motion that we approve the CSBG grant application for the American Recovery and Reinvestment Act Funds to expand services of the workforce program in Garfield County in an amount of \$70,562.00 and authorize the Chair to sign. Commissioner Samson seconded the motion. Chairman Martin – Knowing the grant is for a specific purpose and that purpose is outstanding and I support it 100%. My conflict is where the money is coming from. I would much rather take it out of the general fund and reserves to pay for this program than to ask for the money from the federal government. I am committed to the seniors and every program that we have. I have a physiological difference in reference to where this money is coming from and how it is with all the strings attached to it – it scares me to death as well as what we are signing away for our future. I would much more be willing and champion the move to do a supplemental from our general fund than to take money from the federal government. Because my heart is with our seniors, our veterans, kids, etc. It is a great program and it is definitely needed; it is the wrong pot of money.

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

Property Acquisition

Don said as it relates to the contract authorized just a few minutes ago on property acquisition. This is a ministerial matter but because the County Manager and the Board are in flux and traveling today, Don is concerned as to who is authorized to sign this agreement. In the past real estate, acquisitions of this type have been by the Chair and in some cases the Chair Pro-tem. Who and where will I be contacting if I get a contract done by 2:00 pm but if not it could be tomorrow morning. Chairman Martin said he would be available 24 hours a day just as always, either through telephone or by pager and he can respond within just a few minutes. I will be in town.

EXECUTIVE SESSION – ITEMS: Land Negotiations issues. Commissioner Houpt made a motion to go into an Executive Session. Commissioner Samson – Seconded. Motion carried

Action taken:

Property Acquisition – Don explained we need authority for the County Administration to retain the services of an appraisal as it relates to County owned property in Glenwood Springs in the vicinity of the Valley View Hospital and suggested an amount not to exceed \$10,000.00 Commissioner Houpt so moved. Commissioner Samson – Second.

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

Authority for the Chair to sign a purchase sale agreement for operation of the purchase what we will refer to as the Gillespie property within the parameters for which we have received direction in Executive Session. The parameters are confidential as they are the subject to negotiation on property acquisition.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

Public discussion on the County parking lot

Don stated lastly there is the need for public discussion concerning the location of the County advisory sign in the adjoining parking lot. Commissioner Houpt recommended to either move or take the sign down that is in the parking lot across the street in the area where the motor pool cars are parked. Her reasons are that the sign blocks those two last parking spaces. She hit the sign and feels others are hitting the barriers as well because she had seen the paint marks. It blocks the last two parking spots. Chairman Martin noted the signs are placed there as a safety feature. He likes the sign. Commissioner Houpt will be leaving early today for a meeting at CCI and will not be present for the second half of the meeting.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD AT 1177 COUNTY ROAD 259, SILT, WITHIN THE ARRD ZONE DISTRICT. APPLICANTS ARE AUGUSTUS & JENNIFER HAMPSON – DUSTY DUNBAR

Debbie Quinn, Melody Massih of the law firm of Olszewski, Massih and Maurer, PC and Jennifer Hampson were present. Melody Massih of the law firm of Olszewski, Massih and Maurer, PC and Jennifer Hampson submitted a letter seeking a continuance to the next available meeting on July 6, 2009. It has come to our attention that there may be some misunderstandings in the neighborhood as to what is being proposed, therefore; the continuance will afford adequate time to meet with the property owners to discuss and explain the proposed uses as set forth in the Special Use Permit. Debbie Quinn verified the public notifications, posting and notification of mineral owners and property owners. This was determined confirmed at the end of April, 2009 and the notices were mailed on May 5th, 2009. Linda Blair, address 1164 County Road 259 - We were not given notice and claims she is within 200 feet of the property and an adjoining property owner. Their property is at the end of it. There were two other parties also not notified named Scott and Amber Gregory and Terry Milton. Deb stated they do not appear on the list and according to the Assessor's map attached, it appears that the ones that are within 200 feet were included in the notice list. Jennifer Hampson said they do not border the property. Chairman Martin asked to have this address verified. Linda Blair said she has been to court with these people before and this will impact her and she is within the 200 feet. Chairman Martin clarified the notice was the only thing he was addressing now, not past relationships. Deb stated the map does not have the street addresses; it has parcel numbers and she was not sure that these challenging property owners knew their parcel numbers shown in the Assessor's office. However according to the list of the adjacent owners, the street numbers of those that did get notice were 1171 County Road 259, 1530 County Road 259 and 1180 County Road 259. Chairman Martin asked Mr. Massih is she wanted to proceed or verify her mailers just in case there is a challenge and it does turn out that they were not notified properly. Melody - The parties stated they are willing to go forward. Chairman Martin stated this would be subject to challenge and any decision the Board would make, if Linda proves that she is within the 200 feet and a defect in notification was substantiated, it would be subject to a re-hearing. Melody said she understood. Chairman Martin – With that note, we will find there are three parties with the addressed named who feel they are within 200 feet and asked if the Board wanted to accept notification. Commissioner Samson asked do you have the three that were attempted to be delivered and was not? Melody – Yes. Commissioner Samson – clarified they were Scott Gregory and Terry Milton. Deb Quinn verified one was Terry Patrick in Grand Rapids, Michigan and one was Terry Milton. The Milton's' never claimed the notice; the address was 1180 County Road 259. It was delivered but never claimed and signed for. The third one was Dan and Dawn Bailey at PO Box 369, Rifle and they did not pick up their notice. According to Melody, the Parcel No. is 212727200285 and it came back 'attempted not known'. Commissioner Samson – The applicant is here to request a continuance. And, the reason for your continuance is the desire to meet with these neighboring property holders. Melody – All of the neighboring property owners, not only the people within 200 feet as a courtesy to the neighborhood and we want to explain things to them. Chairman Martin asked if the Board wanted to accept the notification or not. If we go forward and it is challenged it would require another hearing. Linda Blair continued to claim that she believed they were within 200 feet. Melody presented a parcel number – 212734200153. Deb showed the property map from the assessor's map where the parcel named is in the scheme of things and they are not directly adjacent. There is a parcel in-between. Chairman Martin determined it was more than 200 feet from the parcel in question. Jennifer – Our property line to the Blair property is approximately one-half (½) mile so they are well past 200 feet. Linda Blair verified there was a parcel in-between. She agreed it was one-half (½) mile and not within the legal notification area. Commissioner Samson noted the notification valid and the hearing will go forward. Chairman Martin – Seconded. Motion carried. Chairman Martin swore in the speakers. There is a letter in front of the Board. He asked if Dusty wanted to enter exhibits or listen to the applicant's request. Dusty – Listen to the applicant's request. Melody stated we are requesting a continuance because it has come to our attention that there are neighboring property owners have some misinformation regarding this application and there has been some talk in the neighborhood. They would like to have a meeting with the neighbors to present the application, which is a contractor's yard under two acres. Chairman Martin - This is to be continued until July 6, 2009. Terry and Lee Kirk live at 1500 County Road 259, which is just past this place. He said, I do not think that the posting of their sign at their driveway is contiguous to a public right-of-way either – they are several hundred feet from the public right-of-way. If you drive that cul-de-sac, it is; but otherwise it is not located where you can see it. Sean and Tammy Crawford - We still do not have an address yet, we purchased 40-acres of property next to the Grand Hogback right to the north of the property wanting the permit for the construction yard. We purchased the property on May 12, 2008. His feelings on it, due to the possibility of property values going down by having a construction yard there and the maintenance of the road that we have to drive, which is not a County road and he doesn't know who is responsible for keeping up the maintenance and the extra trucking on the road. Chairman Martin – These are the issues that the applicant wants to address and thereby will hold a neighborhood meeting and discuss the issues. It is better to do that knowing what the facts are going to be and seeing a strong objection or a tentative approval. The approach we have requested is that if there are issues, the neighborhood get together to know what they are and come up with a resolve before coming to this Board. If they cannot, we hear that and make our decision. Melody – For the record she pointed out that the parcel we are talking about that Mr. Crawford is referring to is still owned in the Assessor's records by Don and Dan Bailey. That transfer has not been recorded. Commissioner Samson moved that we would grant a continuance for this Special Use Permit for a contractor's yard at 1177 CR 259 so that the applicant, the Hampson's can meet with their neighbors and try to resolve as many issues as possible; that's to a date certain of July 6, 2009 at 1:15 p.m.

CONSIDER A LIMITED IMPACT REVIEW FOR A KENNEL AT THE HIGH LONESOME RANCH, NORTHWEST OF DEBEQUE. APPLICANT IS #10 ENTERPRISES, LLC – FRED JARMAN

Fred Jarman, Debbie Quinn, Andy Skillman, attorney with Hogan and Hartsen in Denver representing the applicant; Honorable Scott McInnis, also a law partner; Collin Kenny, another law partner; Jeff Dolan and the Ranch General Manager Collin Kenney from DeBeque were present. Mr. Skillman answered the questions posed by Deb Quinn in reviewing the noticing requirements for the public hearing. Deb determined the submittals were accurate and timely, and advised the Board they could proceed. Ten property owners were noticed. The Kennel parcel is isolated and over a mile away from the nearest residence. They used the Clerk & Records records, looked at maps, and the Assessor's maps to determine the adjacent property owners. They also looked in the phone book. Notice was sent to the mineral owners and some were undeliverable. These were mailed on May 1, 2009. Posting on the hearing was

done on April 30th and it was checked today and is still on County Road 200. Scott McInnis stated the 40-acres are separate. It is described in one deed and includes several parcel numbers. Deb said based on the testimony of the applicant; copies were submitted and notice was adequate. Chairman Martin swore in the speakers. Fred submitted the following exhibits for the record: Exhibit A – Proof of Publication; Exhibit B – Proof of Mailings; Exhibit C – Unified Land Use Code of 2008; Exhibit D - Garfield County Comprehensive Plan of 2000; Exhibit F – Staff Memorandum; Exhibit G – Letter from Resource Engineering dated May 27, 2009; and Exhibit H – Memorandum from the County Project Engineer dated June 3, 2009 and Fred entered today, Exhibit I – the report from Metcalf Archeological Consultants, Inc. The Applicant requested to enter Exhibit J and K. Chairman Martin entered Exhibits A-K into the record.

GENERAL PROJECT DESCRIPTION

The location of the property is County Road 200 and County Road 204, seven (7) miles northwest of DeBeque, Colorado with access off County Road 200. The property owner requests approval from the Board of County Commissioners to construct and operate a “Kennel” on their property which will be used as a complimentary component to their approved and existing Guiding and Outfitting Resort operation known as the High Lonesome Ranch which supports fishing, wing shooting, and big game hunting and guest lodging uses on the property. (The Board of County Commissioners approved a Special Use Permit for this use in 2006.) The purpose of the kennel is to be able to house and care for the bird dogs used for guided bird hunting on site. The County permits Kennels in the Resource Lands (Gentle Slopes / Lower Valley Floor) zone district and defines them as ***an establishment other than a pet shop or veterinary clinic, in which adult dogs or domesticated animals are housed, groomed, bred, boarded, or trained Dogs used as a part of a legitimate agricultural activity are exempted from the definition.***

As mentioned above, the kennel is to be located on a 40-acre tract surrounded on three sides by BLM land and crossed by CR 200 on the southern portion of the property. The site plan below shows the general lay out of the site with the kennel and associated access, water system, wastewater system.

Site Plan: The site is generally described as a combination of open-range sagebrush hills bordered to the north and west with fairly steep slopes. The site proposed for the kennel as shown above is a flat site where some clearing has begun with a direct access point off County Road 200. The proposed kennel is a single-story building that is approximately 33 feet wide and 157 feet long with enclosed outdoor yards at each end of the building. The kennel would contain up to 46 kennel bays each at 40 sq. ft. Additionally, the facility proposes a food preparation area, grooming area, rest room, storage room, and office. The kennel floor plan was shown in the Power Point Presentation and included in the Commissioner’s packet. The site plan, prepared by Rhino Engineering shows an easement for Grand Valley Power for an overhead electric line, which does not affect this project. The application mentions a pipeline easement (Enerwest, Inc. and Northern Natural Gas Company) and a Celsius Energy Company. The site plan needs to show these latter two easements to determine if the proposed project has any impact to these two easements. The Application contains a Drainage Report, prepared by Rhino Engineering, which indicates the proposed kennel is positioned on an alluvial fan that was formed by runoff from an existing drainage basin. The report recommends a berm to be constructed east of the Kennel to divert runoff. This structure has been designed and shown on the site plan. Additionally, the report recommends a “V” shaped channel between the existing duplex and the Kennel and an additional swale be constructed between septic absorption field and the steeper side slopes to the north. These features will require periodic cleaning maintenance to ensure they perform as required.

The Application contains a Water Supply Sufficiency opinion prepared by Resource Engineering addressing the adequacy of physical water supply for the kennel. The property has a well that has been permitted by the State Division of Water Resources as an Exempt Well and has been drilled in February 2009. The well was pump tested at a 24-hour rate and produced as a strong well. Ultimately, the report states that the well is an excellent well and more than adequate to supply the amount of water required by the kennel (260 gallons per day.) Water quality analysis indicated water treatment should be required for consumption. The final approved well permits were supplied providing the legal basis for the water supply. The Application provides a geotechnical report prepared by Huddleston-Berry Engineering and Testing, LLC, which indicated that the property contains slightly collapsible clay soils. The report recommends specific mitigation for all foundations, floor slabs and exterior flatwork, lateral earth pressures, drainage, excavations, and pavements. Ultimately, the report states that there are no geologic hazards, which should preclude development of this site. The report also studied the soils percolation rates for ISDS. Ultimately, the percolation rates are adequate for an ISDS with certain specific mitigation measures. The report states, “With proper design, construction, and maintenance of ISDS, the effluent produced from the kennel are not anticipated to adversely impact surrounding properties. The application contains a “Preservation of Native Vegetation for Improvements at the High Lonesome Ranch” report, which proposes an approach to the total site disturbance of approximately 4 acres. The site to be disturbed is a very small amount of low-lying sage open cover. Because there was no professional opinion presented, Staff cannot comment if flora, fauna, wetlands, or migration routes that will be impacted by this minimal proposal. The application states that there are no known or previously identified Protected or Registered resources on the property. No supporting documentation from a professional capable of making this determination was provided to support this assertion. The application contains a list of surrounding properties of the larger High Lonesome Ranch property held by #10 Enterprises, LLC.

The application contains several documents (geotechnical, drainage, and engineered site plan) that provide adequate descriptions of the site’s natural features to aid in the staff review. The Application provides a geotechnical report prepared by Huddleston-Berry Engineering and Testing, LLC, which indicated that the property contains slightly collapsible clay soils. The report recommends specific mitigation for all foundations, floor slabs and exterior flatwork, lateral earth pressures, drainage, excavations, and pavements. Ultimately, the report states that there are no geologic hazards, which should preclude development of this site. The report also studied the soils percolation rates for ISDS. Ultimately, the percolation rates are adequate for an ISDS with certain specific mitigation measures. The report states, “With proper design, construction, and maintenance of ISDS, the effluent produced from the kennel are not anticipated to adversely impact surrounding properties. The Application contains a Drainage Report, prepared by Rhino Engineering that indicates the proposed kennel is positioned on an alluvial fan that was formed by runoff from an existing drainage basin. The report recommends a berm is to be constructed east of the Kennel to divert runoff. This structure has been designed and is shown on the site plan. Additionally, the report recommends a “V” shaped channel between the existing duplex and the Kennel and an additional swale is to be constructed between septic the absorption field and the steeper side slopes to the north. These features will require periodic cleaning maintenance to ensure they perform as required. The Application provides a geotechnical report prepared

by Huddleston-Berry Engineering and Testing, LLC, which indicated that the property contains slightly collapsible clay soils. The report recommends specific mitigation for all foundations, floor slabs and exterior flatwork, lateral earth pressures, drainage, excavations, and pavements. Ultimately, the report states that there are no geologic hazards, which should preclude development of this site. The report also studied the soils percolation rates for ISDS. Ultimately, the percolation rates are adequate for an ISDS with certain specific mitigation measures. The report states, “With proper design, construction, and maintenance of ISDS, the effluent produced from the kennel are not anticipated to adversely impact surrounding properties. The Application contains a Water Supply Sufficiency opinion prepared by Resource Engineering addressing the adequacy of physical water supply for the kennel. The property has a well that has been permitted by the State Division of Water Resources as an Exempt Well and has been drilled in February 2009. The well was pump tested at a 24-hour rate and produced as a strong well. Ultimately, the report states that the well is an excellent well and more than adequate to supply the amount of water required by the kennel (260 gallons per day.) The Application contains a Water Supply Sufficiency opinion prepared by Resource Engineering that states; “the well is capable of reliability and continuously pumping at a minimum rate of 15 gallons per minute, the maximum pumping rate allowed under an exempt well permit. The minimal groundwater withdrawal will have a negligible impact on the regional groundwater resource.” As mentioned above, the property is not located in a floodplain and the geotechnical analysis (through test pits) did not encounter any groundwater. The application contains a “Preservation of Native Vegetation for Improvements at the High Lonesome Ranch” report, which describes the Applicant’s approach to the total site disturbance of approximately 4 acres. The site to be disturbed is a very small amount of low-lying sage open cover. There are no significant flora, fauna, wetlands, or migration routes that will be impacted by this minimal proposal. In addition, as mentioned above the application states that there are no known or previously identified protected or registered resources on the property. No supporting documentation from a professional capable of making this determination was provided to support this assertion. There are no known radiation hazards or need for a SPCC plan. The application states that the Kennel will result in approximately six vehicles per day. This will have a minimal affect on traffic in the area. Having the kennel on site in support of the bird hunting activities will eliminate the current practice of housing dog’s off-site thereby eliminating off-site trips. Bringing the kennel on-site will reduce the current traffic generated by off-site kenneling. The kennel will house hunting dogs that will bark. The surrounding properties are either vacant BLM land or the owned by the Applicant. This is a remotely located property; it is not in the relative proximity of other residences. Staff finds that the location of the kennel will not result in nuisance impacts to adjacent properties. The site disturbance results in approximately 4 acres of disturbance. The application does not propose a reclamation plan as described in Section 7-212; however, their Exhibit G does provide that the Applicant will re-seed all disturbed areas after construction. Staff assumes the kennel to be a long-term facility that has adaptive reuse capabilities. Staff recommends that the following provisions be required as conditions of approval:

- A.** Areas disturbed during development shall be restored as natural-appearing landforms that blend in with adjacent undisturbed slopes.
- B.** Contouring and Re-vegetation. Abrupt angular transitions and linear placement on visible slopes shall be avoided. Areas disturbed by grading shall be contoured so they can be re-vegetated, and shall be planted and shall have vegetation established and growing based on 70% coverage as compared with the original on-site vegetation within two (2) growing seasons, using species with a diversity of native and/or desirable non-native vegetation capable of supporting the post-disturbance land use.
- C.** Re-vegetation of Disturbed Areas. To the maximum extent feasible, disturbed areas shall be re-vegetated to a desired plant community with composition of weed-free species and plant cover typical to that site.
- D.** Application of Top Soil. Top soil shall be stockpiled and placed on disturbed areas.
- E.** Retaining Walls. Retaining walls made of wood, stone, vegetation or other materials that blend with the natural landscape shall be used to reduce the steepness of cut slopes and to provide planting pockets conducive to re-vegetation.
- F.** Slash Around Homes. To avoid insects, diseases and wildfire hazards all vegetative residue, slushiness, branches, limbs, stumps, roots, or other such flammable lot-clearing debris shall be removed from all areas of the lot in which such materials are generated or deposited, prior to final building inspection approval.
- G.** Removal of Debris. Within six months of substantial completion of soil disturbance all brush, stumps and other debris shall be removed from the site.
- H.** Time Line Plan. Every area disturbed shall have a time line approved for the reclamation of the site approved by the County and a security shall be provided to Garfield County in an amount of \$2,500 per disturbed acre to be reclaimed prior to the issuance of a Land Use Change Permit.

A kennel is a permitted use that is allowed in the Resource Lands (Gentle Slopes / Lower Valley Floor) zone district. The site plan shows the ability to meet the required dimensional standards (building height, setbacks, lot coverage, etc.). The property is located in Study Area 5. Study Area 5 provides a variety of recreation activities for residents and tourists, although these activities are primarily primitive in nature and casual in terms of utilization of the resource base except for the highly developed “guided and organized” hunting activities covered above, where the region provides some of the highest quality hunting experiences available nationally. This Plan anticipates and predicts that in some logical places private entrepreneurs may wish to develop recreational opportunities that utilize the surrounding environment for both summer and winter sports and recreational activities over time. Ample opportunities exist for such developments, within the constraints identified herein and the County’s development regulations, for the provision for potential fishing, hunting, hiking, back country skiing, various forms of shooting sports, and other forms of recreation on both public and private lands. Staff finds the kennel to fit well within the land uses promoted in Study Area 5. The kennel facility will only disturb 4 acres of a 40-acre property, which is bound on three sides by vacant BLM and to the south by the owner’s property. The scale, nature and intensity of this use (in support of the overall guiding and outfitting / lodging operation of the High Lonesome Ranch is compatible with the surrounding property. The Application contains a Water Supply Sufficiency opinion prepared by Resource Engineering addressing the adequacy of physical water supply for the kennel. The property has a well that has been permitted by the State Division of Water Resources as an Exempt Well and has been drilled in February 2009. The

well was pump tested at a 24-hour rate and produced as a strong well. Ultimately, the report states that the well is an excellent well and more than adequate to supply the amount of water required by the kennel (260 gallons per day.) Resource Engineering conducted a water quality test. Based on the water quality testing results, Staff suggests the BOCC require the proposed water system shall be modified with a water treatment component to include manganese removal and softening for all water pumped from the well plus reverse osmosis treatment for all water used as potable water for both humans and animals as recommended by Resource Engineering. The application proposes a water system that provides water from a well piped to a storage tank and then gravity fed to the kennel facility. It is unclear if the system has been designed by an engineer, which is required in Garfield County. The application proposes to handle waste from the kennel facility using a Biological Recycle / Discharge System. A diagram of that system is shown below. The County Staff engineer reviewed the proposal and provided comments. It appears there are adequate public facilities (electricity service) to serve the use. The applicant has graded an access into the property directly from CR 200. The Applicant's representative stated that the Road and Bridge Department has approved driveway permit. In addition, the proposed internal road is consistent with the requirements in Section 7-307 for the trips generated by the kennel as well as the duplex for the ranch / hunting and guiding employees. The Application provides a geotechnical report prepared by Huddleston-Berry Engineering and Testing, LLC, which states that there are no geologic hazards, which should preclude development of this site, and the Drainage Report provides some mitigation measures that properly deal with some runoff / debris flow issues from the steep slopes to the north and west of the facility. The proposed use will not adversely affect active agricultural operations in the area. The dogs are to be properly contained within the confines of the kennel facility. There is no need to construct additional perimeter fencing around the property as the facility already has two fenced areas and the road is adequate to access the facility. The site plan or application does not show that there are any active irrigation ditches to be impacted by this facility. The application did not contain an analysis or communication from the Colorado Division of Wildlife or a qualified wildlife biologist that determined if there were any sensitive wildlife areas to be mitigated. The Application does discuss the attempt to minimize site disturbance to the 4 acres and a re-vegetation method. Regarding wildlife, the County's wildlife mapping system is based on the Wildlife Resource Information System (WRIS) produced by the Colorado Division of Wildlife. This mapping shows the site to be located in Elk, Mule deer, and Black Bear overall range, Mule Deer severe winter range, Wild turkey overall range. If the kennel is operated as it is intended, there should not be an impact to wintering Mule Deer. From the documents provided and site visit conducted by Staff of the Building and Planning Department, the property does not contain any wetlands, or other water bodies. There are no surface water bodies on the property. The application proposes a waste disposal system that will be required to meet state and federal standards for disposal and that also do not conflict with drainage features on the site. There is no fuel storage areas proposed on the property. The facility will be required to meet all local, state and federal requirements for ensuring that the best management practices are in place during construction of the facility. The Application contains a Drainage Report, prepared by Rhino Engineering that indicates the proposed kennel is positioned on an alluvial fan that was formed by runoff from an existing drainage basin. The report recommends a berm to be constructed east of the Kennel to divert runoff. This structure has been designed and shown on the site plan. Additionally, the report recommends a "V" shaped channel between the existing duplex and the Kennel and an additional swale be constructed between septic absorption field and the steeper side slopes to the north. These features will require periodic cleaning maintenance to ensure they perform as required. The facility shall be operated such that it shall not cause air quality to be reduced below acceptable levels established by the CDPHE. The property is located within a low to moderate wildfire hazard area as mapped by Garfield County based on Colorado State Forest Service wildfire hazard mapping practices. The site and 16-foot wide access road is flat and access is directly located off of CR 200 with an emergency turn-around radius of 60 feet. As mentioned above, the application did not propose a wildfire protection plan. Staff recommends the BOCC require the Applicant to obtain a letter from the Fire Protection District that indicates the district will serve the property and that there is an adequate water supply and access for fire protection at the site or recommend improvements to meet that requirement. The Application contains a Drainage Report, prepared by Rhino Engineering that indicates the proposed kennel is positioned on an alluvial fan that was formed by runoff from an existing drainage basin. The report recommends a berm to be constructed east of the Kennel to divert runoff. This structure has been designed and shown on the site plan. Additionally, the report recommends a "V" shaped channel between the existing duplex and the Kennel and an additional swale be constructed between septic absorption field and the steeper side slopes to the north. These features will require periodic cleaning maintenance to ensure they perform as required. The Application provides a geotechnical report prepared by Huddleston-Berry Engineering and Testing, LLC, which indicated that the property contains slightly collapsible clay soils. The report recommends specific mitigation for all foundations, floor slabs and exterior flatwork, lateral earth pressures, drainage, excavations, and pavements. Ultimately, the report states that there are no geologic hazards, which should preclude development of this site. The application indicates that there are no previously identified archeological, paleontological and historical resources that exist in areas to be affected by the proposed development. There is no documentation to support this comment. The site disturbance results in approximately 4 acres of disturbance. The application does not propose a reclamation plan as described in Section 7-212; however, their Exhibit G does provide that the Applicant will re-seed all disturbed areas after construction. Staff assumes the kennel to be a long-term facility that has adaptive reuse capabilities. Staff recommends that the following provisions be required as conditions of approval:

- A.** Areas disturbed during development shall be restored as natural-appearing landforms that blend in with adjacent undisturbed slopes.
- B.** Contouring and Re-vegetation. Abrupt angular transitions and linear placement on visible slopes shall be avoided. Areas disturbed by grading shall be contoured so they can be re-vegetated, and shall be planted and shall have vegetation established and growing based on 70% coverage as compared with the original on-site vegetation within two (2) growing seasons, using species with a diversity of native and/or desirable non-native vegetation capable of supporting the post-disturbance land use.
- C.** Re-vegetation of Disturbed Areas. To the maximum extent feasible, disturbed areas shall be re-vegetated to a desired plant community with composition of weed-free species and plant cover typical to that site.
- D.** Application of Top Soil. Top soil shall be stockpiled and placed on disturbed areas.

- E. Retaining Walls. Retaining walls made of wood, stone, vegetation or other materials that blend with the natural landscape shall be used to reduce the steepness of cut slopes and to provide planting pockets conducive to re-vegetation.
- F. Slash Around Homes. To avoid insects, diseases and wildfire hazards all vegetative residue, slushiness, branches, limbs, stumps, roots, or other such flammable lot-clearing debris shall be removed from all areas of the lot in which such materials are generated or deposited, prior to final building inspection approval.
- G. Removal of Debris. Within six months of substantial completion of soil disturbance all brush, stumps and other debris shall be removed from the site.
- H. Time Line Plan. Every area disturbed shall have a time line approved for the reclamation of the site approved by the County and a security shall be provided to Garfield County in an amount of \$2,500 per disturbed acre to be reclaimed prior to the issuance of a Land Use Change Permit.

The following set of standards is required to be met by all kennel facilities in Garfield County. Most of these standards are “operational” which mean they must always be met throughout the life of the facility. While these are codified in the ULUR, Staff recommends they be required as specific conditions of any approval.

The kennel is primarily an enclosed building with two small-enclosed outdoor areas at either end of the building. This standard can be met. The site plan shows two ISDS on the property where one serves the duplex under construction, and the other serves the kennel facility. As mentioned earlier, the County Engineering Staff reviewed the proposal and commented. The site plan shows two ISDS on the property where one serves the duplex under construction, and the other serves the kennel facility. As mentioned earlier, the County Engineering Staff reviewed the proposal and commented. The proposed facility shows 46 kennel bays, which provides the opportunity to significantly exceed this requirement. Perhaps the interior bay design could be redesigned to better match this codified requirement. Should the BOCC approve this request for a Kennel, the Applicant shall provide all the required permits from the State of Colorado Department of Agriculture prior to the issuance of any Land Use Change Permit. History – in 2003 the board supported a shooting range and this will house 46 bays, this is a natural to enhance the use of the property and another use was approved in (see Jean’s notes).

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **approve** the request for a Land Use Change Permit for a Kennel on a property owned by #10 Enterprises, LLC located in the NW ¼ of the NE ¼ of Section 9, Township 8 South, Range 89 west in 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. All lighting associated with the property shall be directed inward and downward towards the interior of the property.
3. The Applicant shall provide a Re-vegetation / Reclamation Plan to the Building & Planning Department that addresses the following points prior to issuance of a Land Use Change Permit:
 - a. Areas disturbed during development shall be restored as natural-appearing landforms that blend in with adjacent undisturbed slopes.
 - b. Contouring and Re-vegetation. Abrupt angular transitions and linear placement on visible slopes shall be avoided. Areas disturbed by grading shall be contoured so they can be re-vegetated, and shall be planted and shall have vegetation established and growing based on 70% coverage as compared with the original on-site vegetation within two (2) growing seasons, using species with a diversity of native and/or desirable non-native vegetation capable of supporting the post-disturbance land use.
 - c. Re-vegetation of Disturbed Areas. To the maximum extent feasible, disturbed areas shall be re-vegetated to a desired plant community with composition of weed-free species and plant cover typical to that site.
 - d. Application of Top Soil. Top soil shall be stockpiled and placed on disturbed areas.
 - e. Retaining Walls. Retaining walls made of wood, stone, vegetation or other materials that blend with the natural landscape shall be used to reduce the steepness of cut slopes and to provide planting pockets conducive to re-vegetation.
 - f. Slash Around Homes. To avoid insects, diseases and wildfire hazards all vegetative residue, slushiness, branches, limbs, stumps, roots, or other such flammable lot-clearing debris shall be removed from all areas of the lot in which such materials are generated or deposited, prior to final building inspection approval.
 - g. Removal of Debris. Within six months of substantial completion of soil disturbance all brush, stumps and other debris shall be removed from the site.
 - h. Time Line Plan. Every area disturbed shall have a time line approved for the reclamation of the site approved by the County and a security shall be provided to Garfield County in an amount of \$2,500 per disturbed acre to be reclaimed prior to the issuance of a Land Use Change Permit.
4. Prior to the issuance of a Land Use Change Permit, the Applicant shall obtain a letter from the Debeque Fire Protection District that indicates the District can and will serve the property and that there is an adequate water supply for fire protection at the site or recommend improvements to meet that requirement.
5. That based on the water quality testing results, the proposed water system shall be modified with a water treatment component to include manganese removal and softening for all water pumped from the well plus reverse osmosis treatment for all water used as potable water for both humans and animals as recommended by Resource Engineering.
6. Prior to the issuance of a Land Use Change Permit, the Applicant shall provide the County Building and Planning Department with a copy of all the required permits required by the State of Colorado Department of Agriculture.
7. This kennel shall be completely enclosed with a building that prevents any sounds from emanating from the property boundary in excess of the Residential Zone District standards contained in CRS § 25-12-103, with the exception of CRS § 25-12-103 (2) & (3), that no noise in excess of 55 db(A) from sunrise to sunset and 50 db(A) from sunset to sunrise will be allowed. Sunrise and sunset shall be based on the official time determined

by the Old Farmer's Almanac charts of sunrise and sunset for the location of the kennel. A kennel may have dogs outdoors if the noise from the kennel does not exceed the noise standards cite previously and complies with other Garfield County regulations as provided.

8. Prior to the issuance of a Land Use Change Permit, the Applicant shall provide an engineered ISDS system to the County to review that meets the following standard:
"Individual sewage disposal system shall be capable of handling all feces and urine waste from the kennel, or the feces and urine waste shall be stored in a sealed container capable of being pumped for disposal by a commercial hauler to dispose of the feces and urine waste at an approved solid waste disposal site."
9. Special events that attract more than twenty-five (25) participants shall be prohibited on-site.
10. Animal and food wastes, bedding, debris and other organic wastes shall be disposed of so that vermin infestation, odors, disease hazards and nuisances are minimized. Such wastes shall be removed at least weekly, or more frequently, from the facility and hauled by a commercial hauler to an approved solid waste disposal site.
11. This kennel shall be allowed a maximum of 15 adult dogs with no more than two liters per any one calendar year.
12. Prior to the issuance of a Land Use Change Permit, the Applicant shall provide the Building and Planning Department with an engineered water system design that meets the required standards in Section 7-105 and 7-106 of the ULUR.
13. The County shall not issue a building permit for the kennel facility until and unless all of these conditions have been met and a Land Use Change Permit has been issued by the BOCC.
14. The Applicant shall provide an opinion to the County Building and Planning Department from the Colorado Division of Wildlife or a qualified wildlife biologist that the proposed facility will not result in an adverse impact to wildlife / migration routes prior to the issuance of a Land use Change Permit.
15. The Applicant shall provide an opinion to the County Building and Planning Department from a qualified professional regarding the presence or not of Protected or Registered Archaeological, cultural, paleontological and historic resource areas on the property. This shall be provided prior to the issuance of a Land Use Change Permit.
16. The Applicant shall provide documentation to the Building and Planning Department to satisfy the following questions raised by the County staff Engineer prior to the issuance of a Land Use Change Permit regarding the water system and waste-water system:
 - a. Storage Tank Volume: The last plan sheet gives the sizes of the two water storage tanks. Tank #1 that serves the duplex is 4700 gallons (10' diameter and 8' tall). Tank #2 that serves the kennels is 6,770 gallons (12' diameter and 8' tall).
 - b. Duplicate Water Lines: I see no reason why they have two different water systems for the kennel and duplex. Some State requirement? Why have two sets of pump controls and double the length of pipe?
 - c. ISDS/Water Line Separation: The water lines are too close to the drain field. According to the ISDS regulations, a 25' separation is needed.
 - d. Pipe Route on Hillside: I also disagree with running the water lines straight up the hillside. The propose PVC pipe needs to be buried to prevent freezing. I think that it would be a lot easier (and much less visually impacting) to bury the pipe on the tank access road.
 - e. Solid Waste: Presumably they will be manually removing the solid waste and sending it to the landfill.
 - f. Recycle Water Storage Tank: The submitted plans don't provide adequate detail to know how the system works. If they are going to recycle the treated wastewater, they need some sort of storage tank to hold the effluent until it is needed.
 - g. Sludge: The treatment system will produce a sludge. What do they plan to do with the sludge? Send it to the septic tank?
 - h. Treatment System Drain: The treatment schematic shows an arrow from the treatment system to the drain. What is this flow? Where does this drain go? To the septic tank?

Staff believes this is a concept of the zoning and the comprehensive plan and recommends approval.

Commissioner Samson – For Condition No.11, why do you request they have a maximum of 15 dogs?

Chairman Martin – This is in reference to the ordinance that was passed in reference to the racing dogs and that ordinance is in place. The new Land Use Code addresses this for agricultural purposes.

Fred explained the rationale saying it relates to a couple of land use cases that came before the Board over the last three to four years, the oldest being the Bill Pinkham project upon the hill in Dry Park Road where he races sled dogs and has his dog operation. He had 40-dogs. Then, most recently, you have the Denofrio's who came in with their Yorkie kennel up Four Mile. At the end of the day in those enthusing years, it landed on 15 dogs and honestly, I cannot tell why it is 15 and not 20. There is a provision in the Land Use Code. You can actually have more dogs than this. Commissioner Samson – The reason I asked, if I am reading this right, you have two sections here of 23 each that you are building; correct for 46 total. I am sure you want to utilize more than 15 of those.

Fred – We pointed this out in the review and they are aware that the facility will care for more than what the code allows. There are a number of ways to look at this issue. A power point presentation was presented by the applicant and highlighted a few of the points already highlighted and they will be available for questions including the entire team of experts. Scott McInnis gave a background on the High Lonesome Ranch. I have been on the ranch at least a hundred times and I know it very well. What is happening on that ranch and the evolution of it, since its owner had taken ownership of it, is dramatic in regards to conservation. He is a very responsible landowner. It is a large ranch, a large cattle operation, and its primary purpose is agricultural operations, which includes hunting, it also includes lion hunts, bear hunts, big game hunts and fishing. It is a multi-faceted agricultural operation. It is not open to the public, it is private and I think as we go through this you will see and there is an exemption in your code while your code has a number of restrictions there is language that follows saying 'agricultural use is exempt from this'. This is clearly an agricultural operation. Therefore, I was excited to come down today and hopefully the Commission will have an opportunity to go up there at some point and look at it – you will be very impressed. Andy Skillman thanked Mr. Jarman and Ms. Quinn as this had been a land use process and there are some provisions in the new code; somebody has to go first. We did and in all seriousness the County staff has been extraordinary responsive to our inquiries and requests for their time and information. As long as the conditions are in the proposed Exhibit J,

which he would tender will address all of them. Mr. Jarman has not had an opportunity to review all of these yet. Today we will be tendering a re-vegetation reclamation plan, which is the satisfaction of Condition No. 3; a provision of service letter from the DeBeque Fire Protection District in satisfaction of Condition No. 4; and the water treatment system will remove magnesium in satisfaction of Condition No. 5. We will come back to the Department of Agricultural issue that Mr. Jarman highlighted. A written description of the engineered ISDS system in satisfaction of Condition No. 8 and we will be tendering a written description of the engineered water system that meets the required Section of 7-105 and 7-106 in the County Land Use Code. That will be in satisfaction of Condition No. 12 – that is in the process and will be submitted very shortly. We will be tendering today a written opinion of the qualified wildlife biologist in satisfaction of Condition No. 14 and the remaining two we will be tendering today for Condition No. 15. Finally, written documentation to satisfy the questions by the staff County Engineer in satisfaction of Condition No. 16. This will leave open just two issues and he wanted to speak about briefly. The first is an agricultural issue with the Department of Agricultural on the licensing of the proposed kennel facility. The staff recommendation is that you defer approval until such time we can demonstrate facility licensing by the Department of Agricultural. Mr. Dolan spoke to the chief veterinary at the Department of Agricultural last Friday and we have a tiny issue. They license facilities but they are not able to issue a license until they have a constructed facility to actually send someone out to inspect and at that time decide whether they can issue us a license or not. I believe you can still give us a conditional approval on the condition of compliance with the state licensing requirements to be demonstrated at the earliest possible convenience and satisfy that staff recommendation. I just think we have a sequencing issue. The other one is the question Commissioner Samson raised about the 15 dogs and I agree with Mr. Jarman that your code does have conditions on the list of 15 dogs per kennel. However, in the code you actually have kennels defined in a term just for the record on page 16-25 of the code in the definition section Article 16. The definition of kennel says that, “dogs used as part of the legitimate agricultural activity are exempted from this definition”. That is pulling together a bunch of dogs for the agricultural activity or not a kennel for the purpose of the kennel limitation in the code. We took the liberty and have not had opportunity to share with your counsel or Mr. Jarman but we did take a look at what the common law considers kennels and hunting operations using dogs and whether those are agricultural activities or not. The Colorado Courts have not ruled on that however, our neighbors in Kansas, Texas and Michigan all have said in order, “the operation of a wildlife hunting preserve is an agricultural purpose, lease of land in purpose of deer hunting as an agricultural use and hunting of birds constitutes a farm operation because it involves the harvesting of farm products. So, what we would like to do is ask the director at a later date for an advisory opinion on this issue. This is a process we have gone through with the department before and would suggest in terms of the staff’s recommendation today that you issue us an approval that you hold us to in compliance with the code. We will have further discussions with the County as to whether or not we are exempt under that limitation or not. We just did not want to have to come back for a waiver and take the Board’s time at a later date. Scott – And in fact if the Commission felt today they could do that, we would accept that as an answer. Deb Quinn suggested on the timing issue; we had similar time issues on a lot of our special uses or now, limited impact review request. Item No. 13 talks about when we issue a building permit. It says, “We won’t issue one until all the conditions have been met”. I thought if we just exclude Condition No. 6 from that so there will be a Resolution of approval authorizing the issuance of this limited impact review permit but; it will not issue until the state has a chance to come in and inspect them and get their license. That would satisfy that timing issue. Chairman Martin – That would give them the ability to build the facility and then have an inspection. Deb – In connection with the issue of whether or not this facility meets the definition of the exemption in our definition of the code; I did have a chance to chat briefly with applicant representatives prior to today’s meeting but; I have not had a chance to look at any of the research they did to come up with that exemption. And, what I would request is that the Board go ahead and issue the conditional approval; the representation that was made earlier to us prior to this meeting is that if our interpretation differs from theirs, they have the opportunity to obviously appeal that interpretation should they need to. But; they could also potentially comply with the limitation. So, I would rather than have them make a statement about what qualifies for an agricultural exemption and give staff the opportunity to take a look at it. They may meet the exemption of the code. We chatted briefly but I have not had a change to look at the applicant’s opinion. If it is different, they could protest and give staff the opportunity to look at this. There may be implications and unintended consequences of an interpretation that you do. Chairman Martin – There was a legislative bill that was passed in the Colorado House that identified all agricultural businesses, which is on the books and has been for several years. Its right down the line in reference to agricultural business and that was the attempt to go ahead and keep agricultural. It dealt with everything from corn mazes to pheasants as well as the businesses associated with such to keep agricultural going. I think their research is pretty close and what it falls on state statutes as well. I helped work on that piece of legislation and thanks to CCI for that agricultural wildlife steering committee.

Public comment:

John Kerry with Resource Engineering - We have done all the water supply planning and investigations on this. I would ask that we modify one of the conditions related to the water treatment and ask that Mr. Jarman to include it in Condition No. 5 the water treatment requirements to include treatment for removing magnesium softening for all water use in the wells, which is certainly something we want to do. This is something Fred took straight from my engineering report and I would like to change this. I recommended we use an RO treatment for all water use for human consumption and animal consumption. In later talking to Craig, the water treatment guy who is actually designing this system in consultation with the veterinary; and looking at their septic requirements, the veterinary was saying there was no reason we should we need an RO system for the dog drinking water. We do not want to overload those septic systems with that brine reject water from the RO systems. I prefer that we strike the animals for that requirement. Chairman Martin – You can do that or if it is not recommended to do such for the animals then you have that out as well as the way it is stated now as recommended by Resource Engineering. If you are not making that recommendation and you are saying it needs to be for humans only, then we could take that out. John Kerry – We are just recommending we just say for humans only. Fred – No response. Deb – No response. The applicant’s representative stated they have presented the application and we respectfully submit that it complies with your standards under the limited impact review, matching the zoning and County’s Comprehensive Plan. We understand the conditions and we intend to satisfy them; with the caveats that we have with the on-going issues we have addressed here today and we respectfully request approval of the proposed application.

Commissioner Samson moved to close the public hearing. Commissioner Chairman Martin seconded.

In favor: Martin – aye Samson – aye Houpt – absent

Commissioner Samson – I would move that we approve a limited impact review for kennel at High Lonesome Ranch north west of DeBeque, applicant member #10 Enterprises, LLC with the staff recommendations, but in recommendation No. 5 – ‘we strike animals’ so it’s just for humans as recommended by Resource Engineering.... Fred said “both” Commissioner Samson ... and for No. 11, we do have a built-in exemption because it is agricultural use so we will strike that. Do you feel that we need a maximum on there? I do not want a maximum of 15. Fred – Sure. One way to go is to say that the kennel shall operate pursuant to the regulations in the Unified Land Use Code so you are not specifically calling out a number in this approval. If that is the way you are going. It still leaves the door open should the applicants want to come in and work through our interpretation through us and; come back to you and that sort of thing. Commissioner Samson – I am not sure. Applicant – We would prefer the Commissioners speak to this issue now if you believe we are exempt, the facility holds 46 dogs. Commissioner Samson – We have never had a kennel that holds that many dogs in the County, I assume. Chairman Martin – No, there was one that attempted to do that, yes the Dry Park kennel which was raising dogs for the Iditarod. It was in a different location, neighborhood etc. so we limited the number of dogs and actually came up with a Resolution on how to do that. In that discussion and even in our new land use issues, we have identified the agricultural use of dogs exempt from these regulations and keeping agricultural business in place. I worked on that CRS statute and it allowed agricultural business to continue. Dogs were identified as the ‘use of dogs in agricultural purposes’ and I feel they are exempt. I have confidence in this. Commissioner Samson – Just strike No. 11. Chairman Martin – I would. Commissioner Samson – Okay, and then I guess I skipped No. 6 but we have some special wording there that regulates this that obviously our conditions of approval will be finalized after it is actually built. Then the State Department of Agricultural has a chance to inspect it and issue a required permit. Chairman Martin – Unless you want to go ahead and take out No. 15. In the letter in Exhibit I, it states the findings there or you can leave it but they have met those requirements. Or, you can take 15 out. Commissioner Samson – Strike No.15. Applicant – Clarified and asked, will the Building Department understand they can issue a building permit? Chairman Martin – Yes, they can but the final approval process and final sign off of that limited impact review would not be finalized until that State Department of Agricultural permit comes to the County. Deb recommended in No. 13, you exclude Condition 6 from the applicability of that condition. Commissioner Martin – Yes, and on No. 13 and to remove No. 6 and just allow No. 13 to cover that with that understanding. Commissioner Samson – So that is my motion.

Chairman Martin - Second. Commissioner Samson – The only discussion I would like to say is as I look through all of this, you guys, bless your hearts, I thought to myself what a job to be done for a kennel. Chairman Martin – If you look at 88,000-acres and a 40-acre parcel with one little location it is pretty minute compared to the impact; plus, their surrounding neighbors are a long way away. Commissioner Samson – Did you say 1½ miles away from the nearest neighbor? Applicant: Yes. Commissioner Samson - I do not think anyone is going to complaint about a barking dog. Chairman Martin – They will be inside.

In favor: Martin – aye Samson – aye Houpt – absent

CONSIDER A TEXT AMENDMENT TO AMEND THE TEXT OF SECTION 3-502 OF THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED, REGARDING ADDING THE USE OF “INCLEMENT WEATHER VEHICLE SAFETY AREA < 4 ACRES IN SIZE” AS AN ADMINISTRATIVE PERMIT AND “INCLEMENT WEATHER VEHICLE SAFETY AREA > THAN 4 ACRES IN SIZE” AS A LIMITED IMPACT REVIEW IN ARTICLE 3-502 WITHIN THE RESOURCE LAND – GENTLE SLOPES (RL-GS) ZONE DISTRICT. APPLICANT IS CHEVRON USA, INC. – DAVID PESNICHAK

David Pesnichak, Debbie Quinn and Tim Dembinsky with Olsson Associates. Deb confirmed having a copy of the proof of publication from the Rifle Citizen Telegram indicating that public notice was provided in its publication on April 16, 2009 within the timeframe. The notice did include the name of the applicant and included the specific definitions that are being requested and; the changes that are being requested to the text of our Land Use Code. Deb advised the Commissioners they could proceed. Cordilleran Compliance Services placed the ad in the newspaper. Chairman Martin swore in the speakers. Fred submitted the following exhibits for the record: Exhibit A – Proof of Publication; Exhibit B – Unified Land Use Code of 2008, as amended; Exhibit C– Staff Memorandum; Exhibit D – Application; Exhibit E – Garfield County Comprehensive Plan of 2000; and Exhibit F – Memorandum from Jake Mall of the Garfield County Road and Bridge Department, dated April 23, 2009.

Chairman Martin entered Exhibits A – F into the Record The request is to amend the text of Section 3-502 of the Unified Land Use Resolution of 2008, as amended regarding adding the use of “Inclement Weather Vehicle Safety Area < 4 acres in size” as an Administrative Permit and “Inclement Weather Vehicle Safety Area >4 acres in size” as a Limited Impact Review in Article 3-502 within the Resource Land – Gentle Slopes (RL-GS) Zone District. The Applicant, Chevron USA Inc., is a landowner in Garfield County with significant land holdings north of the Town of Debeque off County Road 204 and 211. Over the past winter season, Chevron had worked with the Garfield County Road and Bridge Department to create a roadside pull off for service vehicles operating in the natural gas extraction activities on Chevron’s property. The purpose of the pull-off is to create a safe area for trucks and other service vehicles to pull out of the traveling lanes to install chains and other necessary inclement weather gear. On May 27, 2009, the Planning Commission recommended by a vote of 4-0 that the BOCC approve this text amendment with the changes proposed by Staff.

REQUEST

The Applicant is requesting a text amendment to make it possible to submit for a Land Use Change Permit to construct a pull-off area for vehicles in the Resource Land – Gentle Slopes zone district outside of Garfield County or CDOT right-of-way. To accomplish this end, the Applicant is proposing to divide the processing into two categories: one under 4 acres in size which would be reviewed and permitted through the General Administrative Permit procedures and another which is over 4 acres in size which would be reviewed and permitted through a Limited Impact Review Permit. In addition, the Applicant is proposing to add two definitions of the proposed use within Article XVI. More specifically, the Applicant is proposing the following amendments and additions. Amend the text of Section 3-502 of the Unified Land Use Resolution of 2008, as amended, to add the use of “Inclement Weather Vehicle Safety Area < 4 acres in size” as an Administrative Permit and “Inclement Weather Vehicle Safety Area >4 acres in size” as a Limited Impact Review in Article 3-502 within the Resource Land – Gentle Slopes (RL-GS) Zone District. To Add: The definition of “Inclement Weather Vehicle Safety Area < 4 acres in size” within Article 16-101 as “An area outside of the public right-of-way less than four (4) acres in size utilized for vehicle preparation in the event of inclement weather. The area may be used for the application of snow-chains/mud-chains, equipment inspections and other vehicle safety related activities. No long-term parking,

loading/unloading of equipment or material, storage or staging shall be allowed within the Inclement Weather Vehicle Safety Area.” To Add: The definition of “Inclement Weather Vehicle Safety Area > 4 acres in size” within Article 16-101 as “An area outside of the public right-of-way greater than four (4) acres in size utilized for vehicle preparation in the event of inclement weather. The area may be used for the application of snow-chains/mud-chains, equipment inspections and other vehicle safety related activities. No long-term parking, loading/unloading of equipment or material, storage or staging shall be allowed within the Inclement Weather Vehicle Safety Area.”

COMPREHENSIVE PLAN LAND USE GOALS AND OBJECTIVES

- 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.
- To ensure that commercial and industrial development are compatible with adjacent land uses and mitigate impacts identified during the plan review process
- Encourage the location of industrial development in areas where visual, noise, air quality and infrastructure impacts are reduced.
- 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 economy.
- Ensure a commercial and industrial development policy that is environmentally sound and acceptable to County residents and policy makers.
- Proposed commercial and industrial development will direct traffic to roadways capable of handling projected traffic Sections.
- The project review process will include a preliminary assessment of the projected traffic impact associated with all commercial and industrial projects.
- Staff review of proposed commercial and industrial development will include a determination of the potential impacts of the project on the local transportation system. Specific issues to be addressed include the following
 - Traffic generated based on Institute of Traffic Engineering (ITE) rates;
 - Existing traffic counts on adjacent roadways;
 - The appropriateness of proposed access points;
 - The compatibility with existing and future traffic on the affected roadways.
- Ensure the compatibility of development proposals with existing farms and ranches.
- Ensure that active agricultural uses are buffered from higher-intensity adjacent uses.

CONSISTANCY WITH EXISTING COUNTY REGULATIONS

As a proposed Land Use Change Permit, each “Inclement Weather Vehicle Safety Area”, whether it is over or less than 4 acres in size will need to demonstrate conformance with the standards outlined in Article VII, Division I and Division II. These standards are required for all Land Use Change Permits and encompass a broad range of impacts including, but not limited to, Access and Roadways, Agricultural Land, Wildlife Habitat Areas, Wetlands and Water bodies, Water Quality standards, Erosion and Sedimentation, Drainage, Stormwater Run-Off, Air Quality, Wildfire Hazards, Natural Hazards and Geologic Hazards, Archeological, Paleontological and Historical Importance as well as Reclamation.

STAFF COMMENTS

At present, the Land Use Resolution of 2008 does not allow this use as contemplated by the Applicant. The use for an “Inclement Weather Vehicle Safety Area” is only requested in the Resource Land – Gentle Slopes zone district. As a practical matter, Staff feels that this is the most logical zone district for this kind of use and does not foresee a pressing need for the use in any other zone district. More specifically, as the use is necessitated by the development of natural gas resources in higher elevations of the Resource Lands Zone District, the need for a facility to provide a safe location for vehicles to prepare to ascend to the Plateau is on the Gentle Slopes. Similarly, the facility will provide these same benefits to vehicles, which need to remove the equipment before entering the County road network. In order to better clarify the definition, Staff recommends the following changes:

“Inclement Weather Vehicle Safety Area ~~<4 acres~~ *four (4) acres or less in size*” within Article 16-101 as “An area outside of the public right-of-way ~~less than four (4) acres in size~~ *four (4) acres or less in size* utilized for vehicle preparation in the event of inclement weather. The area may be used for the application of snow-chains/mud-chains, equipment inspections and other vehicle safety related activities. No long-term parking, loading/unloading of equipment or material, storage or staging shall be allowed within the Inclement Weather Vehicle Safety Area.”

Although Staff feels that the proposed definition is a good start, Staff does propose adding some specific standards to Article VII, Division 8 in order to address some potential issues. Specifically, Staff recommends the following standards: **Section 7-811 Additional Standards Applicable to Inclement Weather Vehicle Safety Areas**

A. Continuing Obligation. The provision and maintenance of Inclement Weather Vehicle Safety Areas that comply with these Regulations shall be a continuing obligation of the property owner.

B. Prohibited Uses of Inclement Weather Vehicle Safety Areas:

1. **Inoperable Vehicles or Materials.** Materials or inoperable vehicles shall not be stored in any Inclement Weather Vehicle Safety Areas.
2. **Vehicles for Sale.** Vehicles shall not be displayed for sale in any Inclement Weather Vehicle Safety Area.
3. **Repair Work.** Repair work shall not be conducted in any Inclement Weather Vehicle Safety Area, which is not directly related to the safety of the vehicle in inclement weather. Such repairs shall not render a vehicle inoperable for more than twenty-four (24) hours.
4. **Long-term Parking.** Vehicles may only park in an Inclement Weather Vehicle Safety Area for safety reasons during adverse weather conditions. No Vehicle shall park in an Inclement Weather Vehicle Safety Area longer than twenty-four (24) hours.
5. **Loading/Unloading, Vending, Storage and Staging.** No loading/unloading of equipment or material, vending of any goods or services, storage or staging shall be allowed within any Inclement Weather Vehicle Safety Areas.

C. Backing Onto Public Streets Prohibited. All Inclement Weather Vehicle Safety Areas shall be located and designed in conjunction with a driveway, so that vehicles exiting from a parking space shall not be required to back onto the right-of-way of a public street.

D. Access Driveways. Access driveways for Inclement Weather Vehicle Safety Areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrian and vehicular traffic on the site. The minimum width of the access driveway for a commercial or industrial use shall be twelve (12) feet for a one-way drive and twenty-four (24) feet for a two-way drive.

E. Clear Vision Area. Access driveways shall have a minimum clear vision area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection. Landscaping restrictions for a clear vision area are set forth in Section 7-305 A10.

F. Inclement Weather Vehicle Safety Areas Landscaping and Illumination. Inclement Weather Vehicle Safety Area uses located adjacent to residential uses or residential zoning districts shall be landscaped to minimize disturbance to residents, including installation of perimeter landscaping, proper screening of loading areas with opaque materials and control of illumination. The landscaping and screening shall comply with the standards of Section 7-305 A11, *Landscaping within Off-Street Parking Areas*. Lighting shall comply with the standards of Section 7-305 B, *Lighting Standards*.

regards to the Comprehensive Plan of 2000, it is Staff’s opinion that since a “Inclement Weather Vehicle Safety Area” is proposed to Land Use Change Permit in the RL – Gentle Slopes 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 “Inclement Weather Vehicle Safety Area” as a General Administrative Permit if the facility is 4 acres or less in size and a Limited Impact Review Permit if the Facility is over 4 acres in size as proposed by the Applicant with the additional standards as outlined by Staff. Chairman Martin – The enforcement of those particular issues on private property, is this with the code enforcement officer because the Sheriff definitely cannot enforce those yet; is that correct? David – Yes.

Chairman Martin – And when the Model Traffic Code comes into compliance, some of those other issues may be transferred from code enforcement officer to the Sheriff if this were to go through. David – It could I would imagine that is more of a legal issue. Chairman Martin – The Model Traffic Code is coming up so I wanted to make sure that we are not infringing. These are the same set up and requirements that CDOT has on their chain of areas right now – is that correct? David – They are similar. These are not on a public right-of-way. Deb – Since we do not have our Model Traffic Code yet it is difficult to say how.... Chairman Martin – It has only been six years and it is coming forward.

Tom Dembinsky - This is in essence for safety for Chevron in their future plans. Chairman Martin – And it can be used for industry as well as Road and Bridge. Commissioner Samson – A little concerned about long term parking, it says no longer than 24 hours but if it were really bad inclement weather in a blizzard.... David – We toyed back and forth with this; this is a requirement that is within our parking standards in terms of repair work. I understand your concern - 24-hours seemed reasonable and the applicant seems amenable to that.

Tom Dembinsky – It may be beneficial to add something in there that says, with the distinction of longer than 24-hours only due to inclement weather or some extreme weather conditions. David – This is something I toyed around with and I think it could make sense to go longer, say to 48 or 72 hours. Chairman Martin – You can use the constitutional term “as reasonable.” David – Then it becomes more difficult to enforce. Chairman Martin – Put 24-hours and see if it is enforceable. Commissioner Samson moved to close the public hearing. Commissioner Chairman Martin seconded the motion. In favor: Martin – aye Samson – aye Houpt – absent

Commissioner Samson – I would move that we approve the addition of inclement weather vehicle safety area as a general administrative permit if the facility is of 4 acres or less in size and a limited impact review permit if the facility is over 4 acres in size as proposed by the applicant and the additional standards as outlined by staff. David – This includes the change to the definition and the addition of the standards. Commissioner Samson – I will include that in my motion. Commissioner Chairman Martin - Second. In favor: Martin – aye Samson – aye Houpt – absent

ADJOURNMENT

Attest: Chairman of the Board

**JUNE 15, 2009
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 15, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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.

EXECUTIVE SESSION

Commissioner Samson - I move to go into executive session for legal advice on negotiation of property acquisition, payroll and compensation. Don stated, Commissioner Houpt advised him that she would like legal advice on another matter concerning award of a contract for airport construction, and Don wants to provide legal advice on item 1G concerning the Antero Resources well proposal. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

Don said Mr. Green's office and his office have received a counter proposal on a proposed purchase of an administrative facility for Garfield County. It is located in Glenwood Springs. The Board needs to give legal advice and administrative staff direction on how you want to proceed with the counter proposal.

Commissioner Houpt – I make a motion that we not accept their counter proposal. Let's submit a new contract proposal with the contingency that we come to resolve the street light issue and adjust the purchase price accordingly. Don said those two issues would be resolved in the manner that you and the administrative staff was informed in executive session. Although it is unusual, this is a negotiated item for real estate purchase and must remain confidential. Commissioner Samson – Second. Chairman Martin wanted to urge everyone to say no to this particular motion; it is an opportunity to step away and do things in a logical manner and not in a rushed manner. He thinks they exceed the expectations and the dollars spent that need to be re-evaluated. Commissioner Houpt thinks they are reading the figures differently and she sees this as a positive opportunity. She is sorry they cannot discuss this anymore. Chairman Martin stated it is an excellent opportunity to step away.

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

COUNTY MANAGER UPDATE – ED GREEN

RESOLUTION TO UPDATE EAB PURPOSE – JUDY JORDAN, LESLIE ROBINSON AND BETSY SUERTH

Betsy from the Town of Silt and also the Chair of the Energy Advisory Board stated they were before the Board a few weeks ago presenting a new Energy Advisory Board Resolution which established the purpose of the Board. There were lengthy discussions regarding several of the issues on the resolution, which was presented to the Board. Today they are here to discuss some of the adjustments to the proposed resolution. Betsy went right to the adjustments; paragraph 4, there was some discussion with the Commissioners regarding perhaps some future regulatory solution for a given issue that was a concern. They have inserted a new paragraph that the Energy Advisory Board approved during the last meeting. This is really to address the concerns, if sometime in the future the Energy Advisory Board can reach a consensus on recommending a regulatory solution to a given issue. The new language is; the EAB "may" provide recommendations and "may" provide recommendations to the BOCC on proposed changes to legislation regulations, zoning resolution, master plans, and industry plans. In addition, the EAB "may" provide recommendations to the BOCC on other matters, or as may be requested by the BOCC. Recommendations from the EAB, to the BOCC shall be though adopted motions as the EAB By-Laws. The way this would happen is the board makes recommendations only through a motion that passed at the EAB level. Commissioner Houpt feels it gives the EAB the ability to take that route as an advisory board. However, she realizes the fact that it is sometimes difficult to come to a consensus.

Leslie said it was a good discussion at the EAB meeting and does not think that anyone had any problems concluding that additional paragraph. Betsy stated there are a few minor changes; paragraph 7, there was some discussion about the BMP's (Best Management Practices) last time they were before the Board. What they have done is modified the language to include more flexibility and to make it more general. They took out the reference to the American Petroleum Institute Best Management Practice and made the language more general. Commissioner Samson felt they were set with the composition of memberships; do we have a representative from each area? Judy stated no we do not yet. That is partly because these have to be in place and approved by the Board before we can make some additional officials. Commissioner Samson asked if they had some people from these areas coming as interested parties who wish to join; Judy said yes. Commissioner Houpt asked about the parties. Has there ever been a request to have some other group represent Battlement Mesa or has this worked out well for that community? Leslie has been part of that discussion and many of the Battlement Mesa residents did not realize that they had someone involved with the EAB. Leslie has informed them who the representative is and of the newly appointed person representing Battlement Mesa. She thinks the citizens will call upon these people a lot more now that they are aware of their existence and become more engaged with the EAB in the future. Betsy stated the last set of changes were paragraphs 11, 12, 13 and 14 that were added in response to the County Attorney comments to bring more of the By-Laws into the resolution for consistency sake. Don wanted to focus on 15; the major concern about the By-Laws and the way they were originally addressed in the resolution. There was the potential to view the By-Laws as overriding the forming resolution of the Board, allowing the EAB to act in ways that may not be consistent with what the County Commissioners anticipated. Don asked that they make some alterations to address those concerns. The Board will have to judge whether they have or not or whether they have adequately. It does allow amendments to the By-Laws that have the potential to be inconsistent with your conforming resolution, but not ones that would expand the authority of the EAB. Commissioner Houpt said as she read that paragraph she thought it would be great to have By-Laws. Commissioner Houpt asked if she could get a copy. Don will get them from Betsy. Don said just to show the concern he has if you look at item 9, the membership, which was clearly addressed in the forming resolution by the County Commissioners and has been addressed in the By-Laws. It really is a question about consistency on item number 11; all energy companies have maintained physical infrastructure, at one point your resolution named various companies. His recollection is that the By-Laws actually did that as well; but expanded that. Judy said no, the original resolution did not name companies. Don said the By-Laws named an extensive.....and they still do. To that extent there is an inconsistency between even this resolution and the existing By-Laws. Now does it expand the authority of the EAB; he does not know if it really does. If that is okay with the Board, then that is fine. Commissioner Houpt stated; you mean by simply not corresponding with the By-Laws it could expand it on other issues? Don said yes if that is the language in paragraph 15. It does allow the possibilities of inconsistencies; the practical thinking being, if we have to go through and compare the By-Laws and every amendment with the resolution there will always be minor inconsistencies or the potential for that. We do not want to be stuck in a situation where the By-Laws are determined to be invalid or the resolution because of a small inconsistency. The real concern Don expressed to Betsy was that they might do something that might actually be beyond the authority the Board wanted to give the EAB, and they have addressed that in this paragraph. Don used that to point out that there could still be inconsistencies that fit within this paragraph and he does not know if that is okay with the Board. Chairman Martin said they could always rely on paragraph 14 if it gets out of control on either side. Commissioner Houpt said what we have not done in the past is communicate well enough. If we are changing the pattern of communication, she thinks they are right they do not have to worry about things like that. If we have to we will change the By-Laws again; but in the meantime, we will just keep the communication open. Chairman Martin said he is proposing one more change in reference to 15 at the bottom, the word expand; instead of expand he offers the word alters the powers.

Betsy stated that 11, 12 and 13 are taken straight from the By-Laws. They are addressing the memberships, committee members, how nominations are conducted, and keeping the next. Commissioner Houpt thinks these are important paragraphs, since this is a public meeting. It is good to let people know if they want to serve on a committee even though they are not on the Energy Advisory Board, they are able to according to the By-Laws.

Judy said if she understands what they are saying; we can quickly go through what these are. Judy read them.

Commissioner Houpt – I make a motion that we adopt the resolution modifying the Garfield County Energy Advisory Board as presented. Commissioner Samson – Second.

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

DISCUSSION AND DIRECTION ON CORRESPONDENCE TO GARFIELD COUNTY REGARDING 2009 BUDGET – LISA DAWSON

Lou Vallario, Kathy Redman (financial director for the Sheriff) and Lisa Dawson were present.

Chairman Martin stated in the quarterly financial report; we see some anomalies every now and then. It is Lisa's job to find those anomalies first and make sure they are sent to the financial officer. Ed then brings it to the Board if we need to address it further. What we have found is that some of the issues are bumping up next to our budget; we are trying not to have supplementals. We need to call your attention to that. Are you doing everything to stay within your budget? Are you having some issues that have an extra impact that is a one only type issue or expenditures that you have exceeded? Lou wanted the Board to know he appreciates them letting him know. Let's not wait until the end of the year to resolve these. He did not want anyone to think he was resistant or combative. Obviously, there are some weaknesses with the Sheriff's office operation verse the County operations. He thinks after looking at his budget and payroll; he thinks there are a few items that are singular in nature that may have driven this. He thinks there are some that are continuing unknowns, the way the process is handled with payroll and how it is budgeted later and what's being done and what isn't. He thinks the biggest anomaly, if you will, is if you recall we had discussions in the budget starting with his recruiting process and comparing compatible wages. Commissioners, we were losing people to or competing with the other areas. Lou did an informal rate survey and a lot of discussion went on between Lisa, his department, Katharine and me to try to work something out. Instead of bringing new people in at the Deputy I level of \$18.77/hr, which is the minimum for that grade, they went with a medium market, which is \$21.60. They are within the scope of the pay grade between the minimum and the midrange. They are not violating anything. As part of their marketing analysis, we are bringing people in at a more compatible market. That market was completed with all the five surrounding counties, every police department and marshals' offices. Lou said when they spoke about this; it was at the end of the year in conjunction with approving the budget, getting the new wage plan in place, doing the 4% plus 1% performance raises. They looked at those numbers and they felt like that would be absorbed because of their vacancies. He was told with the budget vacancies at the midpoint; he felt an adjustment of 15%, throughout the year would probably be absorbed with those excess funds that were budgeted. Chairman Martin stated, remember we did adopt your budget in two different phases. One happened to be wages and salaries. The other one is operations. Chairman Martin said they really discourage those changing operations to make up for salaries. However, it is a possibility to go ahead through midpoint wherever you need to make adjustments that causes supplemental, changing operations back to wages etc. We discourage it. It is a possibility that you can do that and stay within your budget overall. The other option is to look at the policies and how we go about it. We do not want to talk about any one individual; this is an overall encompassing discussion. If there are changes outside of those policies, Lou has been updated on those policies, Lou has his own policies, and we have been updated on those. We need to compare our notes so we all have the same game plan and that is to get to the end of the year without exceeding our budget. Lou agrees with that unless there has been a shift in philosophy, we have been operating for the last few years on a bottom line year-end budget. Lou thinks they have shown a good record of accomplishment over the last six budgets he has dealt with; they have been accurate and close year to year. Lou is not concerned overall. He is ready to say let's move some operating to wages at this point. Chairman Martin said he is not asking him to; that is a possibility. What Chairman Martin wants Lou to do is to make sure he knows we are watching everyone's budget and not just yours. It is a higher priority that we have these conversations. Lou understands and as you know Tresi, I have repeatedly told the Board we want to be part of the solution, not a problem. Lou feels they are okay, he thinks they are where they should be. He has until the end of May; they are supposed to be at 41%, he is right at 41% notwithstanding the fact they do have some vacancies that may change that. He thinks there are some of those discussion items that may, or may not, be budgeted and he does not know the answers. He is seeing some issues such as worker compensations; he is at 41% of budget but this is at 57%. He does not budget that aspect so he does not know how that affects his bottom line. He is not necessarily sure if it is things his office has done or a combination of how those are budgeted within his budget of which he has no control over. He feels it is a combination of things they want to look at. Lou feels the solution is to work closer with Lisa and talk about things with Ed. If there has been a lack of communication then we need to improve. Commissioner Houpt thinks Lou's budget has some unique issues to it. Maybe it is something that Lisa, Ed and you can identify so we can be prepared for those different approaches. Commissioner Houpt feels he does have a good track record and has done very well with his budget. She thinks Lisa is identifying how Lou's budget works over other budgets. Lou does not see this discussion as anything other than; we will use his budget as an example for everyone in the county to say "hey let's keep looking and here is what we are going to be doing". Everything is tightening down; things are changed. Lou does not feel as though he is being singled out; he thinks this is a going discussion that will have to happen across the board. Chairman Martin said if there are changes, policy issues, something that comes out of the ordinary; then he wants Lou to feel free to come to this Board to make those decisions and we can give you an answer immediately instead of going through all the other issues. Do the ground work and make sure they are prepared. Lou said that is something that he does try to do. Obviously, as the Sheriff, and you, as Commissioners, have to talk face to face about issues and resolve those. When it comes to budgetary issues; Lisa is the expert, Ed's the financial manager; Lou tries to do the groundwork. He does not think he needs to waste everyone's time in coming before the Board when they have a par form that might be a little unique. He thinks they certainly manage that on a day-to-day business. Lou looks at these as daily operational issues with the folks that deal with that and Lou can work it out on a daily basis.

COUNTY SHERIFF UPDATE – LOU VALLARIO

APPROVAL OF GRANT APPLICATION FOR AHRT (ALL HAZARDS RESPONSE TEAM)

Project Goals: To increase the safety of the local community by providing appropriate and effective responses to critical situation with the use of highly trained, highly skilled and secure professionals. In addition, to maintain participation in the All Hazards Response Team by skilled members whose agencies cannot currently afford to purchase the required equipment.

Project Strategies: The Garfield County All Hazards Response Team will invest awarded monies in the purchase of tactical protective gear and equipment to ensure a higher level of safety and complete preparedness of all team members when responding to critical situations.

Major Deliverables: Full participation by all highly skilled and trained members as well as the increased personal safety of members when the team is actively responding to critical situations.

Coordination Plans: Sheriff Lou Vallario is the current Chairman of the Garfield County All Hazards Response Team and; will assume the responsibilities in the coordination of all activities in relation to this grant.

Lou stated this is a block grant (Department of Justice) through the Edward Memorial Fund which is designed to support law enforcement operations, task force etc. It is a block grant to upgrade and replace ballistic vests, and they have an expiration date because materials breakdown due to sweating etc. They are trying to alleviate all the members of the All Hazards Response Teams budgets from having to do this individually. Lou is looking for the block grant to replace those needed items and we need the blessing of the County Commissioners to do that.

Chairman Martin asked if there was a matching requirement; Lou said no. Commissioner Houpt asked if that was \$48,000.00; Lou stated yes. I make a motion we approve the application to the Department of Justice block grant through the 2009 Edward Memorial Justice Assistant Grant in an amount of \$48,433.48. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Lou explained a recent homicide as an extensive crime scene. They have a long way to go and will be having a briefing at 11:00 a.m. Chairman Martin explained to Lou that he would need to let the Board know if they exceed any of their investigative funds, there is a procedure to follow. Lou said, unfortunately this is not something they generally budget for in Garfield County.

6) **B. Sheriff Annex Design/Build Award – Randy Withee**

On May 19, 2009, the BOCC authorized staff to pursue scope and cost negotiations with CMC Group, Inc.

Meetings and discussions were held over the last few weeks resulting in:

- ✓ Maintaining the overall gross square footage of 16,700 sf.
- ✓ Minor floor plan changes

Sheriff annex – funding:

Budget: \$3,500,000.00

Use of funds:

➤ Building Project:	\$2,700,000.00
➤ Tap Fees (Est.):	\$ 60,000.00
➤ Quality Control (Est.):	\$ 20,000.00
➤ Utilities (Est.):	\$ 40,000.00
➤ Contingency	<u>\$ 200,000.00</u>
➤ Total	\$3,020,000.00
❖ Surplus	\$ 480,000.00

Recommendation:

Recommend the BOCC award the design/build of the Sheriff Annex to CMC Group, Inc. not-to-exceed amount of \$2,700,000.00. Chairman Martin asked if they included Search and Rescue and a bay in that area. Randy said not at this time; that is a different issue. They have been talking about where to locate the new building on the property; but in this period, it would not fit in. Commissioner Houpt asked what energy efficiency savings are in here.

Randy said there is extra daylight with the windows; they are still evaluating solar panels. Commissioner Houpt said they are working very closely with the New Energy Community's Initiative and thinks it is important for any building we are working on at this point. We have some kind of energy evaluation, as a part of that, before we even break ground. Commissioner Houpt feels we need to serve as good examples of energy efficiency. When we have the audits done on our buildings, she feels there will be a lot of work they have to do; but we should not have to do that with new buildings. Randy said they have approached this and what they have in there now is 20-30% above energy efficiency than what is required. They are looking at what they can do to enhance it even further. Ed said they had presented about 5 or 6 other options with different payout and different concepts. Commissioner Houpt asked if they were doing solar panels. Wouldn't that be good to design those in at this point? Ed said yes and said after they are done looking at those 5 or 6 options and determine which, if any, make any sense from a payout standpoint; they will bring it to the Board. Commissioner Houpt said she is not sure what they are approving today. Ed said this is the basic contract price for the building. Commissioner Houpt asked isn't it part of the building - the approach to energy... Randy said that is what they already have; BAB system, rooftops and different zones, it is already part of the package. Commissioner Houpt asked if those would be compatible with what they are proposing to put in with this base package. Randy said he thought what they were looking at was the package appraises the ground source and is compatible. The ground source is 5 times as much as what they have in here. We are still getting the same efficiencies with this system verses the ground source. The cost right now is 5 times as much. Randy explained the meaning of ground source (geothermal). Commissioner Houpt said it is important to her by approving this today that there is an understanding that we are not there yet. We need to look at how to make this an energy efficient building. Ed said, within the next few meetings they would bring options to the Board and some recommendations. Commissioner Houpt asked if they believed the design, which is in here, is compatible with all the energy efficiency options that would be out there. Commissioner Samson – I move to award the design build of the Sheriffs annex to CMC Group in an amount not-to-exceed \$2.7 million dollars. Commissioner Houpt – Second, with the understanding that we are still looking at energy efficiency systems. Don stated, based on the second, is the Chair being authorized to sign a notice award for this dollar amount. Chairman Martin – Yes.

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

RELEASE TO CONTRACT #13 WITH OLSSON – DALE HANCOCK AND MARK KUBESA

Dale stated the discussions with the FAA indicates that the County will receive funding in the amount of \$13,885,234.00 for the runway realignment. The grant offer will be forthcoming within the week and the Chair has previously been authorized to sign on receipt. Note, originally this grant was for \$13,555,000.00 but Brian managed to increase the funding by an additional \$330,000.00. This morning there are 4 items for your consideration; first is

the release of contract #13 to Olsson and Associates in the amount of \$1,056,411.00. Brian has entered a number of wordings within these released contracts that in accordance with County policy regarding multi-year projects and; contingent to a 95-5 grant offer from the Federal Aviation Administration. Basically it is only a done deal if the Fed's send in the grant award next week. Mark stated he believes the Commissioners have copies of the contract in their packets. Mark has signed contracts from Olsson Associates. Carolyn wanted to add, Dale referred to County appropriations, it is always important on PRT contracts. There is a letter agreement between Olsson and PRT as PRT is sub-contracted to Olsson. The actual contract is between the Board and Olsson. Commissioner Houpt said as she read this, in almost every paragraph it says supporting the work of CH2MHill. Is the role of Olsson Associates to support the work of CH2MHill or to be the party in Garfield County managing the whole thing? The way this is worded it is really focused on that support position. Mark said yes, CH2MHill is in charge of construction observation and project management including the runway. As the designers, we are on site to oversee construction, answer questions from the contractor, and there are certain items designed that they need to be in charge to make sure it is built correctly. Mark stated they are in a support role to CH2MHill and they are observing construction. Carolyn explained that it is important to know that PRT did the primary design work for the west end utility and road re-location and the conception design for the runway; but CM2Hill will be doing the runway final design. Commissioner Houpt – I make a motion we approve the release to contract #13 between Olson Associates and the Board of County Commissioners in an amount in 2009 not-to-exceed \$528,205.00. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

BOARD OF HEALTH

Commissioner Samson – I move to go into the Board of Health. Commissioner Houpt – Second.

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

CDPHE WIC CONTRACT

Mary Meisner said she has good news; this is for a \$57,837.00 increase to our contract. We are also set to go for the farmers market. Commissioner Houpt – I make a motion to approve the amendment to the WIC contract with CDPHE for 2009 in the amount of \$57,837.00. Commissioner Samson - Second. Mary stated there is one change they need to make in the contract; where it says nursing service, they need to have it say agency and on the signature page as well. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

CDPHE TBI CONTRACT

Mary stated this is the traumatic brain contract; there is not a dollar amount. Patty stated the purpose of this contract is to add language now that makes it clear that CDPHE contracts are subject to the States new contract management system. Commissioner Samson – So moved. Commissioner Houpt- Second.

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

CDPHE STEPP CONTRACT

Mary stated this contract is actually a decrease of \$2,395.00 from last year's contract. Commissioner Houpt – I make a motion we approve the contract for the Tobacco Prevention Project, 2009 contract in the amount of \$66,042.00. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin asked for a motion to come out of the Board of Health. Commissioner Houpt – So moved.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

LETTER OF INTENT TO SUPPORT PARACHUTE INTERCHANGE BYPASS – AARON DIAZ AGNC

Aaron stated this is regarding Senate Bill 232 that passed in the last legislative session. It takes \$17 million out of local government permanent funds and gives it to the Department of Local Affairs to be distributed for two federal mineral lease communities that are affected by the development of natural resources. Previously Garfield County and the Town of Parachute were working together on funding the Parachute interchange. That is a large regional matter and project; they think that it would work well going after these funds. DOLA has put a process in place with at least 4 requirements. There will be a pre-application process before you can apply. The first hurdle you would have to meet is getting a letter of interest in by August 3rd. Although he has been hearing from other communities they are getting a lot of this in place already. Rep. Baumgardner was in town last week and they had a meeting with the Town of Parachute and Commissioner Samson right after. They have scheduled a meeting with Susan Kirkpatrick, in Denver for the June 24th to talk to her about the Parachute interchange. It is a zero sum kind of project; there is only \$17 million and if one community gets it, the other one does not. He feels they have a strong case. Commissioner Houpt asked if they had a final price on the interchange and Ed stated it was over \$30 million dollars. Aaron said that is where it was previously; but when they talked to the Town of Parachute, they said the recent estimates had reduced to \$14 million. Commissioner Houpt said she agreed with Aaron and they were at a presentation that DOLA gave with the time lines you stated. She thinks they need to know what the final dollar amount is and how we are going to backfill the remaining funds and whatever comes out of this program.

Sometimes we have great intent in bringing money in; but we need to make sure we have sufficient funds to complete the project. Ed said there must be different scope interpretations. He and Randy need to look into that; it involves at least 2 roundabouts, expansion of the deck and ramps. Chairman Martin said the request is to support this approach and to sit down with the Town of Parachute as well as the other folks, CDOT etc. Aaron said the thing they do not want to have happen is for the State to say, we had the money out there and you could not get your ducks in a row. Commissioner Houpt stated that Glenwood is in a position of having received some money for a project that is insufficient for what needs to be accomplished. What she is saying, yes she does think this is a good opportunity. She just wants to make sure they know what they are getting for that amount of money. Commissioner Samson explained, here is the problem, we have a meeting with Kirkpatrick on the 24th, is there some way we can do something to show them our support. Commissioner Houpt said it would be really helpful to get more information; we haven't even heard from staff on what the costs are going to be, and how we are going to backfill this if we get the \$17 million, or how much of the project will be completed. She supports going for that as long as you support going for other funds too. Commissioner Samson stated "oh definitely". He thinks it would be to their benefit to show some kind of support so, when we do meet with DOLA, they can say that we do have something together over there. Commissioner Houpt said absolutely; she just does not want them to get the impression that Garfield County has the funding to cover the balance, because we do not. The match is 25%; do we have that percentage of \$17 million? Chairman Martin stated he thought this Board should provide a letter of support and a unified approach with these projects. He thinks they need to authorize this. Ed wanted to remind the Board that there is another community interested in obtaining these funds - the City of Rifle. Commissioner Houpt asked if

they have approached Garfield County to support them as well and Ed stated not yet; but they have asked us to evaluate costs and Randy has provided them with information. Commissioner Houpt thinks that brings up an important issue if we are working with them as well. She thinks they need to make sure that we know who, in our County, is interested in these funds. We know that Rifle and Parachute are interested, figure out the 25% match, and figure the cost of the project. She believes it is easy to tell Susan, on the 24th that we of course have been supporting this project; but how do we assess what we are going to say to Rifle without having that information in front of us as well, knowing our staff has been working with them on that project. Chairman Martin said, we need to support it. The money has not been distributed; it is only a request to do so. He believes the concept is what they are after. Again, he supports this through a letter that they support this approach and the use of the money. Commissioner Houpt said there are many questions that need to be answered. She does not believe it can be represented that they want the full pot of money to go to one project, when our staff has been working on another project who is also requesting that money. She would word the letter of support saying that Garfield County has always been involved in support of upgrading the Parachute interchange and believes the funding of that project is extremely appropriate using the funds that are available. We could write a similar letter for Rifle if asked to. Chairman Martin explained they have used money on one project and the other is within the City limits of another project, where we could support them in that approach as well. However, this one is actually outside of the City limits and it is more of a transportation need to an unincorporated area that we have identified as our number one priority through the TPR and within the inventory of Garfield County. He thinks they need to stick with this priority as the number one issue and that was the Parachute exchange that is in CDOT's records. Commissioner Houpt said they also have to make sure that they know where all the funds are coming from. Aaron stated 4 years, and you cannot ask for a supplemental. This is just a letter of interest that you are interested in going forward with a project and you will be bringing forth an application. Commissioner Houpt said the letter of interest is not due until August; she thinks he can represent that this Board supports....will you be there Mike. Commissioner Samson said he would be there. Commissioner Houpt asked Ed to get more information. Chairman Martin asked if we have a letter of intent and Commissioner Houpt said no that's due in August. Chairman Martin said let us have a motion then that we have the intent to support that through Commissioner Samson's participation in the meeting. Commissioner Samson – So moved. For the record, that meeting is Wednesday, the 24th at 5:00 p.m. Commissioner Houpt – Second.

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

CSU EXTENSION UPDATE – BILL EKSTROM

Topics discussed:

- ✓ 2009 District Retreat – held in Granby and was a huge success
- ✓ Swine Update – Conducted a “Swine Care” workshop, 50 youths and adults participated. Topics covered, nutrition and health issues incurred in 2008
- ✓ New Member/Leader Orientation & Wholesome Quality Meat Assurance Training – 4-H members and a parent/guardian were required to attend this orientation
- ✓ 4-H statistics – 236 4-H members enrolled
- ✓ Working Ranch Horse Seminar – 40 participants in Rifle
- ✓ Agricultural Workshops – small acreage workshop held in Glenwood Community Center in February, Gardening 101- 4 workshops offered in Silt, Rifle, Glenwood and Carbondale and *Preserving your Produce* was a 3-part workshop
- ✓ 4-H Leadership development – this trip is planned for early July, the objective is to take a trip to Denver and visit several educational sites
- ✓ On the Horizon – Watch for the arrival of our new 4-H agent for Garfield County, Kim Shriver, from Ohio State University

RELEASE TO CONTRACT #2 WITH CH2MHILL – DALE HANCOCK

Dale stated this is \$89,115.00 for the structure of a hangar access taxi lane in the SE corner of the airport. This is budgeted money and is within accordance of the procurement policy. They planned on this as an incentive for airport development. Commissioner Houpt – I make a motion we approve the release to contract number 2 between CH2MHill and the BOCC in the amount of \$89,115.00. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

RELEASE TO CONTRACT #3 WITH CH2MHILL – DALE HANCOCK

Dale recommends acceptance and authorization to proceed with release to contract number 3 in the amount not-to-exceed \$932,075.00. Commissioner Houpt – I make a motion we approve the release to contract number 3 between CH2MHill and the BOCC in an amount not to exceed \$932,075.00. Commissioner Samson – Second.

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

AWARD OF WESTEND D-II CONSTRUCTION CONTRACT – DALE HANCOCK

Dale would like to recommend the award of the D-II Construction contract to Kelley Trucking Incorporated in an amount not to exceed \$11,432,462.90. Carolyn passed out information showing the bidders. Mark wanted to point out on the first page the County received 7 bids. Kelley Trucking is the lowest overall bidder for all four schedules. Mark stated they started the design on this project in December. At the request of the FAA, they put together a schedule showing that this project could be constructed; no major flaws in the design, and they did not need to shut down the County Road. They included the phasing plan within the drawings and they specifically state this is a suggested phasing. If you would like to do something different, you are welcome to. The plans were issued for bid on May 6th. On May 8th, the FAA came to them and said they needed an eyeless pad antenna. It needs to be constructed by a certain time so the FAA can start checking the flight pattern to make sure it works. They requested the area where the antenna is constructed be completed June 1, 2010. They issued an addendum showing the pad construction and they had to work it into the phasing plan. This was issued May 11th and on May 2nd; they had a pre-bid meeting. The second low bidder was Gould Construction at \$13,060,000.00 and that included the cost of the embankment. If you add the Gould's Construction cost for the embankment to Kelley's Trucking cost; they would still be lower by close to \$100,000.00. They had a meeting with Kelley Trucking on June 11th to discuss their phasing and make sure it works. Commissioner Houpt stated there is no doubt in your mind that change orders will come forward and bump it up over Gould construction. Mark stated they could not ask for a change order; they bid that item at \$0 dollars. They have a plan to be able to do the eyeless antenna. Dale stated this is contingent on the \$95,500.00 grant offer being received from the Federal Aviation Association. Carolyn also is asking today for signature authority. Again contingent upon the FAA telling us we got the money. Commissioner Samson – I move

we award the bid to Kelly Trucking in an amount not-to-exceed \$11,432,462.90 along with the language we have to have for the Feds. Carolyn stated your motion is contingent upon the Feds showing up with money. Commissioner Houpt – Second. Don said you should anticipate a budget supplement as part of funding. Carolyn stated, because the Federal money is all reimbursable. Dale said they have met with finance and talked about what they would be able to pay on a monthly basis. Commissioner Houpt asked if there would be local people working on this or are they out of County. Mark said at this point they are out of Golden and they plan to use sub-contractors from the Denver area. There is a possibility the ceiling contractor may be local and the surveying he believes is local. Commissioner Samson wanted everyone to understand; we cannot give local preference because federal FAA money is involved and that precludes us. In favor: Houpt – aye Samson – aye Martin - aye

ANTERO RESOURCES WELL PROPOSAL – JUDY JORDAN

Judy referred the Board to a letter from Antero regarding their intent to drill in Battlement Mesa. They have not received a permit application yet; this obviously is something the Board has to deal with in terms of determining whether the Board wishes to engage in one of the options in the letter, or not at all. This is not uncommon; the oil and gas companies write to the BOCC in the belief that you own property. Don stated the latest communication from Antero indicates it is their opinion as it relates to minerals on County Road 308. Don said they have not seen supporting information and he was hoping Antero could provide something from their land folks that would show us on what they based their original opinion. Chairman Martin said they would reserve their opinion. Don said they need an official response. Chairman Martin said he thought they should notify Antero; we cannot make a determination. Commissioner Houpt stated there are the land use issues in Battlement Mesa as well. Chairman Martin thought it was two different phases. He feels they need to identify who has jurisdiction to enter into a contract. If it causes a conflict of interest in the land use and mineral development within Battlement Mesa that would be up to the Board to decide if they have their own conflict. He thinks the simple thing is to identify the minerals; are they under the roads, are they held by tax deed or are they underneath a piece of property that we have that we did not know we had any minerals. Commissioner Houpt said she does not want them to forget that there may be a land use.... Don stated if the Board would continue this matter until the July 6 meeting, with directions to staff to obtain the underlying title information if possible from Antero. If we have that information we can provide the Board with advice if we own minerals or not. Then depending on that position, decide whether we have addressed the conflict issues. Commissioner Houpt – So moved. Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

Judy stated she had a question of them submitting permit applications for these wells. If they do, we will have 10-days to request an extension and the 10-days will run, if we received the permits today before the Board meets again. Chairman Martin stated Judy could request a special hearing and it could be posted. Don asked if Judy could request a 20-day extension and she stated yes; but she only has 10-days to request the 20-day extension. Ordinarily we have brought the question whether to request the extension. Don suggested the Board authorize their oil and gas liaison to request a 20-day extension. Commissioner Houpt – So moved.

Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

EXECUTIVE SESSION

Commissioner Samson - I move to go into executive session to address the issues. Don stated there might be a conflict of issue. Don needs to provide advice to the Board on the status of the agenda in front of the oil and gas commission on the July 14th and 15th and obtain direction from the Board on participation and potential matters that will be in front of the oil and gas commission. The first is potentially to send communication to the oil and gas commission asking them to complete their agenda for those days so we have an understanding of what is actually going to be heard. Commissioner Houpt said she would like to add the Battlement Mesa's comprehensive drilling plan. Don said that is the question - nothing was listed on their agenda. Don has a concern there is no notice to the public or to the local governments. Commissioner Houpt said she could tell them in a public hearing, the Board was informed that Divide Creek and Rulison would be on the agenda, in fact Rulison is scheduled for the entire second day. Battlement Mesa may not be. Commissioner Samson felt Battlement Mesa needed to be on the agenda and Commissioner Houpt said he needed to talk with Dave Neslin. Don stated if the Rulison and Divide Creek matters are set; what are they set for? Commissioner Houpt said that is a very good question. Rulison is set for a meeting, not a hearing. She does not know what Divide Creek is set for. Don stated that is the problem he has and there is nothing on the agenda to indicate... Judy stated she and Don have spoke to Dave Neslin about this and he called both of us to let us know there was going to be an informal hearing with an opportunity for the public to speak about both Rulison and Divide Creek. It was heard through the grapevine that Battlement Mesa may be on there and of course, separately, she read in the paper that the Governor had asked the COGCC to meet with residents of Battlement Mesa. Commissioner Houpt stated it is a separate meeting; but she thinks Battlement Mesa, regardless of whether it is on the agenda or not will be discussed. Don said the concern he has about this ill-defined process is that we do not have any idea as a County government if we will be able to put on witnesses. Will we be able to simply present one statement for the Board and whether we will be able to cross-examine witnesses, or staff, and maybe most importantly, what is the anticipated outcome. Chairman Martin feels it is an informal meeting and they are taking input to take back and digest it and see what they will do in the future. He does not believe there is a formal hearing process anticipated. Commissioner Samson asked if it should be noticed. Commissioner Houpt said absolutely. Chairman Martin asked what is there to make a decision on. We do not know the process; the State is not posting it in the proper manner for the hearing. We are in limbo. Commissioner Houpt said as an oil and gas commissioner; she agrees there needs to be an agenda out there. Commissioner Samson felt they needed to ask Judy if she is meeting with them; ask them if they would do those things for us. Commissioner Houpt said she guesses the question is; do you want to try to direct what kind of meeting or hearing that takes place? Chairman Martin thinks we have done that with written communication to the Oil and Gas Conservation Commission and to the Department of Energy on those issues. They need to make the decision not this County; we have put in writing what we expect. Commissioner Houpt said she was not talking about factual issues. Do you want a hearing where you can have testimony or an informal meeting? Don stated in the context of Divide Creek; that came to the Board several months ago. The question posed by residents of that area was; would the Board seek to re-open the existing field rule issue in Divide Creek, and seek to re-establish a moratorium in that area? The direction from the Board to Judy and me was to obtain expert advice from Dr. Thyne and others, if needed; to see what his opinion was and the cause for apparent continuing seep of natural gas. Dr. Thyne has been working on that report; until it is completed, we do not have final direction from the Board on whether you want to seek to re-open the hearing; but he is nearing

the completion of that process. In the interim, Don received contact from the Director of the Oil and Gas Commission, Mr. Neslin indicating initially that they were anticipating a public forum process to discuss issues in Divide Creek and wondered whether or not that would cause us to hold off from proceeding with a request to re-open the question of a moratorium. Because he has not received a report from Dr. Thyne, we have not proceeded on the moratorium issue; but in part, he thinks Dr. Thyne altered his schedule of events in anticipation that there would be a public forum conducted. A public forum is a special proceeding under the COGCC rules. He questioned Mr. Neslin as to whether or not that was actually permitted under their rules because it is designed for a different type of issue. He was not sure at that point and since that time, he has had no contact from his office or others in the oil and gas commission staff on how they intended to proceed. Dr. Thyne will complete his report and we anticipate it should be ready for the Board's next meeting. Judy said she saw on the COGCC's website, the deadline for submission of items to go before them on July 14th and 15th was June 29th. Chairman Martin stated we cannot make that determination; we do not have Dr. Thyne's report, how can we open up based upon a request of having a hearing etc. There is no factual basis, no scientific material, and are we just going to go there and talk it over again. Don said that Judy could explain today if we are going into an administrative proceeding or administrative litigation. He would anticipate Judy would describe to you in executive session what a potential witness might say in that hearing. Don anticipates that the Board might want to consider submitting his report if there is an item on the agenda to which it could pertain and there is nothing right now. Judy said that Director Neslin has indicated that they would be treating the topic of Divide Creek on the 14th or 15th. We know that topic is going to be considered. Chairman Martin said not as a scheduled hearing process; the topic is just going to be discussed as it has in the past. We need to put our camp in order; if we have scientific information to move forward then we need to make a formal request beyond the 29th. We can talk about this again; but you cannot make a request to have a hearing without evidence. The cost to us will be great anyway through our expert witnesses. Don asked Judy if she would have Dr. Thyne's report before the deadline and Judy replied yes, she has a draft report now, she knows what will go into the final report. Don asked if the Board wished to consider submitting that report. If you do, we need to have Judy provide you information in executive session concerning Dr. Thyne's position so you can make that decision. Commissioner Martin said he thought they needed time to absorb the information more than just scan it quickly and go from there. Don said if that is the Board's position, then they could not submit this information before the COGCC deadline. It goes to where Don started this discussion; what type of participation do you want from the staff and/or expert witnesses on the 14th and 15th? Commissioner Houpt wanted something very general, because she is not a part of their decision-making. Having the oil and gas commission in Garfield County for this discussion is important to people who live in the area. It might be helpful to listen to Judy's read on what is coming forward and decide how you want to participate in the meeting. Chairman Martin said again, there is no decision coming out of this meeting. The information we have; we will be able to submit at anytime. We need to continue conversation about Divide Creek; but it is based upon the facts we have right now. Commissioner Samson thinks the Board needs to hear what Judy has to say. He asked if it was clarified what they were going to do in executive session. Don stated yes. Judy Jordan will provide the Board with advice concerning potential testimony by an expert witness and after which, when we are out of executive session, the Board could then give direction on the Divide Creek issue as well as perhaps the Rulison issue. The Battlement Mesa issue is somewhat different. At some point, they will need direction to staff, legal, planning and oil and gas staff about what participation you are seeking from those members. Commissioner Samson said he thought the motion was already made to go into an executive session. Don stated that Commissioner Houpt has recused herself from this discussion. Commissioner Houpt – Second. In favor: Martin – aye Samson - aye Houpt - recused. She stated that she would be involved with the Battlement Mesa discussion. Commissioner Samson – I move to come out of executive session. Commissioner Houpt – Second. Motion carried.

Divide Creek Seep

Don explained there are potentially pending 3 items at the COGCC on July 14th and 15th. One in Garfield County pending is the Divide Creek seep. Earlier the Board authorized expert Dr. Jeffrey Thyne's continuation on his final report. Don is seeking direction on how the Board would like to utilize that report with the oil and gas commission. Do you want to make it public and have Dr. Thyne here to answer questions?

Commissioner Samson – I move that we submit the report to the COGCC, make the final report a public document and instruct the appropriate county personnel, Judy Jordan, legal, staff and Dr. Thyne's questions need to be answered at that time. Chairman Martin - Second. In favor: Samson – aye Martin – aye Houpt - recused

Rulison Area

Don stated the Rulison area around the old nuclear blast site; they do not have an additional formal report from County staff, as it is an ongoing analysis. He is looking for direction to try to put something together in writing and does the Board want staff and/or experts. Chairman Martin wanted to reiterate that they submit a letter and have Judy be able to relay; but this does not change the Board's position. Commissioner Samson – Second.

In favor: Samson – aye Martin – aye Houpt - recused

Battlement Mesa

Don stated there is a potential for gas development in the Battlement Mesa in the PUD. He has only heard it may be discussed; it is not on the agenda. Antero intends to proceed and if that topic is discussed during the July 14th and 15th meetings; how do you want to proceed. Chairman Martin said to identify the local issues and expect them to follow-up. Commissioner Houpt thinks Don should be present. She would like to make a motion they send a letter to the Oil and Gas Commission – related to the energy development to the Battlement Mesa PUD. Commissioner Samson - Second. Chairman Martin stated there is no application. Don asked if Commissioner Houpt was looking for a letter in advance of the meeting. Commissioner Houpt stated yes, immediately. Chairman Martin stated they could pull an excerpt from the final resolution that shows that any energy development needs to have a special use permit. Don asked if the motion authorized the Chair to sign the letter and Commissioner Houpt stated yes.

In favor: Houpt – aye Samson – aye Martin – aye

PUBLIC MEETINGS:

HOLY CROSS PRESENTATION – BOB GARDNER

Bob stated this is a goodwill visit. He also invited the Commissioners to attend their meetings on the third Wednesday in Glenwood Springs. Bob passed out a hand out with a list of employee names for our board to contact if needed. Holy Cross is in the first five months of this year and ran through \$1 million dollars. There are people asking for additional energy rebates and it may happen.

RESOLUTION TO APPOINT BOARD MEMBERS FOR STILLWATER METRO DISTRICT NUMBER 1 AND 2 – LEE LEAVENWORTH, AND MIKE SAWYER

Mike explained that Mr. DeFord has been briefed on this matter and they are here today to appoint Mr. McPherson to the boards of both the Stillwater Metro District number 1 and number 2. Both of these boards are represented by Paul Cockrel. Don has had some discussion with Mr. Cockrel about this issue over the last few months. As related to Don, this is necessitated because the existing directors of the Metropolitan District no longer reside within the District; so a new board has to be appointed and the purpose of proceeding with this is so the new board can put the district out of existence. There is no longer a need for the Stillwater Metropolitan District as it was anticipated. They did run into one statutory problem; the district was actually formed within the municipality of Silt. Technically, under the statute, at least the State legislature anticipated that Silt would appoint new board members. Don stated that could not happen because the area has been de-annexed from the Town of Silt. Talking with Mr. Cockrel, he and Don devised the language that is currently in front of you. You will appoint the new board with the caveat that you are doing so only to the extent that you have authority, so there is no claim of a biased act against the board. They did not see any alternatives. It is Don's recommendation that you sign the resolution in its current form, authorize the Chair to do so and proceed. Don doubts they would be challenged and if they are this will be the argument they make to a court. Commissioner Samson –I move we accept their resolution to appoint members of the Board of Directors of Stillwater Metropolitan District Number 1 and 2. Commissioner Houpt – Second.

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

Don asked Mike Sawyer to send an original resolution to Jean Alberico's office.

HUMAN SERVICES COMMISSION HEALTH – HANS LUTGRING

Hans talked about dental/oral health needs in the area. Sandy Swanson stated that dental disease is contagious. Many people in the county are unable to access any dental care whatsoever. Last summer several agencies joined to fight dental disease with the public health approach. Grant moneys allowed them to purchase dental supplies such as toothpaste, toothbrushes, floss, gums, etc. They became a part of the statewide coalition, which covers Aspen to Parachute region and focuses on kids. The State of Colorado came and trained over 50 providers on how to apply dental varnishes and how to educate families about dental disease. They had one meeting with over 50 people from the valley for the Aspen to Parachute dental health initiative. What they are looking for is all the steps they can do as a community to implement dental care for people in need and to move forward with clinics. There have been many surprises along the way. There are populations that everyone thinks has no dental needs. Hans said who they try to take care of is certainly the older population in the area. Part of what Columbine Home Health does all year long is the wellness clinics up and down the valley. They do foot care, at no cost, and they have done some other ideas of expanded services at those wellness clinics. They started last week in Battlement Mesa to discuss with the seniors what their dental health needs are and how are they going to address these things. The first clinic they decided to expand, they thought it was 90% of the people they talked to that day had unresolved dental health needs. Whether that means they did not have insurance, or else the insurance did not cover their needs. They had to prioritize non-health related costs that month, or did not categorize their dental health needs as essential. It was a startling beginning to them trying to do a soft community needs assessment. They are going to have a working document, a template, to ask some good questions of the seniors to specify their needs. They would they be receptive to access, low cost, or no cost dental health at some point. They will report to this Board about what the needs are and what their thoughts are to address it. Sandy said someone always asks what can the County do; we are going to be able to raise money to have dental chairs in the area. She stated they would be able to raise money to help staff those clinics. What they will have a problem with eventually, they will need some space somewhere. This is just the preliminary report and what we are working on. Chairman Martin is hoping they will look at the Vets; they have the same issues the seniors do. Even though they may have coverage, it is not available to them. They may have low cost coverage; but they still do not seek that out because they have to go to specialized folks. He is hoping under the program, they would be able to accept those Vets. Sandy said they are looking at everyone who is looking for dental care. Chairman Martin wants them to take the Vets and seniors first. Commissioner Houpt said she does not know about taking them first. Children have huge needs as well. They have been working on this issue for years. Sandy said three chairs would not do it for the County. Ms. Chlewlinski stated she is excited and new on the commission. She has seen some of the excellent results that have occurred in other schools. RE-2 is a very large school district. She feels it is on the cutting edge. They are looking at this year with a new district nurse.

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENTS FOR MAY, 2009

For the month of May 2009, client and provider disbursements for allocated programs, totaled \$275,030.31. Client benefits for Food Assistance totaled \$398,386.84. Total EFT/EBT disbursements for May totaled \$673,417.15. A copy of the certification summary has been included in the Boards packet and the department is requesting Board approval and signature. Commissioner Houpt – So moved. Commissioner Samson –Second.

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

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS FOR SFY10

The department is requesting the Boards consideration and approval for out-of-home placement contracts exceeding \$10,000.00 for the State Fiscal Year 2009-2010. A list of all out-of-home placement agreements has been included in the Board packet. The department is requesting approval of all contracts/agreements identified on the list. One deleted and a general agreement. Chairman Martin said we need two motions; one to accept the providers, identified by the list. Commissioner Houpt – I make a motion we accept the agreement to purchase out-of-home placements services SS233A with the providers presented. Commissioner Samson – Second.

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

Commissioner Houpt – I make a motion to approve the child specific contract for approval SS23B as presented by the Department of Human Services. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF THE SFY10 CONTRACT AMENDMENT WITH COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR SINGLE ENTRY POINT AGENCY FUNCTIONS

The contract amendment covers the State fiscal year July 1, 2009 through June 30, 2010. The not-to-exceed amount of the contract is \$522,812.02, which reflects a decrease of approximately \$31,000.00 (around 6%) from SFY09. The department is requesting the Boards approval on the contract amendment. Commissioner Houpt – So moved. Commissioner Samson- Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE SFY10 CONTRACT WITH GARFIELD HOUSING AUTHORITY FOR COLORADO WORKS

The department is requesting consideration and approval for a renewed contract with the Garfield County Housing Authority (July 1, 2009 through June 30, 2010) in the not-to-exceed amount of \$150,000.00. The contract is for housing services to TANF eligible participants. Commissioner Houpt – So moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF THE SFY10 CONTRACT WITH COLORADO MOUNTAIN COLLEGE FOR THE LINK PROGRAM

This contract is for services to individuals eligible for the Department’s Colorado Works Program. The LINK Program is a vocational/educational program in order for participants to become self-sufficient. The term of the contract is July 1, 2008 through June 30, 2009. Commissioner Houpt – So Moved. Commissioner Samson – Second. Mary added the not-to-exceed amount is \$50,102.00. Commissioner Houpt stated she would add that to the motion. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE CONTRACT AMENDMENT FOR THE TRAVELER CSBG AWARD

This grant is in an amount of \$44,546.00 and they are asking for a contract amendment signature.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

PROGRAM UPDATES

Lynn stated they received a \$10,600.00 grant award for 10 digital pens through the Colorado Department of Human Services. These are for caseworkers in the field; they can write out their contact information, bring it back, and plug it into the computer. They mitigated for child welfare; she believes the amount was \$382,000.00.

APPROVAL FOR CONTRACT AWARD FOR 2 EACH CRACK SEALERS FOR ROAD AND BRIDGE – MATT ANDERSON

This project was publicized for 4 weeks and 2 bids were received. Matt is recommending the approval to award the contract to Vance Brothers, Inc. for the purchase of 2 crack sealers for road and bridge in an amount not-to-exceed \$92,300.00. **This was removed from the agenda.**

APPROVAL FOR CONTRACT AWARD FOR THE STRIPING OF VARIOUS COUNTY ROADS – MATT ANDERSON

Invitation for bids was publicized and 2 bids were received. Matt is recommending the approval to award the contract to Rocky Mountain Enterprises in an amount not-to-exceed \$83,000.00. Commissioner Samson – So moved. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

DISCUSSION AND APPROVAL TO WAIVE TERMS AND CONDITIONS FOR FAIR BOARD CONTRACT – MATT ANDERSON

This item was previously brought before the Board on June 1, 2009, for approval of its standard Purchase of Services Contract for the above referenced musical acts. More discussions have ensued with the agent for the artists regarding certain terms and conditions of those contracts as well as “industry standard” terms and conditions that the artists will not waive. Matt proceeded to explain the amendments. Matt is recommending that the Board authorize the revisions to the previously awarded contracts. Don thinks the Board has to agree to some of the risks or not.

Commissioner Houpt – I make a motion we approve the revisions to our standard purchase service contract to Joey and Rorey through the William Morris Agency and Jamie O’Neal, through Betty Lee Attractions for their musical acts at the fair for an amount not-to-exceed \$15,000.00 for each contract but to approve the considerations brought forward by staff today. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

APPROVAL FOR CONTRACT FOR DISASTER RECOVERY – CHARLES ZELENKA

Presently the County uses a tape backup system for backing up all data. Best practice for disaster recovery indicates tape backups be replaced with a system that writes the data directly to hard disk drives. Currently the amount of data backed up every night exceeds the time window available. Typically, they have a window from 6:00 p.m. – 7:00 a.m. Other benefits are listed below:

- ✓ Increased reliability of data backup/disaster recovery
- ✓ Reduces the amount of storage capacity required with data de-duplication technology – compresses the data 500:1
- ✓ Automates the backup of data by eliminating the need for daily tape changes
- ✓ Integrates with existing hardware – single vendor accountability

The Garfield county IT department is requesting Board approval for a sole source contract for disaster recovery hardware with vendor EMC. The reasons for sole source contract:

- EMC has a GSA contract. The price we have negotiated with EMC is better than the GSA list price
- EMS is the industry leader for this technology.

The price quote attached is for \$108,728.47 (breakdown included). Charles stated this vendor has GSA pricing; but he has negotiated a price that is better than the GSA pricing. They chose this vendor because they have 8 or 9 patents and are one of the only vendors that will provide this level of disaster recovery. This would bring us into the future being able to back-up our data as well as restore. The price is extended through May 28th and they extended it to today, June 15, 2009. Carolyn asked if this was an entity we have done business with before and Charles stated yes. Carolyn asked if the Board had ruled on this type of contract before. Matt said they had a meeting with them and explained Amendment 54 to the vendor. Carolyn asked, are you asking for signature authority on a contract today. Charles said he would bring it back; but would like approval to secure the contract under sole source. Ed asked if the GSA contract was competed and Matt stated it was competed and there is no one else. Commissioner Samson – I move we approve a sole source contract for disaster recovery hardware with vendor EMC for an amount not-to-exceed \$108,728.47. Commissioner Houpt asked if they could just approve the IT department negotiating with EMC so that we are not actually approving the contract until legal has had an opportunity to review. Chairman Martin stated you could make the motion contingent upon the review and approval of legal department. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin - aye

WEED CONTROL

Ed had a discussion with the Sheriff about budget issues and they have had those with department heads, least of which was Marvin. There were concerns about total headcount and we asked him to try to do weed cutting with existing staff. Because of all the rains and so forth, it is just not possible. They would like to bring Gary Osier back and have a limited temporary employment with him for a not-to-exceed \$10,000.00 to maintain control of the weeds. Don asked if he was actually planning to bring him back on staff and not a contract and Ed stated yes. Chairman Martin stated it would have to be brought back as an agenda item. Commissioner Houpt – I make a motion we authorize staff to go forward in hiring Gary Osier for weed control. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

Don needs to provide the Board with advice on the organization of the Board of Equalization and obtain direction from the Board. He has other executive session items but he wanted to start with two of those involving land use matters; one concerning legal advice on the Sun Mesa Sub-division improvements agreement; the status of LB Rose Ranch; you might want to consider those items before you commence your land use hearing/meetings this afternoon. Later in the afternoon, Don needs to discuss on-going litigation involving the Martin case; Peregrine case, Trujillo case, personnel matter involving interaction between two members of the administrative staff need direction from the Board concerning acquisition of title insurance for a county road and legal advice on the airport.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Changes to Prior Warrant Lists
- d. Authorize the Chairman to Sign the Special Use Permit for an “Industrial Support Facility” Located at 431 CR 246 – Applicant; Williams Production RMT – David Pesnichak
- e. Authorize the Chairman to Sign the Potter Exemption Plat and Right-of-Way Deed Accepting Conveyance of 30’ Right-of-Way from the Centerline of the Roadway Along County Roads 320 and 323 – Applicant; Samuel Bert Potter, Jr. – Kathy Eastley
- f. Authorize the Chairman to Sign the Resolution Concerned with the Approval of a Land Use Change Permit for a Kennel on a Parcel of Land Owned by #10 Enterprises (AKA High Lonesome Ranch) Located 4.6 Miles West of the Intersection of County roads 200 and 204 in the SW ¼ NE ¼ of Section 9, Township 8 South, Range 98 West of the 6th pm, Garfield County – Applicant; #10 Enterprises – Fred Jarman
- g. Authorize the Chairman to Sign a Resolution Approving a Special Use Permit for the Hoover Express Compressor Station and related pipeline in the Resource Lands Zone District, West of Parachute on Hwy 6/24 – Applicant; Williams Production RMT – Dusty Dunbar
- h. Authorize the Chairman to Sign a Resolution Approving a Special Use Permit for a Temporary Produced Water Treatment Facility on Well pad 35-BV in the Resource Lands Zone District, North of DeBeque on CR 211 – Applicant; Chevron USA, Inc. – Dusty Dunbar
- i. Authorize the Chairman to Sign a Resolution Approving a Special Use Permit for the Story Gulch Compressor Station in the Resource Lands Zone District, Plateau Subzone – Applicant; EnCana USA – Dusty Dunbar
- j. Liquor License Renewal for Valley Liquors in Glenwood Springs – Jean Alberico

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - j; carried.

Executive Session

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

PUBLIC MEETINGS

CONSIDER AN EXTENSION OF THE SPECIAL USE PERMIT (RESOLUTION 2008-65) FOR ONE (1) TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED 17 MILES NORTHWEST OF THE TOWN OF PARACHUTE OFF GARDEN GULCH ROAD AND OPERATED BY MARATHON OIL COMPANY – APPLICANT; BERRY PETROLEUM COMPANY – DAVID PESNICHAK

Doug Dennison was present. Planner David Pesnichak submitted the following exhibits: Exhibit A –Garfield County Land Use Resolution of 2008; Exhibit B – Staff Memorandum; Exhibit C – Letter from Curtis Ryland of Marathon Oil Company dated March 31, 2009; Exhibit D –Site Plan for Temporary Employee Housing Facility; Exhibit E – Special Use Permit for Resolution 2008-65 issued July 7, 2008 and Exhibit F –Resolution 2008-65 Chairman Martin entered Exhibits A – F into the record.

On April 7, 2008, Marathon Oil Company received approval for a Special Use Permit (SUP) for one “Temporary Employee Housing” facility on property owned by Berry Petroleum Company located approximately 17 miles northwest of the Town of Parachute (Resolution 2008-65). The Special Use Permit was issued on July 7, 2008. Condition of Approval Number 10 within Resolution 2008-65 states: 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 of the Special Use Permit 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. The purpose of this request is to renew the SUP for one additional year from the upcoming July 7, 2009 expiration date. This would allow the SUP to be in effect for one additional year. If this extension is granted, the next expiration date would be July 7, 2010. Following a site visit to the location on May 27, 2009 and discussions with the applicant, it was found that due to the recent downturn in drilling activity the permitted Temporary Employee Housing Facility has not yet been installed. Staff understands the desire of the applicant is to renew the permit for an additional year in anticipation that drilling activity will increase in the near future, which could necessitate the need for the facility. Further, Marathon has demonstrated a willingness to comply with all relevant regulations and no violations have been observed. Provided the anticipated future need for the SUP as approved under Resolution 2008-65 in combination with the willingness and desire of the Applicant to work with the County, Staff recommends that the BOCC approve the requested annual renewal. Commissioner Samson – I

move to grant a renewal of the special use permit resolution 2008-65 for Berry Petroleum Company which will be renewed until July 7, 2010. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER A REVISED SUBDIVISION IMPROVEMENTS AGREEMENT, COST ESTIMATE, AND EXTENDED LETTER OF CREDIT FOR SUN MEADOWS ESTATES – APPLICANT; FRED COOKE – FRED JARMAN

Tim Thulson, Fred Cook and Karl Hanlon were present. The Board of County Commissioners (the Board) approved a Final Plat for the Sun Meadows Estates Subdivision on March 15, 2004. As part of this Final Plat approval, the Board also signed a Subdivision Improvements Agreement (SIA), which required Sun Meadows Estates, LLC (the Developer) to complete certain real infrastructure by September 26, 2005. More specifically, this original SIA covered the installation of the following infrastructure:

1. Potable and raw water supply and distribution systems;
2. Internal Roads, Antonelli Lane upgrades, drainage features and utility structures
3. Roadway improvements to the intersection of Miller Lane and State Highway 6 & 24; and
4. Internal subdivision reclamation and berm construction

As a requirement of the SIA, the developer submitted a Letter of Credit (LOC) to the County in the amount of approximately \$1.6 million which was to be valid for a period of 6 months beyond the completion date of the improvements. At this point, the Developer began those improvements.

The Replacement SIA

Since then, the Developer has amended the terms and conditions of the SIA because the Developer was unable to complete the construction of the improvements in the timelines required in the SIA due to unforeseen on-ground conditions, unanticipated construction costs increases and regulatory permitting delays. Based on this, the Board agreed to a revised SIA (also known as the “Replacement SIA”) on January 11, 2006. This new SIA revised the required infrastructure to include the following:

1. Potable and raw water supply and distribution systems;
2. Internal Roads, Antonelli Lane upgrades, drainage features and utility structures
3. Roadway improvements to the intersection of Miller Lane and State Highway 6 & 24 and, if required, Ukele Lane and State Highway 6 & 24 shall be approved by CDOT. CDOT would determine which intersection needs the improvements.
4. Internal subdivision reclamation and berm construction;
5. Improvements must occur according to an “Improvements Schedule” (except for improvements at the intersections with the State Highway 6 & 24)

The Board also changed the requirements for the Security for Improvements (LOC) with this new SIA. More specifically, the Developer was required to submit a revised LOC in the amount of \$483,479.00 to cover the remaining infrastructure. In addition, the Developer was required to deposit the deeds to two of the lots as identified on the cover of this memo (Lots 9 & 10 AKA “the Pledged Lots”) into Escrow to the benefit of the County. These lots had an appraised value of approximately \$145,000 each as of January 3, 2006 by Kaupaun & Company. This SIA also required additional security for the intersection improvements at either Miller Lane or Ukele Land and State Highway 6 & 24. It was understood that the true cost of these improvements could only be determined after the Developer obtained CODT permits. (So, the Engineer’s Cost Estimate in the SIA estimated a cost of those CDOT improvements to be approximately \$188,217.00.) In the event the actual cost was higher to make these improvements and that cost exceeded the total value of the Pledged Lots and amount in the LOC, then the Developer was required to tender an additional LOC to cover those costs. Finally, this Replacement SIA also contained a “Restriction on Lot Sales” for Lots 22 – 33 until 1) the improvements were made to the State Highway intersection with Miller lane, or 2) it could be demonstrated that the County has enough security to cover those improvements. As a result, no building permits can be issued until these issues are resolved.

First Amendment to Replacement SIA

Following that, the Developer again fell in to default with the timelines and required improvements required in the SIA. As a result, Staff brought this issue back to the Board on September 17, 2007 (minutes attached). At this point, the Board made the following determinations:

1. The Board directed the County Clerk & Recorder to record an amendment to the SIA (entitled Amendment to Subdivision Improvements Agreement) which was actually originally tendered to the County in February 2007 which covered the remaining improvements in the amount of \$283,288.00;
2. The Board extended the deadline for all improvements to be completed to April 1, 2008 or approval of the Lexie Meadows Subdivision so long as a security is put in place to cover the needed improvements to the intersection of Miller Lane and State Highway 6 & 24. (Note the Lexie Meadows Subdivision received a 1-year extension to file their Final Plat due to the economic down turn.)
3. The Board extended the life of the LOC to be valid for a period of 6 months beyond the life of the SIA (which would bring it to May, 2008);
4. The Board did not agree to a partial release of funds as requested by the Developer

CURRENT PROJECT STATUS

At present, the Developer is again in default of the terms and conditions of the Replacement SIA and the Amended SIA and the LOC has expired. Specifically, the following improvements have not been completed as observed by the County Planning Engineer:

1. Road improvements not completed for lots south of CR 216 (Antonelli lane)
2. It is unclear if the Water System Improvements have been completed for lots south of CR 216 (Antonelli lane); and
3. Improvements to the intersection of Miller Lane & State Highway 6 & 24

COUNTY ACTION

Because the Developer has not completed the infrastructure improvements required in the SIA and the fact that the LOC has now expired, Staff finds the Board has the following options available to them as contained in the SIA:

1. The Board may elect to vacate the Final Plat as it pertains to lots that do not have building permits issued on them;
2. The “Pledge Lots” (Lots 9 and 10) could be released to the County, which the County would be required to sell for the purpose of generating the funds necessary for completing the improvements. (In this case, that includes the improvements to the intersection of State Highway 6 & 24 and Miller Lane.)
3. The Board could re-negotiate a Second Amendment to the Replacement SIA with the Developer to address the completion of the remaining improvements and obtain a new LOC.

STAFF COMMENTS

What we do know is that the LOC has expired so there is no money available to the County. Further, if the County were to sell the Pledged Lots, it is unclear as to how much the market will bear for those lots presently given the current market conditions. Lastly, we do not presently know what it will cost to make all of the improvements, which would still include the intersection of Miller Lane and State Highway 6 & 24. If the Board decides to vacate lots that have not had building permits issued on them, it would seem appropriate to vacate all of the lots south of Antonelli lane (CR 216) but the question remains if the improvements of the intersection of Miller Lane and State Highway 6 & 24 would still be needed to be completed. Staff points this out as an issue to be contemplated by the Board because the purchasers of lots with the subdivision (who have already built or simply purchased lots in Sun Meadows Estates) relied on the notion that that intersection was to be improved. If the Board vacates the other unsold / un-built lots, that notion of an improved intersection still exists. Therefore, Staff suggests the Board require the Developer to provide a new Engineer’s Cost Estimate for both the subdivision improvements and the intersection of Miller Lane and State Highway 6 & 24 so that the Board can assess what still has to occur and what it will cost. The County Planning Engineer visited the site on 3/4/09 and provided the following observations:

- All culverts are okay.
- South of CR 216: The roadway south of CR 216 is constructed but not paved. All utilities have been installed. The ditches are clear. Re-vegetation is adequate although I am sure that most of the vegetation is weeds.
- North of CR 216: Roads are chip sealed.
- I am surprised the site does not have multiple fire hydrants. (There is one hydrant at the corner North Meadow Drive and CR 216.)

ACTION BY BOCC ON 3/16/09

On May 4, 2009, the BOCC instructed the Applicant to return to the BOCC with a revised SIA, updated Engineer’s cost estimate, and renewed letter of credit. As of June 10, 2009, no documents have been tendered to the County.

Tim stated he does not know if they have a solution yet. Fred Cook said they have a letter to submit to the board from Alpine Bank stating they have renewed their loan. They are prepared on certain conditions that they qualify for a renewal of the letter of credit. Initially Alpine issued a letter of credit in the amount of \$283,000.00 which was not sufficient. Fred said they have deposited another \$100,000.00 bringing the total up to \$383,000.00 and believe it is well within the parameters it would cost to do those improvements. Fred would like to submit a letter to the Commissioners. They have asked Xcel energy to move the power poles on the north side over to the south side. This would alleviate a number of the obstacles to do those improvements. Xcel agreed they would do this for substantially less. High County Engineering has written a letter to CDOT explaining what they are asking for and asking for CDOT’s approval of the new plan. Once they get approval, they can move forward with the acquisition of the construction easements. In addition, they need to acquire two slivers of right-of-way along the intersection of Hwy 6 & 24 and Miller Lane. They are proposing to CDOT that they would acquire the additional right-of-way from the property owners and dedicate that to the County. They are asking this be to the County and then allowing the County to give it to CDOT. If we give to the County as a first step, it would probably allow us to do the work this year versus having to wait for CDOT’s acceptance of that right-of-way, which could take 9 to 12 months. Commissioner Houpt asked if they had an engineers estimate. Fred Cook said they originally had an engineer’s estimate of \$400,000.00. Based on these new improvements, the guardrail was well in excess of \$100,000.00 and to move the power poles is only \$41,000.00 with Xcel. We would save approximately \$100,000.00 if we were allowed to do the construction under our new plan, which would bring our total down well under \$300,000.00. Chairman Martin asked Fred, in the budget did he also plug in the property acquisition and; he said they did not. Commissioner Houpt asked what the status of the revised SIA was and the engineers cost estimate. Fred said they just received a letter from Xcel on June 9 and have not had the opportunity yet to revise the plans before they went to the cost of having High County re-draw plans. They wanted to get CODT to approve their proposed changes.

Commissioner Houpt asked if he had any sense on how long CDOT would take. Fred stated 30-60 days and they have proposed a meeting with them, which they have not heard back yet. Commissioner Houpt asked Fred if he was in contact with one person he could call and find out where....and Fred stated yes. She asked Fred how long he thought it would be before they would be able to get the requests in place. Fred explained they had to have CDOT’s approval of their new construction plan and that would probably take 30 to 60 days. At that time, they can get a bid in a very short period. The amount of work needing done is minimal because they have 90% of the plans and need to make some small changes to the specifications on the improvements on the north side of the road.

Commissioner Houpt asked Fred if they had a time set for them getting back with information. Deb Quinn said it was today. Commissioner Houpt said this whole process might be more helpful if you were in close contact with the staff on the progress. This is coming before us again because they have not received anything and she still does not have a good sense of when we will receive these requested items. Deb stated Mr. Cook’s attorney has been in contact with staff and in our most recent discussions last week, because we have had a number of promises to have things done by certain dates, which have not happened. Deb indicated to Mr. Thulson that she would recommend that this Board issue a formal notice of default in connection with two items in particular; one is the failure to complete improvements in accordance with the subdivision agreement, and the second is the failure to maintain the security in form of a letter of credit. Those two items are clearly in default according to us; but under our new code, we need to give them formal notice. They then have a period of 30-days within which they can request a hearing to determine those defaults exist. If they make that written request, within that 30-day time, we then have 45-days to schedule a hearing. There is some interpretation on whether schedule means actually hold it or just schedule it. Deb

thinks it is dependent upon our agendas and our timing; but she feels there needs to be a hearing scheduled within 45-days after receiving the letter. Deb requests we start the process because it will give a definitive time within which we can finalize these items. Deb explained that she spoke to Mr. Thulson last week about an amended subdivision improvement agreement and he is starting to work on it. Commissioner Houpt stated the reason she was asking about time lines is because, some of their time lines are out of control. Deb stated they have not been in control on some of those time lines since day one. As she explained to Mr. Thulson in the initial letter of credit, we accounted for that by saying once you get these estimates, if it is more than you have to up your letter of credit. Deb said we could still do an amended SIA and have a letter of credit in place without having everything done. It would be ideal to have it all done; but we have worked with this particular subdivision from day one. Commissioner Samson asked what if the two landowners on the intersection do not sell their property. Fred explained they would have to go through the condemnation procedure because they cannot put in those improvements to CDOT's standards without acquiring the additional right-of-way. Commissioner Samson asked how long does that process usually takes.

Chairman Martin said a year, two years. He knows there is a section on County Road 306 we are talking 8 ½ years to try to get it done. We still do not own the property. Commissioner Samson asked if he was in contact with the two property owners and he said one, yes. Commissioner Houpt stated, our staff is asking us to approve sending out a notice of default. Deb stated correct; authorize the Chair to sign a letter notifying the subdivision owner.

Chairman Martin explained to Fred that the time line really limits him on extensions; he needs to get this accomplished. Fred said they understood and felt they needed certain conditions and timeframes with milestones being met with CDOT, which is probably their biggest issue right now. We will be back in front of the Board if we have problems with the right-of-way. Chairman Martin said and then it goes back to scheduling after 45-days. Otherwise, we will have no other option but to go ahead and pull the final plat. Commissioner Houpt – I make a motion we authorize our staff to send a notice of default and schedule forfeiture financial guarantee to Sun Meadows Estate LLC. Deb stated it is actually to authorize the Chair to sign. Commissioner Samson – Second.

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

CONSIDER ACTION REGARDING THE LETTER OF CREDIT FOR PHASE I OR IRONBRIDGE PUD – FRED JARMAN AND DEB QUINN

Tim Thulson was present. Deb Quinn explained that as the Board is aware they have requested and the Board has agreed to send a notice of default to LB Rose Ranch LLC in connection with their failure to complete subdivision improvements for Phase I of the Ironbridge PUD. Their subdivision improvement agreement required all of those improvements to be done by 2004. The letter of credit has been extended since that time; but the subdivision improvement agreement itself and the deadline completion have not. There is an existing letter of credit with somewhere in the neighborhood of \$125,000.00 remaining on it. That letter of credit expires on June 30, 2009. We are before the Board today to give the applicant an opportunity to tell the Board what is happening and for the Board to take some action or direction to staff with respect to the letter of credit. Tim stated this was a quick history pertaining to the sidewalks that were originally proposed and secured under the SIA for Phase I in Ironbridge. They have gone out there and determined it was not feasible to put the sidewalks in there given the drainage problems, the soil conditions and they did not put that in. This goes back to the days of Mark Bean. David Joseph from LB Rose Ranch LLC came down and met with Mark. David explained the problem and Mark's initial reaction was; this is something that would be great for our administrative permit procedures under the new unified code. Just a matter of bad timing they kept extending the letter of credit; because they were waiting for the unified land use resolution to be adopted, the administrative procedures to be adopted, and it was adopted January 1, 2009; but we are in bankruptcy. Everything is thrown into the air. He wanted to note, in lieu of the sidewalks, because of the internal, under the PUD, you have to have internal travel ways within the subdivision. What they did, in lieu of those sidewalks, they put in a pedestrian path. That pedestrian path is connected to a similar pedestrian path they put in Phase II and that was the quid pro-quo to satisfy the internal travel ways with the pedestrian paths rather than the sidewalks, which really are not feasible to be built. We will come back with an administrative amendment under the new code to get rid of the sidewalks. That is the only item left under that SIA; there is some sod for \$500.00 and everything has been re-vegetated. They have been authorized to process the administrative permit with staff. Tim stated he could not find any evidence this was tied into the PUD; however, we agreed with staff they would process a PUD amendment simultaneously with plat amendment to cover both basis. They have had a pre-application conference on this with staff, we felt it would be best to see what the BOCC thought of our proposal before we stepped ahead. Deb Quinn said it was her understanding that the path that was constructed, and is in place, has been there since their initial improvements were first done. People who purchased did see that and did not see a sidewalk; but the path itself is located on HOA property not property of LB Rose Ranch; is that correct and Tim stated, yes. Commissioner Houpt directed her to statement to Mr. Thulson; what you are really wanting to do is replace the sidewalk for the path that you have already built and you can do that now through the administrative phase. Mr. Thulson answered correct. Karl Hanlon feels it is a fair representation from the HOA's standpoint, getting the plat cleaned up would be helpful. There are a couple of other provisions that he believes of the first SIA, and they relate to the conveyance of certain properties and water rights to the HOA. Tim and Karl, a little over a year ago, finalized an agreement for the transfer of all of that stuff. Bankruptcy- however this is a perfect opportunity to get things done. Karl is here to request we in fact get that done as part of this process. The BOCC has a certain amount of influence over the process that we do not. Karl is requesting actually three things that need to be executed; a quitclaim deed on certain improvements related to the water system there. The agreement that Mr. Thulson and Karl negotiated outlines all of the things; a form of bill of sales it does not have a form of deed to the water rights so that is all accounted for in the agreement. Commissioner Houpt asked if this was part of our conditions or a separate agreement you made. Karl stated they were part of the Board's conditions and the agreement was an outflow of those conditions. Karl's concern from the HOA's standpoint is; the longer this goes on the harder it is for them to accomplish those things. Karl stated he does not know what the Board's position is on calling the letter of credit or not; he knows that it is expiring relatively soon. From their standpoint, if the Board is inclined to make any call on the letter of credit, it feels like it should be relatively diminished in that the plat amendment Mr. Thulson is talking about is relatively inexpensive; but there may need to be a certain amount of engineering review and perhaps water rights counsel would be \$15,000.00. Our position is not to derail everything with LB Rose Ranch; but to get this accomplished. Chairman Martin said he didn't think it jeopardized anything; just let it expire. He felt they could work out their agreements otherwise. Karl stated that is not entirely true. Mr. Thulson and Karl were expecting the

agreement to be signed, the agreements to be signed; the bankruptcy interferes with that process and it is your document that controls your SIA to make this happen. We are asking for the BOCC's assistance in making this happen. Tim thinks HOA's concerns are valid because even if it was executed, it is still an executor contract and a trustee could jump in and say nix on.... He does not think they will because it makes sense and they want to keep the asset in a sale. Right now, they seem to be trying to wrap this up. Commissioner Houpt asked Deb Quinn, if this would be fine to do or does she need to look into this. Deb said she is aware of the provisions. This particular version of the subdivision improvement agreement was from 1999. We have increased the depth of the Board's control since then; but this one does not tie these improvements, these particular provisions on the sewer system, domestic water system, and irrigation system. It does not tie that into the actual security that we have. In our current versions we say before final release of a letter of credit, or other security; we need proof that all these things are done. This has deadlines; you have to convey this by September of 2000 and the deadlines have not been met. They would be in breach of the subdivision improvement agreement. That does not automatically give us the ability to withhold the security for additional improvements that have not been made. Commissioner Houpt stated it does allow us to do that. Deb said if we wanted to do anything with respect to this particular subdivision improvement agreement we would have to go to bankruptcy court and relief from stay in order to pursue anything. Deb wanted to advise the Board that this overall PUD had three phases; the third phase has not even come in for final plat yet. It is her understanding that because of the golf course improvements, the clubhouse, the pool etc. rely upon, or in the initial proformas relied upon dues from Phase III that there is a Phase III that will be coming forward and there may be a way to require that these items now breached sub-division improvement agreement be brought up to date before final improvement on that one. Karl said he thought all they were looking for is the BOCC's clarification that you would like to see your SIA abided by. Whether you call, it is a breach or default; these obligations have not been completed to the extent that you have any other authority under the SIA whether it is to withhold money or to call the letter of credit or not. Deb said a suggestion she has to preserve our position is that we do a supplementary notice of default that specifies the failure to abide by paragraphs 4, 5 and 6 of the subdivision improvement agreement. Giving them the opportunity to come and contest the defaults, and if they do not then we automatically proceed. From that point however, we see fit, but that would preserve our position. Tim said that would actually help them too. Commissioner Houpt – So moved. Commissioner Samson – Second. Deb just wanted to clarify that the Chair is authorized to sign a notice of default relating to the failure to comply with paragraphs 4, 5 and 6 of the initial letter of credit.

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

Deb would like further direction from the Board on the letter of credit; she is hearing that the Board is choosing to let that expire. Commissioner Houpt asked if that changed this. Chairman Martin said no. Deb said she has not seen a connection between these three provisions. In our new subdivision improvements, there is a connection; but in this version from 1999, it requires them to do these things, but the security does not secure that performance. It is specific by item-by-item line-by-line dollar improvements. Karl said the only thing he would notice is the letter of credit form is the more general form you use currently and not the more restricted form they used in 1999. In fact, your letter of credit says any breach of the SIA. Commissioner Houpt asked if that changed anything; making it general. Deb stated Karl is correct about what the letter of credit provides. Karl stated he though the Board had the authority to call the letter of credit on its terms. Deb stated there is still a breach of the SIA; duly noticed. If you choose to call the letter of credit, you are on solid grounds to do that for the existing breach. The one that has already been noticed. Commissioner Houpt stated oh, the one on the path. She does not want to call them on breach of the sidewalk when they have built a path. Chairman Martin stated if you do that, then you can address in a different hearing and then they accept it formally. Commissioner Houpt asked, what is our option here? Deb said she needed direction today because the letter of credit expires on June 30, 2009. They have been notified of the existence of default. The letter of credit is to advise them that there is default under the subdivision improvement agreement. If you want to call the letter of credit, she will need for the BOCC to authorize the Chair to sign whatever documentation may be necessary in order to call that letter of credit. Commissioner Houpt stated if we call the letter of credit, it would help with these other issues but... Karl said he is not sure if they are advocating necessarily calling the letter of credit. He stated they are just trying to apply as much leverage and as much attention as we can. Commissioner Houpt stated that unfortunately the language does not help very much. Karl said the language is very general in your letter of credit, and that is why he opened this to say if you were inclined, they certainly would not advocate for the full amount. It would be enough to accomplish paragraphs 4, 5 and 6. Most of the work has been done; they are just trying to get their water rights. Commissioner Houpt asked Tim if the work could be done without the money from the letter of credit. Tim explained he is doing it on good faith that he will be paid by the trustee. He thinks it will be done; it is a great big bureaucracy right now. He did note that their attorneys charged \$45 million the first quarter of the bankruptcy. He does not think there is any question they will do this because they need to do it to make it marketable. Deb would prefer to allow the letter of credit to expire. Let her look at provisions in 4, 5 and 6 and what our opportunities are in connection with that default after this letter goes out. I will come back to you in executive session on the first meeting in July for advice on how to proceed through bankruptcy. Her experience so far has been that if you squeak, someone will listen even though it is a massive bankruptcy; it will make a difference if we file a motion to try to pursue our remedies under this breached subdivision improvement. Chairman Martin agreed. Tim said the other thing he would add; they also have a disbursement agreement security SIA under Phase II. Any dedication of water rights is required under that. He would hate to ruffle the water with Key Bank; the letter of credit issuing bank, on this small matter. When we have Phase II and he thinks they still have about \$450,000.00. Karl said that was his next question to clarify the water rights transfers contemplated in 4, 5 and 6 under the original SIA that cancel for you as comfortable that those requirements have been rolled forward and to Phase II. There is \$450,000.00 sitting out there for security. Deb said she has not looked at Phase II SIA recently, hopefully it has similar provisions and hopefully those provisions are tighter than the ones in this 1999 SIA. Chairman Martin asked what action should be taken. Commissioner Houpt - I make a motion to allow the letter of credit to expire. Deb has already indicated that she will follow-up on the other letter of default. Deb stated on remedies for the default. Commissioner Samson said he thinks it is the best option. Second. Chairman Martin agreed it is the best option and none of them is good. Commissioner Houpt said she does not think it is the best option; but she thinks their hands are tied because of language. In favor: Houpt – aye Samson – aye Martin – aye

PUBLIC HEARINGS:

CONSIDER PROPOSED AMENDMENTS TO THE TEXT OF THE GARFIELD COUNTY UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED – FRED JARMAN

Chairman Martin asked Fred how he accomplished notification. Fred explained it was published in the Glenwood Springs Post Independent on May 14, 2009 and in the Rifle Citizen Telegram 30 days prior to hearing the today. Deb Quinn 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 –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. Planner Fred Jarman explained: On Wednesday, May 6, 2009, the Planning Commission voted unanimously to forward the following proposed amendments to the Board of County Commissioners. Staff reviewed these amendments against the actual audio CD of the meeting and verified they are accurate. Staff will circulate a Resolution to the acting Chairman at that meeting, Jock Jacober and had Secretary Fullerton sign the Resolution.

Discussion:

Fred explained the documents in front of the Commissioners and there are a number of changes. He explained there are two main documents; one, the cover document is the actual resolution that is now recorded which solidifies or memorializes their action for recommendation of approval of these changes to the Board. That happened on Wednesday, May 6, 2009. It also shows you who were there, what the vote was and it was a unanimous vote. The next document, which is labeled Exhibit A, is also recorded along with the resolution. That is the memorandum that went from our office to the Planning Commission. It walked through each of these individual amendments. Fred explained how the Planning Commission went through these documents. The larger issue as you went through creating the major land use review process was to automatically have those land use applications to the Planning Commission rather than the way it is set up in the old code. We as staff would get an application in, come to the BOCC, and ask if you would like to refer to the Planning Commission. Through the new land use regulations you said no, we want to make it automatic; if it is a major land use review; you go to the Planning Commission. Section 30; you will see strike-out language and all this does is send it always to the Planning Commission. This is just a cleanup to what you as Commissioners envisioned. Planning Commission will never see a limited impact review; it automatically comes to the Board. Chairman Martin said there were so many changes and they are not seeing the overall pictures. He said with today’s work agenda, getting this on Friday and trying to look at some 60 changes and then look at the comprehensive plan or the rules and regulations. Trying to cross-reference to see what the overall effect is he does not feel he could do it justice. He thinks they can talk about a few things; but he feels they should continue this and not allow a final decision to go forward today. Chairman Martin said he is trying to be fair to the system. Chairman Martin would like to review and continue the public hearing. Commissioner Houpt said she feels they should continue. Commissioner Houpt asked Fred if the first meeting in July worked for this. Fred stated he would be happy to continue this to whenever they would like. Chairman Martin would like to set aside a whole afternoon to be able to go through this. A lot of conversation needs to be done. They need to see what the overall effect is going to be. It needs our full attention. Fred said he would be happy to set aside a new date outside of the regular BOCC schedule. Doug Dennison said he would be here whenever you hear this. He has some issues he is watching. Eric McCafferty appreciates the Board taking time looking at all these changes. People ask him, not on a daily basis, but sometimes on a weekly basis, what can I do with this? Eric said he opens up the code and he cannot figure it out. Many changes need to be made. Eric feels what the Board has before them are dozens of amendments that have to be made before it can really be used by anyone. He thinks it is causing somewhat of a chilling effect on people going forward with their land use ideas. The economy has a lot to do with that also; but when people cannot understand what it says, or do not want to – well I will not get into that. His problem is trying to follow this process; because this is going to be an ongoing process, and there is going to be an enormous amount of information generated from the Planning Department. I specifically would like to see that, review it, and be a part. He would like to somehow be included in the loop to receive this information and not have to constantly have to say, “Hey, where’s the newest amendment, the newest language”. In addition, as the amendments are made, adopted by board, how is that going to be adopted into the Code? It seems to him if you take many different meetings to adopt a lot of different language; the Code is going to be continuously changing and if he has to advise someone on something; he has to know that he has the most updated codes. Commissioner Houpt directed her statement to Fred; she assumed it would be on-line. And, will there be a way to distinguish the new language; a different color of ink? Fred said they could do it a number of ways. They did that through the original adoption of this Code; you could go on line and it showed the date it was updated. It tracks in a public venue and anyone is free to call our office to verify if it was the latest and greatest. Deb stated in connection with notifying people perhaps on a cover page posted on the web and any cover page we distribute, we should say amended through whatever date it is. The most recent amendment, so people have a ready reference. Chairman Martin stated he didn’t know if this would cause procedure problems either; instead of continuing in a meeting, actually end the meeting without a change, or without any action other than to deny it, and then setting up the work sessions as we did. Taking the recommendations of the P&Z, taking staff, and then this Board with items from P&Z and public input line-by-line and approving that, then coming up with the final version, then submit to public hearing. Deb said she thinks because P&Z has already acted on this and it has been noticed today, and these first round items, as Mr. McCafferty indicated and Mr. Jarman; it needs to be done quickly. It probably would be better to move forward on these, continue this public hearing until we actually adopt them. They do need to be done quickly to make this Code more user-friendly. Commissioner Houpt explained for clarification purposes, this is not another rewrite of the Code; you are cleaning up places in the Code that have disconnects and it will make it more user friendly. Chairman Martin thinks they need to continue this until a date certain. Make sure we notify everyone, by either publication, the web, word of mouth, posting, etc. Commissioner Houpt and Commissioner Sampson opted for a June 30 continuance of this meeting. Chairman Martin stated he will make sure that it is noticed, both public on June 30 as a continuation of this public hearing in reference to the changes of the Unified Land Code. Put it on the website and make sure it is a continuation in the BOCC room. Commissioner Houpt - I make a motion to continue this public hearing until 1:00 p.m. on June 30, 2009.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

EXECUTIVE SESSION

Don needs to provide the Board with legal advice concerning contracts for independent referees; final terms on the purchase and sale agreement; review of correspondence; discuss a personnel matter involving the County Administration Office; litigation on the Martin case, Commissioner Martin will need to recuse himself; Peregrine case, Trujillo case; legal advice on Board of Equalization procedure, he does think they need to have a public discussion on that; and Ms. Dahlgren will provide legal advice and obtain advice concerning development of the airport and an update on DHS litigation. Commissioner Houpt – I make a motion to go into executive session to discuss the items mentioned by our attorney. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of Executive Session; motion carried. Carolyn stated earlier today Judy Jordan was directed to obtain the underlying title information if possible from Antero and bring back to the Board on July 6 – do you want us to agenda the airport. Commissioner Houpt–So moved. Commissioner Samson–Second.

In favor: Houpt – aye Samson – aye Martin – aye Don had discussion with Ed, Lisa and Matt, they are striving to do amendments on the Procurement Code, and it must be acceptable to department heads and elected officials.

**CONSIDERATION/APPROVAL OF CONTRACT FOR SERVICES FOR HEARING REFEREES –
LISA ROBERTS**

The scope of services includes conducting hearings, making findings, and submitting written recommendations to the Garfield County Board of Equalization. The Contractor shall be compensated at the rate of One Hundred Dollars (\$100.00) an hour plus mileage at the rate of fifty-five cents (\$0.55) a mile. The time of performance is to commence on July 1, 2009 and end on August 31, 2009. The total amount to be expended under this contract shall not exceed eighteen thousand dollars (\$18,000.00).

**CONSIDERATION/APPROVAL OF CONTRACT FOR SERVICES FOR HEARING REFEREES –
JAMES BLAIR**

Same as above.

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

**CONSIDERATION/APPROVAL OF CONTRACT FOR SERVICES FOR HEARING REFEREES –
MICHAEL IRELAND**

Same as above.

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

**CONSIDERATION/APPROVAL OF CONTRACT FOR SERVICES FOR HEARING REFEREES –
GERALD FAIRBANKS**

Same as above.

Commissioner Houpt – So moved on all. Commissioner Samson - Second

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

**CONTINUE TO JUNE 22, 2009 AT 9:00 A.M. IN THE BOCC BOARDROOM AT 108 8TH STREET,
GLENWOOD SPRINGS TO DISCUSS THE GARFIELD COUNTY PROCUREMENT MANUAL**

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**JUNE 30, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting of the Board of County Commissioners began at 1:00 P.M. on Tuesday, June 30, 2009 with Chairman John Martin and Commissioners Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

**CONTINUED PUBLIC HEARING ON AMENDMENTS TO THE UNIFIED LAND USE REGULATIONS
OF 2008**

Fred A. Jarman, AICP - Director, Building & Planning Department submitted a memorandum to the Board of County Commissioners stating that on Wednesday, May 6, 2009, the Planning Commission voted unanimously to forward the following proposed amendments to the Board of County Commissioners. Staff reviewed these amendments against the actual audio CD of the meeting and verified they are accurate. Staff will circulate a Resolution to the acting Chairman at that meeting, Jock Jacober and have Secretary Fullerton sign the Resolution.

I. New or Amended Uses in Article III and Article XVI

1. Planning Commission recommends including “Professional Office” in the RL – GSLVF zone district in Table 3-502 as it is Limited Use in the Plateau.
2. Planning Commission recommends deleting “Guest House” from the Use Tables and Definitions in the new code altogether.

Planning Commission recommended including “Dwelling - single unit” into the commercial zone districts.

3. Planning Commission recommended that “Storage of Materials in a Building” in the RL - Gentle Slopes (as listed in Table 3-502) be included as a Limited Review in the Plateau and Gentle Slopes zone districts. .
4. Planning Commission recommended that “Ski Lifts & Trails” not be included in Table 3 – 501 as a use in the Rural and Public lands zone districts;
5. Planning Commission recommended to amend the definition of “Development Process” in the following manner:

~~For the purposes of applying Section 5.23, a development permit shall constitute an approval from the Board of County Commissioners for a rezoning, preliminary plan, planned unit development, or limited or major impact review. Further, demonstration of an adequate water supply shall be required~~

~~to occur in each of these processes in the event multiple land use requests are made. (See Article VII, Section 7-104)~~

The process that Garfield County requires all property owners to follow in order to obtain land use change permits. These processes are more fully described in Articles IV and V of this Resolution.

6. Planning Commission recommended that the symbols in Tables 3-501 and 3-502 that have strike-throughs should be deleted.

II. Old Code vs. New Code Issues:

1. Planning Commission recommended to include the following language be added to a new section in Article II:

Section 2-107 Amendments to Approvals of Land Use Permits granted under Regulations adopted prior to October 13, 2008

Amendments may be made to Conditional Use Permits and Special Use Permits approved by the Board of County Commissioners under the Zoning Resolution of 1978, as amended (the old code). An amendment request shall be required to demonstrate that the amendment does not result in a Substantial Change as defined in Article XVI. Should the Director determine that the requested change results in a Substantial Change, the Applicant shall submit a new Land Use Change permit application under the Unified Land Use Resolution of 2008, as amended.

2. Planning Commission recommended that the following section be amended as follows as it deals with Vested Rights:

Section 1-202 Establishment of Vested Property Rights.

A. General. Pursuant to this Land Use Code, a vested property right ~~shall~~ may be ~~deemed~~ established for a period of three (3) years with the approval of a Site

Specific Development Plan as defined in Section 1-202B of this Article. When a

Site Specific Development Plan is approved ~~with a Land Use Change Permit~~, the ~~vested right permit~~ shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the Site Specific Development Plan. If the term of approval for the Site Specific Development Plan is approved for more than three (3) years pursuant to these Regulations, the term of vested property rights ~~is~~ may be extended to conform with the extended approval term pursuant to a Development Agreement as provided in Section 1-202(C).

B. Site Specific Development Plan. For the purposes of this Section, Site Specific Development Plan shall only mean:

1. A Final Plat for Subdivision, Rural Land Development Exemption Plat, Subdivision Exemption Plat, ~~or the filing of a Final PUD Plan~~ after the signing and recording of the first Final Plat required pursuant to the PUD approval or in the case of the PUD subject to no further subdivision requirements, physical installation of all required improvements consistent with the approved PUD plan.

C. Development Agreements. The Board of County Commissioners may enter into a development agreement with the landowner for a vesting period longer than three years ~~for the extension of vested property rights~~ where, in the discretion of the Board, an extension is warranted due to all relevant circumstances including but not limited to project size, phasing of the development, ~~The Board may also consider an extension of vested property rights for~~ economic cycles and/or market conditions.

D. Approval and Effective Date. A ~~Site Specific Development Plan~~ vested property right shall be deemed approved upon the effective date of the Board of County Commissioners' approval action, following notice and public hearing conducted in accordance with ~~these Regulations~~ CRS 24-68-101, et. seq. The Board's approval of a Site Specific Development Plan may include such terms and conditions as may be reasonably necessary to protect the public health, safety and general welfare. ~~The approval shall result in a vested property right, although~~ Failure to abide by such terms and conditions will result in forfeiture of the vested property right.

Staff suggests, to be consistent with state law, the following should be added:

Notice of Approval. Each site-specific development plan shall contain the following language: "Approval of this plan shall create a vested property right pursuant to article 68 of title 24, C.R.S., as amended." Failure to include the foregoing statement in a request for approval shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation within the County.

III. General Amendments

1. Planning Commission recommended that all "Certificates" for different types of Plats in Article V, be placed in the Workbook and not be codified into the Code.
2. Planning Commission recommended adding the recently approved "Gravel Regulations" (AKA Section 5.17 in the Old Code) to the new code in the Standards Article as they were inadvertently left out. These are attached (as codified in the old code as exhibit A).
3. Planning Commission recommended that Section 4-301 [Appeal of an Administrative Interpretation of These Regulations] be amended such that Section 4-302(B)(1) [Application] refers to Section 4-501(B). Further, that section on page 4-48 be amended in the following way:

B. Appeal of an Administrative Interpretation of These Regulations. The process for Appeal of an Administrative Interpretation of These Regulations is set forth in Section ~~4-402~~ 4-302, Appeal of an Administrative Interpretation of Regulations and requires the following materials.

1. Application Form and Fees

2. Statement of Appeal (~~4-602-G~~ 4-502(G))

4. Planning Commission recommended that Section 4-302(B)(4) be amended in the following way:

4. Evaluation by Director/Staff Review. Upon determination of completeness, the Director shall review the application for compliance with the approval standards set forth in Section ~~4-402 (C)~~ 4-302 (C), Review Criteria for Appeal of an Administrative Interpretation of These Regulations. A staff report shall be prepared pursuant to Section 4-103 E.

5. Planning Commission recommended that all the outlines of all the Articles need to be corrected so they match actual page numbers in the new code;
6. Planning Commission recommended to move the “Use Restrictions” from Article III (p. 3-14) into Article VII: “Standards”;
7. Planning Commission recommended that Section 7-108 refers directly to the “Roadway Standards” found in Section 7-307(A)(2) on page 7-48 and eliminate Section 7-108(A) such that Section 7-108 shall read as follows:

Section 7-108 Access and Roadways. All roads shall be designed to standards set forth in Section 7-302 and all roads shall be reviewed by the County Engineer.

- ~~8. Need to adjust Article VII: Standards: Specifically, Page 7-11 and 7-12 “Road Standards” need to use the road standards not just for internal subdivision roads. Staff suggests using them for all Land Use Change Permits. In doing so, we suggest repealing the old 1978 “road standards” as well.~~
9. Planning Commission recommended that regarding “Variances” on page 4-34: 5. Evaluation by Director/Staff Review. Upon determination of completeness, the Director shall review the application for compliance with the approval standards set forth in (add in the reference to Section 4-301 C), Standards for Approval of Variance Requests. A staff report shall be prepared pursuant to Section 4-103 (E).
10. Planning Commission recommended that Floodplain permits should be sought through the administrative process with only a call-up provision to the BOCC. (Presently, it is required to go to BOCC for approval in Section 4-203)
11. The Planning Commission recommended to add the following definition:
FLOOR AREA RATIO means the floor area of the building or buildings on a lot divided by the total lot area.
12. Planning Commission recommended deleting Sections 9 - 105(C) as it was a duplicate with Section 9 – 105 (B).
13. Planning Commission recommended to add in Open Space percentages from Old Code in Section 4.01.01 to better define what the 25% can be as it relates to any “required” open space. Specifically, the following was recommended:
Common Open Space: A parcel or parcels of land, or a combination of land and water within the site designated for a Planned Unit Development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the Planned Unit Development. Categories of open space are defined as follows:
(1) Useable open space: Any land retained in an open manner having average slope of 25% or less across the entire parcel, or is an existing or proposed agricultural area;
(2) Recreational open space: Any open space land to be developed into an area or areas for organized or unorganized recreational activities, examples would include, but are not limited to: soccer/football playing fields, parks, baseball/softball diamonds, or similar uses;
(3) Commercial open space: Any open space land that would be developed into an area or areas of land, for which a fee would be charged for use. Examples would include, but not limited to: golf courses, water ski lakes, horse riding facilities, or similar uses;
(4) Limited use open space: Any land to be retained as open space that has an average slope greater than 25%.
14. The Planning Commission recommended amended Section 1-108(C) to say: “Days are computed as calendar days unless otherwise specified in this Code. When working days are specified, it means calendar days excluding weekends and County legal holidays.”
15. Planning Commission recommended amending Section 3-306(A)(4) to reflect that RV’s can be used in RV parks for listed purposes for more than 180 days per year.
16. Planning Commission recommended amending Section 7-307(A)(7) to add a Length Limit for Dead-End Streets. Specifically, Section 7-307(A)(7) would result in Section 7-307(A)(7)(b) and (c) as follows:

- b. *Dead-end Streets may be permitted provided they are not more than six hundred feet (600') in length and have a turnaround radius of not less than forty-five feet (45') from the center of the cul-de-sac to radius edge and fifty foot (50') right-of-way for residential development and not less than seventy-five foot (75') right-of-way for commercial/industrial development where tractor trailer trucks will enter the property or by providing a T-shaped turnaround with a minimum turning radius of fifty feet (50') for residential development and seventy-five feet (75') for commercial/industrial development where tractor trailer trucks will enter the property. The Board may approve longer cul-de-sacs for topographical reasons and it can be proved that fire protection and emergency egress and access is provided as a part of the longer design; and*
- c. *Dead end streets shall be discouraged, except in cases where the dead end is meant to be temporary with the intent to extend or connect the right-of-way in the future. If a dead end street is approved, room for plowed snow storage shall be included by providing a T-shaped turnaround with a minimum turning radius of fifty feet (50') for residential development and seventy-five feet (75') for commercial/industrial development where tractor-trailer trucks will enter the property. A dead end street being different from a cul-de-sac in that a dead end street has no permanent turnaround at the end of the street.*

17. The Planning Commission recommended eliminating all references to a “Final PUD” in Article XI. That section would be amended as follows:

DIVISION 2 PLANNED UNIT DEVELOPMENT REVIEW PROCESS

Section 6-201 Outline of Procedure. The PUD Review Process shall consist of the following procedures.

A. Pre-Application Conference

B. Rezoning Request

C. Subdivision Review Process (if land division is proposed within PUD)

D. Preliminary PUD Plan Review

E. Final PUD Plan Review

~~Section 6-202 Review Procedures.~~

A. Pre-application Conference. A Pre-Application Conference shall be held in accordance with the provisions of Section 4-103 A, Pre-Application Conference of Article IV.

1. Concept Narrative. The applicant shall present a Concept Narrative of the proposed PUD in sufficient detail to accurately convey the general concept of the proposal. Detail shall include:

~~(1) a. Concept Description.~~ Location of property; existing zoning, use and density; proposed zoning, use, densities and lot sizes; existing zoning and use of surrounding property, including densities; existing and proposed access; existing and proposed source of water; existing and proposed wastewater treatment system; phasing if entire project is not being done at one time; unique features on the site which might enhance the site and proposed use; a discussion of the anticipated impacts and proposed mitigation.

~~(2) b. Additional Information Required.~~ At the request of the Director, the applicant shall provide any reasonable additional conceptual information as needed to help clarify the proposal being made.

B. Rezoning. The process for Rezoning is set forth in Section 4-201, of Article IV, Application and Review Procedures.

C. Subdivision Review (if division of land is proposed within PUD). The process for subdivision review is set forth in Section 5-406 of Article V, Divisions of Land. Where a Preliminary Plan application is included with a PUD application, the subdivision regulations requirements will supersede the PUD requirements where the same information or more detailed information is required as part of a subdivision application.

D. Preliminary PUD Plan Review. The following procedures shall apply to the Preliminary PUD Plan Review. ~~The Director may allow combined review of the Preliminary PUD Plan and the Final PUD Plan.~~

1. Application. The application materials required for Preliminary PUD Plan Review are set forth in ~~Section 6-202 D,~~ Section 6 – 301.

2. Determination of Completeness. The Director shall review the application for determination of completeness in accordance with the provisions of Section 4-103(C), ~~Determination of Completeness of Article IV, Application and Review Procedures.~~

3. Schedule Public Hearing. Upon a determination of completeness, the Director shall schedule the Preliminary PUD Plan for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within sixty (60) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant to Section 4-103(F), ~~Notice of Public Hearing of Article IV, Application and Review Procedures.~~

4. Evaluation by Director/Staff Review. Upon determination of completeness, the Director shall review the application for compliance with the applicable standards set forth in Section 6-203, PUD Approval Standards, and prepare a staff report pursuant to Section 4-103(E) of Article IV.

a. Review by Referral Agencies. The Director's evaluation of the application shall include comment by referral agencies received under Section 4-103(D), ~~Review by Referral Agency of Article IV, Application and Review Procedures.~~

5. Review and Recommendation by the Planning Commission. An application for Preliminary a PUD Plan shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Section 4-103(G), ~~Conduct of Public Hearing of Article IV, Application and Review Procedures.~~

a. Recommendation by Planning Commission. The Planning Commission shall recommend approval, approval with conditions or denial of the application based upon compliance with the standards set forth in Section 6-203, ~~PUD Approval Standards.~~

(1) Recommendation of Approval. If the application satisfies all of the applicable standards, the Planning Commission shall recommend that the application be approved. The Planning Commission may recommend approval with conditions determined necessary for compliance with applicable standards.

(2) Recommendation of Denial. If the application fails to satisfy all of the applicable standards, the Planning Commission shall recommend that the application be denied.

6. Schedule Public Hearing. The Director shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103(F), ~~Notice of Public Hearing of Article IV, Application and Review Procedures.~~

7. Review and Action by the Board of County Commissioners. The final decision to approve, approve with conditions or deny an application for Preliminary a PUD Plan shall be made by the Board of County Commissioners at a public hearing.

a. Decision by Board. ~~Following a public hearing conducted pursuant to Section 4-103-G, Conduct of Public Hearing, the~~ The Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the standards set forth in Section 6-203 as well as any other applicable requirements of this Resolution. ~~PUD Approval Standards.~~

(1) Approval of Application. If the application satisfies all of the applicable standards, the application shall be approved. The Board may approve the application with conditions determined necessary for compliance with applicable standards.

(2) Denial of Application. If the application fails to satisfy any one of the applicable standards, the application shall be denied.

E. Final PUD Plan Review. ~~The following review procedures shall apply to Final PUD Plan Review.~~

1. Application. ~~The application materials required for PUD Final Plan Review are set forth in Section 6-202 E.~~

- ~~2. **Determination of Completeness.** The Director shall review the application for determination of completeness in accordance with the provisions of Section 4 103 C, Determination of Completeness of Article IV, Application and Review Procedures.~~
- ~~3. **Schedule Public Hearing.** Upon a determination of completeness, the Director shall schedule the Final PUD Plan for consideration by the Board of County Commissioners.~~
 - ~~a. Public hearing by the Board of County Commissioners shall be held within forty five (45) calendar days of the date of determination of completeness.~~
 - ~~b. Public notice of the hearing shall be made pursuant to Section 4 103 F, Notice of Public Hearing of Article IV, Application and Review Procedures.~~
- ~~4. **Evaluation by Director/Staff Review.** Upon determination of completeness, the Director shall review the application for compliance with the applicable standards set forth in Section 6-203, PUD Approval Standards, and prepare a staff report pursuant to Section 4 103 E of Article IV.~~
- ~~5. **Review and Action by the Board of County Commissioners.** The final decision to approve, approve with conditions or deny an application for Final PUD Plan shall be made by the Board of County Commissioners at a public hearing.~~
 - ~~a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4 103 G, Conduct of Public Hearing, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the standards set forth in Section 6-203, PUD Approval Standards.~~
 - ~~(1) **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved. The Board may approve the application with conditions determined necessary for compliance with applicable standards~~
 - ~~(2) **Denial of Application.** If the application fails to satisfy any one of the applicable standards, the application shall be denied.~~
- 8. Revisions to Zoning District Maps.** Approval of a PUD ~~Final~~ Plan shall be recorded on the Official Zoning Maps filed in the Planning Department as soon as practicable after the PUD becomes effective.
- 9. Expiration of Approval.** Unless otherwise stated in action by the Board of County Commissioners, the Board's decision to approve or conditionally approve the PUD plan shall be effective for a period of one year. The applicant may request an extension of one year.
- 10. Extension of Approval.** A request for extension of approval shall be considered by the Board of County Commissioners at a regularly scheduled public meeting.
 - a.** The request for extension shall include the following information.
 - (1)** The reasons for the applicant's inability to comply with the specified deadlines.
 - (2)** Changes in the character of the neighborhood or changes in the Land Use Code or Comprehensive Plan, which have occurred since approval of the preliminary plan, and the effect of such changes on the proposed development.
 - b.** The Board may grant an extension based upon the following criteria. **(1)** The applicant has applied for an extension prior to the date of expiration of approval.
 - (2)** There has been no change or proposed change in the Code, the Comprehensive Plan, or the surrounding neighborhood, which would substantially affect the proposed development.

E. Recordation.

- 1. Completion of Conditions of Approval.** The applicant must complete all conditions of ~~Final~~ the PUD Plan approval prior to recording the ~~Final~~ PUD Plan and associated documents.
 - 2. Approval of PUD Development Guide.** The ~~Final~~ PUD Plan may not be filed for recording until the Board has approved a PUD Development Guide.
 - 3. Effective upon Recording.** The ~~Final~~ PUD Plan does not become effective until it is properly filed for recording with the County Clerk and Recorder.
 - 4. Public Sale of Lots.** A PUD becomes complete and eligible for public sale of lots and development only after the ~~Final~~ PUD Plan and associated documents are recorded.
18. Planning Commission recommended amended Section 8 – 102 to say “Areas 1 through 5...” rather than “Areas through 5”;
 19. Planning Commission recommended to amend the last three lines of #5 in the definitions on page 16-14 to read as follows:
 5. Dwelling, single-unit detached means a single-unit dwelling at least 20 ft. wide and 20 ft. long, and meets the local building code requirements for wind speed of 80 mph and/or 15 lb. wind load; anchoring requirements in accordance with in accordance with installation standards based on the minimum basic wind speeds in miles per hour specified in the International Residential Code; and meets or exceeds the snow load requirements adopted by Garfield County, ~~which is not attached to any other dwelling or building by any means, excluding manufactured housing not meeting these standards.~~
 20. Planning Commission recommended adding the “Road Vacation” action and process to Article IV as a distinct process within the New Code which is attached as Exhibit B to this Memorandum;
 21. Planning Commission recommended amending Section 4 – 103(F)) Notice provisions for Text Amendments in the following manner:

F. Notice of Public Hearing. Certain land use change applications will require a public hearing. Unless otherwise provided by these Regulations, when a public hearing is required the following public notice shall be required.

1. Notice by Publication. At least thirty (30) and not more than sixty (60) calendar days prior to the date of a scheduled public hearing before the Planning Commission, and at least thirty (30) and not more than sixty (60) calendar days prior to the date of a scheduled public hearing before the Board of County Commissioners, the applicant shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located. Publication of said notice shall follow a form prescribed by the County.

2. **Notice to Adjacent Property Owners.** Except for text amendments to the provisions of this Resolution and existing Planned Unit Developments, at least thirty (30) and not more than sixty (60) calendar days prior to the date of a scheduled public hearing, the applicant shall send by certified mail or by a nationally recognized overnight courier, return receipt requested, a written notice of the public hearing to the owners of record, as shown in the office of the County Clerk and Recorder or Assessor at least 30 days prior to sending notice, of all adjacent property within a 200' radius. Within the same time period written notice shall be provided to owners of mineral in interests in the property (other than construction materials as defined in Section 34—32.5-10 CRS, as amended) in accordance with Section 24-65.5-101, et seq., CRS, as amended.
3. **Posting of Notice.** Except for text amendments to the provisions of this Resolution and existing Planned Unit Developments, at least thirty (30) and not more than sixty (60) calendar days prior to the date of a scheduled public hearing the applicant shall post a notice of the public hearing on the property. Such notice shall consist of at least one sign facing each adjacent road right-of-way, and located so as to be fully visible from the road right-of-way generally used by the public. Such signs shall be provided to the applicant by the Planning Department.
22. Planning Commission recommended amending Article 7: Standards: Section 7-212(B) on page 7-28 to say that the reclaimed land should be re-contoured to blend in with existing “topography: and not “slopes.”
- B. Reclamation of Disturbed Areas.** Areas disturbed during development shall be restored as natural-appearing landforms that blend in with adjacent undisturbed ~~slopes~~ topography.
23. Planning Commission recommended to delete brackets in Section 7-212(A)(2) on page 7-27;
24. Planning Commission recommended to delete the word “slushiness” in 7-212(B)(4) on page 7-28;
25. Planning Commission recommended that Section 7-104 on page 7-1 should refer to Section 7-105 for adequate water supply;
26. Planning Commission recommended eliminating the initial “Outlines” in all Articles. For example:
Section 4-104 Administrative Review Process. Applications for land use change and divisions of land subject to Administrative Review shall be reviewed by the Director as follows.
A. Outline of Process. The Administrative Review process shall consist of the following procedures:
 1. Pre Application Conference
 2. Application
 3. Determination of Completeness
 4. Evaluation by the Director
 5. Decision by Director
27. Planning Commission recommended eliminating redundancy for water quality from 7-104(A)(3) and (B)(2) on page 7-2;
28. Planning Commission recommended amending the references in “C” on page 7-4 from 7-104 to 7-105. Same is true for “7” on page 7-5;
29. Planning Commission recommended adding in the following Supplementary Regulations from old Code into either Article III: Zoning or Article VII: Standards:
Yards: The following requirements shall be observed in all zone districts:
(1) Through Lots: on lots extending from one (1) street to another paralleling street, both streets shall be considered as front streets for purposes of calculating front yard setbacks;
(2) Corner Lots: on lots bordered on two (2) contiguous sides by streets, the required front yard setback shall be observed along both streets;
(3) Two-family Dwellings: for purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot;
(4) Row House: for purposes of setback calculations, only those row houses which do not share a common wall with an adjacent row house need observe the required side yard setback for the district, provided that building code requirements for this type of structure are observed;
(5) Partially Developed Frontages: on a vacant lot bordered on two (2) sides by previously constructed buildings which do not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be established as the averaged front yard setback of the two (2) adjacent buildings; where a vacant lot is bordered on only one (1) side by a previously constructed building which does not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be established as the averaged front yard setback of the adjacent building and the minimum front yard setback for the district;
(6) Projections: every part of a required yard shall be unobstructed from ground level to the sky except for projections of architectural features as follows: cornices, sills and ornamental features - twelve (12) inches; roof eaves - eighteen (18) inches; uncovered porches, slabs and patios, walks, steps, fences, hedges and walls - no restriction; fire escapes and individual balconies not used as passageways may project eighteen (18) inches into any required side yard or four (4) feet into any required front or rear yard;
(7) Accessory Building in Required Rear Yard: an accessory building may be located in a required rear yard provided that not more than forty percent (40%) of the rear yard area is covered. Such building shall observe a seven and one-half (7 1/2) foot setback from the rear lot line when there is not an adjacent alley. An adjacent alley shall observe a ten (10) foot setback from lot line;
(8) Accessory Structure in Required Yards: (Except as provided in the following Section (9), “Accessory Structures – Agricultural Property”, which applies to the Rural, RL (Gentle Slopes / Valley Floor), and DWC zone districts), a fence, hedge or wall may be located in any required yard provided that no such installation shall exceed eight (8) feet in height in a required side yard or rear yard, nor shall any such structure exceed three (3) feet in height in any required front yard.
(9) Accessory Structures – Agricultural Property: a fence, hedge, or wall may be located in any required yard of the Rural, RL (Gentle Slopes / Valley Floor), and DWC zone districts provided that no such

installation shall exceed eight (8) feet in height and shall meet sight triangulation standards. A taller fence may be approved by the Board of County Commissioners by obtaining a Limited Impact Review Permit if shown to demonstrate that said structures comply with the following standards. For purposes of implementing this provision, the term "Agricultural Land" as set forth within C.R.S. § 39-1-102(1.6)(a)(IV).

(1) Said Accessory Structure(s) is required to maintain the agricultural use contemplated or existing within the property;

(2) Said Accessory Structure(s) does not in any manner adversely impact the operation of any adjacent public right-of-way or roads;

(3) Said Accessory Structure(s) does not adversely impact the natural lighting or visual corridor of adjacent properties; and

(4) Said Accessory Structure(s) shall not obstruct critical traffic areas along roadways.

(10) Building Height Exceptions: Parapet walls may exceed building height limitations by four (4) feet; stacks, vents, cooling towers, elevator cupolas, towers and similar non-inhabitable building appurtenances shall be exempt from height limitations of this Resolution.

(11) Communication Facility: Communication facilities may exceed the building height limitations provided they are approved by Limited or Major Impact Review Permit.

30. Planning Commission recommended amending deleting Section 4-106(B)(5)(b) for requiring Major Impact Review to be referred to the Planning Commission:

~~— b. Prior to submitting the application to the Planning Commission for a hearing, the Director will present the application to the Board of County Commissioners for a determination as to whether or not to refer the application to the Planning Commission for review. The Board's determination as to whether or not to refer the application will be based upon the following criteria:~~

~~—— (1) Impact on the surrounding neighborhood.~~

~~—— (2) Impact on the County road system.~~

~~—— (3) Environmental impacts.~~

31. Planning Commission recommended amending the "Administrative Process" described in Article IV, Section 4-104 as is too cumbersome. The revised process is as follows:

Section 4-104 Administrative Review Process. Applications for land use change and divisions of land subject to Administrative Review shall be reviewed by the Director as follows.

A. Outline of Process. ~~The Administrative Review process shall consist of the following procedures:~~

~~1. Pre Application Conference~~

~~2. Application~~

~~3. Determination of Completeness~~

~~4. Evaluation by the Director~~

~~5. Decision by Director~~

B. Review Process.

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103(A). ~~Pre-Application Conference.~~ This requirement may be waived by the Director.

2. **Application.** The application materials required for a land use change subject to Administrative Review are set forth in Section 4-601(A).

3. **Determination of Completeness.** The Director shall review the application for determination of completeness in accordance with the provisions of Section 4-103(C). ~~Determination of Completeness.~~ Once deemed technically complete, the Director will send a letter to the Applicant that indicates the number of copies to be delivered to the County, the date upon which the Director will render a decision, and the notice that the Applicant is required to mail to the adjacent property owners within 200 feet.

4. **Notice to Adjacent Property Owners.** At least 15 calendar days prior to the date of the Director's decision, the applicant shall mail the written notice by certified mail, return receipt requested, to the owners of record of all property adjacent to the property within a 200' radius and the mineral owners of record in the office of the County Clerk and Recorder. The notice shall include a vicinity map, the property's legal description, a short narrative describing the current zoning and proposed land use change, the contact information and the date that the Director has to make a decision.

[Note: Need to change the time line in Section 4-103(C) for TC to be 10 working days for all Administrative Review Permits.]

4. **Evaluation by Director/Staff Review.** Upon determination of completeness, the Director shall review the application for compliance with the applicable requirements. A staff report shall be prepared pursuant to Section 4-103(E).

~~a. Review by Referral Agencies.~~ The Director's evaluation of the application may include comment by referral agencies received under Section 4-103(D). ~~Review by Referral Agency.~~

~~b. Notice to Adjacent Property Owners.~~ The applicant shall mail a written notice by certified mail, return receipt requested, to the owners of record of all property adjacent to the property within a 200' radius and the mineral owners of record in the office of the County Clerk and Recorder. The notice shall include a vicinity map, the property's legal description, a short narrative describing the current zoning and proposed land use change, and the contact information and the date that the Director has to make a decision and notice of the 10 day period after the Director's decision to appeal the decision and the deadline for comments to be submitted. The comment period for adjacent property owners shall be within twenty one (21) calendar days from the date of receipt of the notice established by return receipt.

5. Director Decision. Within thirty (30) working days of the date of determination of completeness, ~~or close of the comment period if the application is referred for comment,~~ the Director ~~may~~ shall approve, approve with conditions or deny the land use change application subject to Administrative Review. The Director's decision shall be based upon compliance of the proposed use with the applicable approval standards set forth in Divisions 1 and 2 of Article VII, Standards.

~~a. Approval of Application. If the application satisfies all of the applicable standards, the application shall be approved. The application may be approved with conditions determined necessary for compliance with applicable standards.~~

~~b. Denial of Application. If the application fails to satisfy all of the applicable standards, the application shall be denied.~~

6. Written Notice of Decision. The Director shall inform the applicant, ~~and noticed property owners, and the Board of County Commissioners~~ of the approval, conditions of approval or basis for denial in writing within five (5) working days of the date of decision. ~~Notice of the Director's decision shall also be provided to the Board of County Commissioners.~~

7. Director's Call-Up. In the event that public notice results in written comments in opposition to the proposed Administrative Review Permit, and said opposition is based on relevant development standards in this Resolution, the Director shall place the Administrative Review Permit on the earliest available scheduled meeting agenda of the Board of County Commissioners to determine if a public hearing would be required.

C. Reconsideration of Director's Decision or Call-up by Board of County Commissioners.

1. Request by Applicant or Adjacent Property Owner for Reconsideration of Decision. The applicant or adjacent property owner affected by the decision may request reconsideration of the Director's decision by the Board of County Commissioners. The requesting party may file a written request within ten (10) calendar days of the date of written notice of the decision by the Director. The Board of County Commissioners shall review the request at the next regular meeting of the Board and set a public hearing by a majority vote of the Board in favor of said hearing.

a. Schedule Public Hearing. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of approval of the request for reconsideration.

b. Notice by Publication. At least thirty (30) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the requesting party shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

c. Notice to Adjacent Property Owners. At least thirty (30) calendar days prior to the date of the scheduled public hearing, the requesting party shall send by certified mail, return receipt requested, a written notice of the public hearing to the owners of record of all adjacent property within a 200' radius and mineral rights owners of the subject property as recorded in the records of the office of the Clerk and Recorder. The notice shall include a the property's legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

d. Decision by Board. The Board shall conduct a hearing pursuant to the provisions of Section 4-103(G), ~~Conduct of Public Hearing.~~ The Board may uphold the Director's decision, modify the decision or reverse the decision, based upon compliance of the proposed land use change with the applicable approval standards set forth in Divisions 1 and 2 of Article VII, Standards.

2. Call-up by Board. ~~Within fourteen (14) ten (10) calendar days of the date of written notice of the decision by the Director,~~ the Board may, at its discretion, decide to review the Director's decision at the next regularly scheduled meeting of the Board ~~for which proper notice of hearing can be accomplished~~ and set a public hearing by a majority vote of the Board in favor of said hearing.

a. Notice by Publication. At least thirty (30) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Director shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

b. Notice to Adjacent Property Owners. At least thirty (30) calendar days prior to the date of the scheduled public hearing, the Director shall send by certified mail, return receipt requested, a written notice of the public hearing to the owners of record of all adjacent property within a 200' radius. The notice shall include a vicinity map, the property's legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

c. Decision by Board. The Board shall conduct a hearing pursuant to the provisions of Section 4-103(G), Conduct of Public Hearing. The Board shall uphold the Director's decision, modify the decision or reverse the decision, based upon compliance of the proposed land use change with the applicable approval standards set forth in Divisions 1 and 2 of Article VII, Standards.

32. The Planning Commission recommended, to be consistent with the proposed revised Administrative Process, amending the Administrative Process notice requirements as follows:

A. Administrative Review. The Administrative Review Process is set forth in Section 4-104, Administrative Review Process and requires the following materials.

1. Application Form and Fees
2. Vicinity Map (4-602(C)(2))
3. Site Plan (4-602(C)(3))

4. Names and mailing addresses for owners of record of all adjacent property within a 200' radius and mineral rights owners of the subject property as recorded in the records of the office of the Clerk and Recorder.

5. Application shall address applicable standards contained in Article VII of this Unified Land Use resolution of 2008, as amended.

33. Planning Commission recommended amending Section 9-104 "Development Plan Submission" to indicate three copies need to be submitted rather than eight copies. (The thinking is that once the application is deemed complete, then copies should be requested for referral.)
34. Planning Commission recommended amending the last sentence reference in Section 7-104 to refer to Section 7-105.
35. Planning Commission recommended that to ensure the intention was followed regarding lots vs. units, the following changes to Section 8-102:

Section 8-102 Applicability. *These requirements for affordable housing shall apply to all land use change applications in Garfield County, such that 15% of the lots proposed in the development shall be developed with affordable housing units. This regulation shall apply to developments proposing five (5) or more lots in Garfield County. In computing this requirement, any fraction of a unit lot above .50 will be rounded up and any fraction of a unit lot less than .50 will be rounded down. [Provided however this Article shall not apply to non-expired Preliminary Plans approved by the BOCC under the Zoning Regulations of 1978, as amended and Subdivision Regulations of 1984, as amended.]*

IV. General References & Typographical Errors

The Planning Commission recommended to make all of the following changes as they are intended to correct a variety of incorrect references and typographical errors.

1. 12-103(B): Change Section 12-106 to Section 12-107;
2. 5-306(A)(2): Next to last line should read "more than four";
3. Numerous corrections needed in the Main Table of Contents and the Table of Contents in each Article section related to page numbering;
4. Article XI Table of Contents under Section 11-401 A need to add Inspection and "Authority For" Order to repair;
5. Article VII Table of Contents under Section 7-106 add the word "central" between Adequate & Water;
6. Article VIII Table of Contents under Section 8-401 B add the word "or" between Income & Earnings;
7. Article IV Table of Contents under Section 4-503 need to remove the word "additional" between Description of & Submittal;
8. Article III Table of Contents Section 3-309 "Day Care Center". May want to consider adding "Family Child Care Center" because that is the way it is labeled in the Land Use Code;
9. Article III Table of Contents under Division 4, Section for "View Protection Overlay" & "Airport/Heliport Influence Area Overlay" both of the Sections are numbered incorrectly. "View Protection Overlay should be 3-404" and "Airport/Heliport Influence Area Overlay should be 3-405";
10. Under the Main Table of Contents at the beginning of the code the following corrections are needed related to wording:
 - i. Under Division 3 Section 3-309 Day Care Center—maybe add comment to see Family Child Care Center. That is how the code describes.
 - ii. Division 4 correct Section numbering for "View Protection Overlay to read 3-404" and for "Airport/Heliport Influence Area Overlay to read 3-405".
 - iii. Article IV Section 4-102 add "Referral Agencies" after Consultants.
 - iv. Division 5 Section 4-502 remove the word "additional" after "Description of".
 - v. Division 6 add "Section 4-604, Minor Temporary Housing Facility Review Flowchart".
 - vi. Article VII Section 7-106 add the word "Central" between Adequate & Water.
 - vii. Article XII need to correct the spelling of "Enforcement".
 - viii. Article XIV need to change the title of that Section to read "Areas and Activities of State Interest". (That is how it is titled in the code)
11. On page 4-15 in Section 4-105(B)(2): Change "Section 4-601 E" to "4-501 E";
12. On page 4-17 in Section 4-106 B 2: Need to correct within that Section the reference number to read "4-502 F" instead of 4-601F;
13. On page 4-19 in Section 4-107 B 2: Need to correct within that Section the reference number to read "4-501H" instead of 4-601H;
14. On page 4-32 in Section 4-203 B 2: Need to correct within that Section the reference number to read "4-501 C" instead of 4-601C;
15. On page 4-47 under Division 5, Section 4-501: Need to correct within that Section the reference number to read "4-502" instead of 4-602;
16. On Page 4-48, Section 4-501(A)(2): Change "Section 4-602" to "Section 4-502";
17. On page 4-48, Section 4-501(A)(3): Change "Section 4-602" to "Section 4-502";
18. On page 4-48, Section 4-501(B)(2): Change "Section 4-602" to "Section 4-502";
19. On page 4-48, Section 4-501(C)(2): Change "Section 4-602" to "Section 4-502".
20. On page 4-48, Section 4-501(E)(2), (E)(3), (E)(4) and (E)(5): Change "Section 4-602" to "Section 4-502";
21. On page 4-49 Under Section 4-501(F), (G), & (I): Need to correct all of the references to Section from 4-602 (whatever section) to all read 4-502 (With applicable sections). Also under F (8) section should be 4-502(I) instead of 4-602(J);
22. All referenced sections for vicinity map, site plan, erosion & sediment control plan, landscape plan, impact analysis, land suitability, improvements agreement, etc. need to correct referenced section numbers throughout the code;
23. On Page 4-53 through 4-55 need to correct number of sections and subsections. Should read 4-501 K 5 E, F, G, H, I, J & K;
24. Under Section 4-501(K)(5)(G): Need to correct Section number to 4-502(C)(3) and correct Zoning Resolution to say "Unified Land Use Code of 2008";
25. On page 4-64, Section 4-502(E)(9): Change reference to Section 4-502(J);

26. On page 4-65 under Section 4-502(I) numbers 12-15 need to add period after the numbers;
27. On page 4-71 Section 4-503(A): Need to correct referenced Section to read “4-502(C)(3)” instead of 4-602(C)(3);
28. On page 4-74. Under what is labeled as Section 4-505 should be labeled as Section 4-504 instead;
29. On page 5-28 under Section 5-501(A) items 1-4. Need to correct under item 2 the Section number from 4-602(C)2 to the correct Section number 4-502(C)(2);
30. On page 5-29 under Section 5-501(B) item 2 need to correct referenced section to read “4-502(C)(2)” instead of 4-602(C)(2);
31. On page 5-29 under Section 5-501(C) need to correct referenced section to read “5-405” instead of 5-406;
32. On page 5-29 under Section 5-501(D) need to correct referenced Section to read “5-404” instead of 5-405.
33. On page 5-29 Section 5-501(D) item 2, item 6, item 7, item 8(F) and item 9—need to correct all of those section numbers—referenced incorrectly. Item 2 should be 4-502(C). Item 6 should be 4-502(E). Item 7 should be 4-502(D). Item 8(E) should be 4-502(C)(4). Item 9 should be 4-502(I);
34. On page 5-30 section 5-501(E) item 2 should be referenced as 4-502(C)(2);
35. On page 5-30 Section 5-501(E) item 4(G) should be referenced as 4-502(C)(4);
36. On page 5-30 Section 5-501(E) item 5 should be referenced as 4-502(C)(5);
37. On page 5-30 Section 5-501(E) item 8 should be referenced as 4-502(I);
38. On page 5-31 Section 5-501(G) item 2 should be referenced as 4-502(C)(2);
39. On page 5-31 Section 5-501(G) item 6 should be referenced as 4-502(C)(5);
40. On page 5-31 Section 5-501(G) item 7 should be referenced as 4-502(E);
41. On page 5-31 Section 5-501(G) item 8 should be referenced as 4-502(D);
42. On page 5-31 Section 5-501(G) item 11 (e) should be referenced as 4-502(4);
43. On page 5-31 Section 5-501(I) item 2 should be referenced as 4-502(C)(2);
44. On page 5-32 Section 5-501(J) item 2 should be referenced as 4-502(C)(2);
45. On page 5-32 Section 5-501(J) item 5 should be referenced as 4-502(D);
46. On page 5-32 Section 5-502 A item referenced should be 4-502(A);
47. On page 5-32 Section 5-502(B) item referenced should be 4-502(B);
48. On page 5-32 Section 5-502(C) item 1 referenced Section should be 4-502(C);
49. On page 5-50 Section 5-502(D) referenced section should be 4-502(E);
50. On page 5-51 Section 5-502(E) referenced Section should be 4-502(D);
51. On page 5-51 Section 5-502(F) referenced Section should be 4-502(D);
52. On page 5-52 Section 5-502(H) referenced Section should be 4-502(H);
53. On page 5-52 Section 5-502(I) referenced Sections should be 5-402 and 5-404(B)(7)(B);
54. On page 6-18 Section 6-301(C) item 11 referenced Section should be 4-502(E);
55. On page 6-18 under Section 6-301(C) item 12 referenced Section should be 4-502(D);
56. On page 8-5 Section 8-302(B) listed as items 4 & 5 should be numbered as items 3 & 4. (Numbering problem);
57. On page 8-20 listed in code as Section 8-406 Grievance Procedures should be listed as Section 8-405
58. On page 8-22 listed in code as Section 8-407 Periodic Review of Affordable Housing Guidelines should be listed as Section 8-406;
59. Cross references from subdivision and land use permits to “submittal Requirements” needs to be changed to 4-502 rather than 4-602;
60. Section 9-105(B) and (C) are duplicative.
61. Section 1-303(B)(2) should refer the reader to Section 4-302 rather than 4-402 for the process for Appeals to Administrative decisions. Further, Section 4-302(B)(1) should refer the reader to Section 4-501(B) rather than 4-601(B) for the required Application materials. Finally, Section 4-501(B)(2) should refer the reader to Section 4-502(G) rather than 4-602(G);
62. Need to specifically set out a process for a “corrected” Final Plat in Article V;
63. 1-106(A) change “adhered” to “met” or “satisfied”;
64. 6-203, page 6-9 type in reverence to Divisions, 3 is listed twice.
65. 12-107(B)(2) “land owner” and “land owners” should be “landowner” and “landowner’s”;
66. Page 4-50: delete the “K” at the top of the page for Housing Facilities.
67. Minor Corrections, Article VIII
 - i. Date of Resolution is Sept 26, 2007 – should be 1/1/2009?
 - ii. Page 8-1, purpose, point 1 – should reference study areas 1 through 5
 - iii. Section 8-102, page 8-2 – applicability could be clearer. What if land use change application is for development of rental housing? My understanding is that this Article only applies to development of ownership housing.
 - iv. Pages 8-3 and 8-9 – Do you want to leave references to “AAHE”?
 - v. Page 8-6 – Deed Restriction paragraph runs to the next page and should not be broken into two points.
68. Page 70126, Section 7-821(D)(1): The last word should be right-of-way, not “row”.
69. Standards for Manufactured Homes: It appears that an incorrect cite was made in 7-909 Outdoor Storage. This section refers back to the requirements of section 7-820 however that section is standards for solid waste. The correct reference should be to Section 7-821 which is applicable to storage standards.
70. Page 12-3, Section 12-103(B) (3rd to last line) needs to refer to Section 12-107 and not 12-106.
71. All Tables of Contents and flow charts will need to be adjusted to correctly correspond with the revised changes to page numbers and sections.
72. The Planning Commission recommend deleting the requirement for obtaining a grading permit as currently required in Section 5.17.04(5) of the Gravel Regulations.
73. The Planning Commission recommended Sections 4-202 (B)(3)(b) and 4-202 (B)(6)(a) have “by the Director” removed from those sections. The Applicant will always do the notice unless it is initiated by the County in which case, the County will do the notice.

Discussion

Chairman Martin inquired why the Board did not have the Planning Meeting Minutes. There is a Resolution and he was concerned that this had been approved without the Board's consent. Three meetings – discussion of the Commission and there was a quorum. Chairman Martin – Mr. Fullerton was not present but he did attest to the signature. Commissioner Samson – On John's question, did anyone that did not present have reservations. Fred submitted the staff report walking the Board through the changes. There is some logic. Of the major changes, the most important ones are meant to allow the Land Use Code to work better. For those attempting to use this new code, it makes it easier. A number of professionals recommended we amend the administrative process. If you exhaust the 100-days, applicants become frustrated and there are too many bureaucratic problems. We are suggesting cutting this to 60-days without sacrificing: 1) does an aggrieved party or neighbors get it in front of you. They did not touch this. We were actually noticing two times and as a practical matter – this is the biggest change. There are a number of citizens, who want to push this through. Another key highlight is Affordable Housing, which includes a 15% across the Board. This caught some of the existing live preliminary planning applicant stage in that trigger that were at 10% but now they are faced with creating 15% so we provided an exception to that. You have an applicant that has gone through and been approved, is it now a paper work process, and now you have to go back and put 15% Affordable Housing in your plan. Commissioner Houpt – The ones existing and going through the process, what the old requirement was 10% in Study Area 1. Fred - They are caught in a 5% increase. This change will not penalize them to the extra 5%. A large section of this memo has references at the end. Eric McCafferty came to us saying these references were not working. A lot of this memo includes the changes in the sections and some correcting of formatting issue. Also of note, as of a meeting held yesterday with Williams Production, they are closely watching this and navigating their way; on page one I – 1. Fred suggesting to add the gentle slopes and plateaus back in the Code. We have two pending application waiting on the Board's decision. Also of note, two key things – the large part in going through the Code we build in flexibility. This needs to be massaged; the old code would have required a new Special Use Permit. We have done the amendment provisions but no specific language - page two II 1. The old code for an amendment was a huge windfall back to the applicant on how to approach the County. On the vested rights – this is catching up where the statutes and we are having this meet state law. Fred - Planned Unit Development (PUD) – Article 6 of the current code, a final PUD process was build into it. It was never the intention of this Board in a preliminary PUD over the last 45 years. In this new code, the applicant has to come back a second time. This does not make sense. This is over bureaucratic and they recommended you make that change. Fred has been working in jurisdictions where they have this included, but it is not necessary. The Planning Commission members thought this was a lot of heaving lifting making the applicant go through four public hearing. It is not in the best interest. The main highlands were just pointed out. With Williams, we walked them through the process, we cut the fat and the intent is to make it more user-friendly. There are some more amendments but those have not come out of the Planning Commission yet; there will be more to come in the future. The pre-application process could be an option for an administrative approval. Commissioner Houpt thinks it is important to have a pre-application process. Fred – Some of these things are very benign. Commissioner Houpt suggested not to downsize the administrative process currently in place. Chairman Martin – The pre-hearing is optional. The applicant needs to take that risk or pay for a review. The building department can then say we are going to send this to the Board. Fred – This is under the Administrative Section on page 7: Pre-Application in Section 4-103A. Chairman Martin – Does not like the “shall be” clause in this section. Fred said this could be waived; it makes the applicant ask the staff if they can waive it. Chairman Martin – If the applicant is a beginner in the development process then we can strongly suggest the pre-application review. Fred – Section 6-202: Review process for a PUD. Page 17 – B: When you are talking about the Development process, Page 14 was redundant. We tried to eliminate all the redundancy. Commissioner Houpt said she likes the language Chairman Martin would like the wording changed to “may” instead of “shall”. Commissioner Houpt – “Shall be held;” however, it also points out it can be waived. A compelling Chairman Martin insisted this should be “may.” Deb – “May” but “shall” is the exception. Chairman Martin – The burden is on the applicant and not Fred. Deb – The issue is that we have been receiving application that are woeful inadequate. This pre-application process walks the applicant through what is needed and cuts the time on an incomplete application. Chairman Martin – It adds cost to the applicant and we're trying to cost effective. Commissioner Houpt – It will save the applicant time and money if Fred finds it is inadequate. We need a tool to assist the applicant in the application process. Commissioner Samson asked, how often does it happen and you look at the applicant and go wow – obviously they don't have a clue. How often? Fred – It is more than not, definitely the case. Commissioner Samson – So if we left it up to the planning department then it would be saving everyone a bunch of time. Chairman Martin – As it stands now it is required. Commissioner Samson – No, Fred can waive it. Chairman Martin – The risk is on the applicant to solve their problems. Commissioner Samson – If you give Fred the guidance then you help Fred by eliminating the problems. Commissioner Houpt – This allows the staff to have some flexibility. Chairman Martin – The applicant usually hires professionals to assist in their application. Commissioner Samson – Some do, some do not. Chairman Martin – Fred can say “may” if they have professionals involved. Commissioner Houpt – This is a nightmare for Fred and it is very clear; everyone knows that there is a requirement for the review with the director. The pre-application is an opportunity to be organized and familiar with the requirements. If they are familiar with the requirements, then Fred will waive it for them. This eliminates the hassle of answering back and forth. It should not be necessary and this section is very clear if their packet of information is complete. Chairman Martin – Disagrees – it should be “may.” Commissioner Houpt – “May” will be a burden on staff and these people. Chairman Martin – The application is very clear; Fred is able to waive it if it is not necessary. Commissioner Samson – When the applicant does not follow the rules then the applicant has to go back and re-do some things in the application. Chairman Martin – Fred says the application is technically incomplete and this already saved him 10-days. Commissioner Samson – Fred can waive the pre-application requirement. Chairman Martin – Still believes it should be “may” not “shall.” Deb – The Code as adopted has “shall be held” in the pre-application section only the Planning Commission is the “waiver” of this requirement on page 6-4 of Section VI. Chairman Martin – It was not mandated in our discussions on the Land Use Code in 2008, but somewhere it was changed. He remembers that this issue was discussed and it is not to be mandatory and it gives the applicant a chance to have a pre-application meeting with Fred if they determined it would be helpful. Commissioner Samson – We are talking semantics here; if we change “may be held according to the provisions” then this request instead of “waived” it makes requirement a judgment to be made by the director. Chairman Martin – You have this in the technical compliance section. Commissioner Houpt – The way it is written is clean and people understand the expectation. If we take the “shall” out, then the issue is vague and the applicant will not

understand it is a requirement and come in with applications that are not complete. Do not mess with it; it is a requirement and adds the ability for this to be waived. It takes care of the concerns that Fred has with incomplete applications. Chairman Martin – Under 3 on page 6-1, if an application is technically complete, a letter is sent now. The applicant can come in and see Fred and he can set up a pre-application review. By having “shall” it is driving up the cost of every project. Commissioner Samson – The point is that we have to have trust in our planning department that Fred knows and if the pre-application process is not necessary then Fred can waive the requirement. Fred – Commented that the pre-application hearing is setting the applicant up for success; it works and saves a ton of money. It is an ‘ounce of prevention’ type scenario. This is not a new concept. Chairman Martin – this needs to be simpler. It means conference after conference for the applicant. The whole idea of the new Code was to have it friendly. If it is not, then they have the option available within 10-days to have a pre-application hearing and then you are done. There is a long list of technical violations. Make it simple and not like Boulder or Pitkin who makes the applicant jump through hoops. Commissioner Houpt – This is responsible planning and approval of projects in this County and I am not willing to agree to change the staff’s recommendation. The expectation is there for the applicant and this wording allows anyone who looks at the regulations; knows they are going to have to go through a pre-application process. This gives them knowledge of what they need to supply to the building department. We have streamlined this for the administrative process to occur. Chairman Martin – The administrative process on page 16 under #30 as to the recommendation – we discussed this issue and Fred brought it to the Board’s attention – it has been approved. Now this has been approved; now if that happens we have timelines and this is not time to bring it to the Board. We do not need to leave this option for Fred and the applicant should have option to take it to the Board. Commissioner Samson wants to put it back in. Fred – Another part of the discussion is understanding the review process. During the major conversation, it is very complex and the question is, should this go to the Planning Commission and at that point yes. The Planning Commission has the effect on approving this or not. It is important to put this out there. We have a limited review process versus a major review. The same is true; this is how the Board did it. Now, the old structure worked for the Special Use Process (SUP) and this only come to this Board for a referral or not. The Code actually required that this SUP to be brought to the Board and the Board had the option. Chairman Martin – This issue needs to be reversed. It should still give the Board an out – a relief valve. It tells in five sections that this is coming before us. Commissioner Houpt – That is just for the major or minor processes. Fred – It was your decision. Don – As to scheduling, it does not take but 5 minutes and it would delay the process of up to 3 weeks. This would have to be scheduled on the agenda and that was an issue under the old process under some simple Special Use Permits. Chairman Martin – If you take the application and send a letter to the applicant, it is the same time. Don – It is the time it takes to get it on the Board agenda. Commissioner Houpt – The old Code added a layer of bureaucracy. Fred – Major review or not for the Limited? Chairman Martin – This should be only for the Major. It gives the Board a heads up that this will be controversy or contested. Fred – It does add a layer of bureaucracy. Deb – The Amendment under the current code is consistent – major and limited impacts. The Major goes to the Planning Commission and Board. If you do not want to amend the whole structure for Major and Minor to be consistent with the old code..... then the Planning Commission is eliminated.... This is what is needed to make it consistent. Chairman Martin – Fred is making a decision to take this out of the Board’s decision-making process. Commissioner Houpt – We made this in the Land Use hearings; this streamlines the process and we deemed it as unnecessary steps to get this process to move quicker. Chairman Martin – Disagrees. The Board members are the one who take the heat and he feels we are paid to do this and it should be directed to us on everything. Commissioner Houpt – They do except on all administrative reviews. Fred – That is why you have a Planning Commission; they provide the purpose and do the heavy lifting on these issues. Commissioner Houpt – The Board will see the application if it is major enough to send it to the Planning Commission. This way we do not have to schedule it on the agenda. Commissioner Samson – Time is money. Chairman Martin – We are leaving it to staff. A PUD final review plan under 9 on page 11, the last sentence. Why a 1 year extension? If we are going to extend it, the applicant may request why not to a time certain. This way they are able to go ahead and do it on a second request. Fred Cooke has been in before the Board to ask for an extension - how many times. Commissioner Houpt – Things change in the County with economic conditions, we have always had a time limited, and there is no sense in changing this. Fred – It is your expectation and reminded the Board that Spring Valley has been requesting extensions since the 80’s. Chairman Martin – They may ask for an extension then the Board can make a decision. In the original language, the Planning Commission is not making a recommendation. Commissioner Houpt – We may do it where we have questions; take it to Planning Commission. Chairman Martin – The way this is presented today, it is a recorded document; it should not have ever been recorded. Deb – We are talking about statutory changes to the Code to meet state law. Chairman Martin – The Planning Commission is there to make recommendations. Deb – This does not change that concept. Chairman Martin – It is an extra step and he does not like the procedure. A recorded document is like a deed and it has to be unrecorded and re-recorded. Commissioner Houpt – These are recommendations; today we will make recommendations to solidify the Code. Deb – The Code is not amended until the Board takes action; this is just the Planning Commission’s recommendations. Commissioner Houpt – For clarification – page 1... Fred – The Guesthouse is a remedy of the old code and it used to be an Accessory Dwelling. A Guesthouse had a lot of limitation in the old code and this eliminated it. Commissioner Houpt – No 15 on page 6 – Fred was asked to clarify. Fred elaborated saying there was a lot of debate on the RV’s and how long an RV could be lived in. The old had 180 days. The Board ended up eliminating that by a vote of 2 to 1 and it never was codified. There was an enforcement issue as well – that is the reasoning. At the end of the day a decision was made by the Board. Public Comment: Doug with Olson Associates says he supports all the recommendations and he would put his 2¢’s in on the debate. Under the Major Impact Reviews: I feel it is nice to have certainty that there is a pre-application hearing. Then the application goes to the Planning Commission. The old code restricted the movement on the application by up to one to three weeks or more to get it on the agenda for a referral or not. With a public notice, it could be up to two months to get it on the agenda. Article 3 – This has pared back the things that have to go the Planning Commission and it has cut their workload. It is helpful and he likes to know what an applicant is faced with – likes the recommendation and feels this was the intent of the changes made last year in the Land Use Code hearings. Administrative Review Process: Doug’s understanding of the pre-application process is after a technical review was done but now it actually happens before the application if deemed technically complete. He likes what the Planning Commission has recommended. With this new code, there is a staff expectation and it gives Fred some discretion after working with the applicant; they understand and it is not required – it can be waived. Major and Minor Land Use Reviews: This

recommendation makes it consistent with other jurisdictions and it helps with his clients. He likes it to be mandatory and it can be routine on Limited. It takes 15 to 20 minutes. Commissioner Houpt – It is helpful to hear your comments and you use this process; when we had the hearings last year, you went through the new Code with a fine toothcomb. Eric McCafferty think many of the Code changes recommended will clarify the issues and he finds no fault with most or all-22 recommendations. He does fine omission relative to the PUD changes on #7 the way it is set up; page 8D under the term “PUD Plan” – nowhere in the new code the PUD plan is not defined and yet it is discussed. The PUD plan is the zoning, site specific – controls or complimentary – before you do own anything Section 6-201 defines the PUD plan. Fred – Eric talked to the building department and we said we would look into this issue. Deb – This is already adopted; it is in the existing Code – staff was direct to come back to clarify the definition. The problem exists today and the PUD Amendment is to eliminate the preliminary hearings. I would recommend looking at it and we do need a definition but this will need to come back after it has been before the Planning Commission for a review and recommendation; Deb thinks Eric make a good suggestion. Eric – Page 11 – #9 – Extension of 1 year: One request for 1 year or as many but it has to be during the year of expiration; this needs to be better defined so the applicant and landowners know the timelines. Fred – The PUD has a 1-year extension as a general notion but the applicant came in, in that period of one year and asked before the first year extension and then you have two full years. Then that is it. Deb – Unless otherwise stated, it is still at the discretion of the Board to make it as long as you want. Fred –That is a good point; it gives the Board latitude. Chairman Martin – What happens when the economy turns around; folks may be two years in delay and at the present time we do not have that discretion. Commissioner Samson – The applicant can request multiple extensions. This gives you extensions up to 3 years. Fred – It gives the board limitless latitude. Deb – This cannot be changed today. You can refer it back to the Planning Commission in the way you want it to change. Eric – Another one for the Planning Commission is on the same page, the very last under #2 getting into the discussion on how the Board can grant extension. “ *Changes in the character of the neighborhood or changes in the Land Use Code or Comprehensive Plan which have occurred since approval of the preliminary plan, and the effect of such changes on the proposed development*”. The Board can deny the person on his PUD. Commissioner Houpt – This means some changing and you come in to explain those changes. Deb – There is a provision is in 10 – 2. Chairman Martin – The surrounding area could change; this is a good point. Then it would go to the Planning Commission. Deb – Suggested the Planning Commission could consider this. Tim Thulson and Bill Roberts presented. Tim said in general that he likes the pre-application hearing process; this allows the applicant to know what is expected. The Land Use Code is not a perfect document, it is a legal living document to address and change as necessary. In the pre-application conference, this is where people get in trouble in not talking and they get into the process for perhaps \$15,000.00 and then receive all items they did not address. Tim likes the administrative review as it is now, it can be waived. Regarding the process, I did raise this at the Planning Commission hearing with regard to the gravel pits. Bill Roberts and Tim both have questions with respect to the reclamation standards. When the updates were approved in October, the gravel pit reclamation standards were primary in the Silt Gravel Pit Application. One of the regulations is that in the reclamation process, these regulations were drafted and one requirement is mandatory that being the slope of 5 to 1 or shallower. Other areas up valley such as Carbondale and areas upward, which are not necessary in dry mining, a 5-1 slope results in 1 or 2 things: 1) you have to leave material in place or 2) bring in material. Many resources are wasted or you are required to bring in a lot of fill. We discussed this and the Planning Commissioner was not willing to alter unless we met the specific standards. Tim thinks it should be waive able or adjustable by the Board. The regulation is there staying “it shall meet adequate standards for wildlife and we have reports and can show these were mitigated. This would give us flexibility. As a major review, it falls into the Board’s discretion. Therefore, as a fact finder I believe we need the language on which the Board makes their decision. This would not happen under the current way it is written. The developers of gravel know what slope is best and they usually recommend the slope. Bill Roberts – In October, he remembers the sand and gravel issues and it seems like this was overlooked in the up valley for instance the Blue pit. This gravel runs deep up to 90 feet instead of 20 feet so a 5 – 1 is not appropriate. As the regulations, No. 1 it would take away so much of the minerals and it ties your hands in where you are already. I believe there should be a difference in the dry and wet areas. The Blue pit is going into 20 years and a 2 -1 slope is far better. There is a lot of material available. This would work in that area otherwise it leaves a massive amount of material to leave or we have bring it material back in. We really need flexibility and would like the Board to look at the application and not be locked in with a 5 to 1 slope. Fred – We have talked about this. Flexibility was included in the discussion. Bill and Tim would like the Planning Commission to look at it and then forward it to the Board for your discretion. If you do make a decision on a pit with type of advice, we can set a criterion to a text amendment to this Code. When we discussed this, everyone was very focused on river mining in the Silt area and beyond Rifle. There is not a lot of dry mining. Those regulations reflect the wet mining. Question for Bill, when you go though the Division of Resource Management Services (DRMS), how do they look at slopes. Bill – They look at the surrounding area and if a 2 ½ to 1 are stable, we can get the grass growing, and then they would look at it in specific locations. We try to go steeper if it is feasible. Chairman Martin – The old gravel pit has road on top of it. It is a very high slope; they had to lay it back ½ mile. Commissioner Houpt – Bill does things well in his business of gravel pits. What about taking this back to the Planning Commission? Tim – Yes, it’s not that complicated and the Board could apply discretion in many of these reviews. Commissioner Houpt- We have the guidelines in place and she is not as well versed on reclamation as Bill and Tim. As the Board, this is not an arbitrary decision. Tim – What if it was mitigated to the drainage and wildlife; they would have to document it back to the Board. We could make our own arguments and as artier of fact, the Board could decide. Chairman Martin – Many of the requirements are dictated by the DRMS in their review and permitting. Tim – The cumulative impacts are not defined. Tim and Bill both requested to have the Board’s discretion on gravel pit slopes. Bill and Tim stated they went to the Planning Commissioner however, it was pushed out and they did not have the expertise with gravel pits to change the wording or suggest a change to accommodate dry mining. Therefore, the expertise of this Board is necessary. Bill knows if you have the language written, it is difficult to deviate from the regulations. When we appear before the Board, we can prove our point and that would be satisfactory. Tim and Bill will adequately address this in the applicant’s reports and demonstrate the impacts. Deb said number one, this would have to go to the Planning Commission for their consideration of a Code amendment. This is just the first round of the changes and these recommendations did not include gravel pits. These are good issues raised however; the Planning Commission needs many experts to address the change to the standards. Number 2, another gravel pit came in and they had the same standards imposed; this gravel pit

application is planning to submit a text amendment to the Planning Commission and Deb urged Bill Roberts and Tim Thulson to enter into that discussion. It is in the works but the Planning Commission was not willing to open it up to a longer discussion while these changes to the Land Use Code were being discussed. With a better record and more language, they would entertain a discussion. Chairman Martin – In the meantime, we have to hold their feet to fire. Commissioner Houpt requested how long this would take to follow that process. Deb – The discussion is scheduled for September so this text amendment is to start relatively quickly. Fred said he could share the first draft with Bill Roberts. Actually, the same issues and very similar to what Bill is saying; the other party is ready to go. Bill – So, we would have to wait until September. It is hard drafting an application to come before the Board. There are many agencies and many people involved in the process of submitted an application. This is where I am coming from and when you have delays, it is hard to bring the process to a stop using the analogy of stopping a train and getting it started again. Bill said he has complete faith and trust in the Board and where you are coming from on gravel pits. The agencies put together a plan and reclamation regulations but they do let us work out these issues. Commissioner Houpt – Presently, we are tied to the process however, we also look at the application and at this point I'm not sure, what you are asking us to do. Bill – Mostly clarification. Chairman Martin – The location of the present County Road and Bridge Shop on Hwy 82 was built over a reclaimed gravel pit. When that pit was reclaimed, in order to meet the requirements, the owner had to go another 100-feet and the layback was one-half mile. He is in favor of the change in the regulations and understands the visual impacts when a layback of this magnitude is imposed. Why layback the mountain side in order to compensate for the regulations of a slope 5 – 1. Deb – We do not have regulations in place so this would need to be addressed. Chairman Martin asked, why not? Fred – There has not been a recommendation from the Planning Commission and thereby there is nothing to chew on. We have to go through the proper process and give the Planning Commission members something to look at. Bill do you not have that? Commissioner Houpt – September is the date. Fred – This other operator is planning to bring the Board an amendment and they hope to have a positive amendment to present. The text amendment is anticipated to go to the Planning Commission in September; it would come before the Board in October. This gives us a two-month period to work with Bill if he would like to be a part of this discussion. Deb – Regarding the hearing and the 30-day period, it may be possible that we could combine the notice for the Planning Commission hearing and the Board of County Commissioner hearing at the same time. There is some risk involved in doing that; however it would save time. Fred – Agreed you do have the risk of the Planning Commission continuing their discussion. Commissioner Houpt – If that should occur, they could continue it. Chairman Martin – There would cost as well as a nightmare because individuals come forth to participate in the discussion and take time off work. Commissioner Houpt – We are trying to catch this and work with you and try to get this moving if Bill is willing to work these guys and get it in the works. Bill said he would be willing. So then, that would require the text amendment to both. Chairman Martin – Sure, to gain what you are after, otherwise we would lose our discretion to be able to make those adjustments. Tim – A couple more comments and then he will see if he can ease the pain for his client, Bill Roberts. Right after you identify people coming to the office and start raising projects that really do not fit into the Code, and given the answer on the text amendment with this, I know how it struck my clients, but I will go through it for your consideration. Right now electrical generation is not an allowed use in a rural district. In addition, one of the ironies of that is at for instance Holy Cross; I think they have maybe 12-acres in the Resource Lands that they could never locate an electrical generation facility on the property. I think that is something that should be opened up to a major impact review use before the Board of County Commissioners because of the availability of the resource here and the type of project that will be coming in. I think you should not just exclude 60% of Garfield County rural property. Fred – It is private property, not rural zoned anyway. Tim - And the other is with the way oil and gas is going now, for instance Antero; they were using their production water for frac water, now they are not producing and not drilling anymore and they still produce water with the wells and they have 45 trucks to haul it every day. They have a facility now, and I believe it was briefed to this Board in executive session where it's all pipe and they can eliminate trucks, use an existing well and inject it. That procedure is regulated by the Use by Right, now it falls into whether it is material handling or it that COGCC permitted activity related to production. The way it is going with drilling, it will be an issue that is raising its head more and more. Commissioner Houpt agreed. Chairman Martin – It also gets back to the process of making that into usable water or distilled water and saving 80 to 90% and only having to truck up to 20%. We denied that application; that is the kind of technology we need to encourage simply because of these reasons; because, they continue to produce water even though they are not drilling anymore. They can use the water as a beneficial use. Commissioner Houpt – But there are land use applications when you start doing that unless they are piping everything so by just talking about this it is difficult. If they are not piping everything, you still have issues. It depends on the location and the impact to a neighborhood and it is a long-term use. There are many questions out there and I am not sure what you are asking. Tim – Well, for instance the drilling right now is a use by right. That has many land use implications as the truck traffic, etc. Injection wells are probably a lot less if you use an existing well. The guys at Antero are trying to get to the issue and saying it should be interpreted more as a use by right. Commissioner Houpt – They are not necessarily less impacting, if you have a well in place that has been established it's not going to have the same level of truck traffic that an injection well could have over the years unless you do an entire pipe system. Tim – Right, but I guess the other difficulty there is one of the major impact review uses and all the reports you have to submit and if you are talking about an established drill pad that is already leveled off and has been in use for drilling. If you are going to have to do your geological survey and site plan and all the other things that take a long time to get done. Commissioner Houpt – I think they are adding a different level of long-term use to that location too. Chairman Martin – We will see how that goes. Commissioner Houpt – Did you bring that up to the Planning Commission. Tim – No, I have been just talking to Deb about that issue. It is an interpretation on your behalf right now because there is not really anything – we would submit that it is a use by right for our unit that is production related. Deb – He has not submitted an application yet. Commissioner Houpt – I do not see it as an ancillary facility. Tim – Or, whether it is material handling or some other major impact. Chairman Martin – Okay, we will have that discussion I can tell. One other issue and it needs to be answered by my legal brains in reference to site-specific development plan under the Development Agreements. The Board has stricken shall also consider an extension to vested rights for economic cycles and/or market conditions. Just wondering why we would strike that. This in on page 3. Deb responded by saying that was primarily because it is redundant. The Development Agreement addressed vested rights – that is its purpose so it was just redundant language. Chairman Martin – It says for 3-years. That the landowner for a vesting period longer than 3-years. Deb – That, we are adding. Commissioner

Samson commented they have done a very good job and I would complement the Planning Commission on what they have done. Commissioner Houpt agreed with Commissioner Samson's comments. Commissioner Houpt made a motion to close the public hearing. Commissioner Samson seconded the motion. Motion carried.

Commissioner Houpt made a motion that we approve the proposed text amendments to the Land Use Resolution of 2008 as presented by staff and recommended by the Garfield County Planning Commission. Commissioner Samson – Second. Chairman Martin – We still have a flawed document in my opinion and we still have a lot of work to go and I was going to say, why don't we just go back to the old code but then Don had a heart attack and we had to take him out of intensive care. Commissioner Houpt – I was the one who voted against this new Code so I am... You are right – it is a living document; there is a lot of work but I think the Planning Commission will continue to work on this document. Chairman Martin – What I am continuously seeing is that the authority of this Board seems to be dwelling. Our discretion, our flexibility is dwindling, we are giving it to one person, and that is Fred under this Code. Commissioner Houpt – Well, under the administrative process yes. Chairman Martin – Yes, a lot. In addition, I think maybe there was a time of saturation and somebody is going to say, I have got too much to do. Commissioner Samson – Well, when that time comes, Fred needs to come before us and we will cover the bases. Chairman Martin – Well, the thing is, every time there is a change it needs to come to us so we do not get to that point a lot of authority to burden and gives too much away. Everything there is a change that needs to come to us so we do not get to the point of absorption and saturation on Fred's part. It is a lot of authority that we burden him with - sometimes too much. We give too much away in my opinion. Commissioner Samson – But who always has the final say. Chairman Martin – The rules. Commissioner Samson – We can change the rules. Chairman Martin – No, sometimes we cannot. In favor: Houpt – aye Samson – aye Opposed – Martin – aye

Fred said he would be back with subsequent changes. Commissioner Houpt clarified that Fred had to notes on the issues raised today.

DIRECTION TO STAFF ON PERSONAL PROPERTY TAX APPEALS

John Gorman, Mary Lynn Stevens, Don DeFord were present. Don agenda this item. This was to receive direction to staff in the legal department from the Board on setting personnel property tax appeals because the only official direction, from the Board, is to set all hearings in front of referees. The Assessor's office has indicated to us they are recommending, for personal property tax, that the Board consider those hearings directly. My staff, Mary Lynn and I, need direction from the Board if you want to have these heard directly by you. John Gorman – Any appeal of regular personnel property account, restaurant equipment actually could be handled by commercial appraisers. We do not expect many or maybe any such appeals actually coming before the Board of Equalization. However, we do expect appeals from oil and gas personal property valuations because we have more property and it is more accurately evaluated this year than perhaps it has been in sometime largely due to the efforts of our vendor - Visual Lease . Those people will appeal. As we get closer to the dates that we have set which are the 30th and 31st of July and the 3rd & 4th of August. We will know whether any of those people will actually show up, likely they will not. We can just have an administrative hearing of probably denial and then they will go to the Board of Assessment Appeals (BAA). This is the next level after any decision this Board gives as the County Board of Equalization. The last couple of weeks in July we should know how much if any negotiation is taking place and what will be the disposition of the appeals that this Board will have received for oil and gas personal property. Don asked why John thought the Board should hear these appeals directly rather than having a hearing officer make a recommendation. Commissioner Samson – Before you answer that, it's been my understanding, in the past, haven't the companies more or less have an option and they by-pass us and go directly to the BAA. Chairman Martin – They have to come here first. Usually they do not show up. Commissioner Samson asked if John felt this would happen this year.

John Gorman – We believe that will likely happen, yes. Commissioner Samson – We will schedule and they do not show and then go to BAA. Chairman Martin – They are looking for a denial so they can appeal to the next level.

John Gorman – The reason, just in case someone does show up, the reason for this body to hear those appeals is that our hearing officers, none of them are experienced in oil and gas and very little clue. We have residential appraisers, one commercial appraiser and oil and gas is a different bird. As we get closer to the cut-off dates, we will have a better idea of what will be needed. There could be more surprises that we had yet imagined. Mary Lynn needs to know if the 28th and 29th need to be marked on the July BOCC room calendar as well. The deadline for personal property appeals is July 20th and the others are the 15th. They mailed them on the 20th; Mary Lynn should probably get them by the 23rd at the latest. Depending on how many there are we may not need the 28th and 29th so it might be wise to have an option. Plus, I would like to know because if we do end up needing that week for residential appears, I basically have every conference room and some days have three hearings going at one time so if I need to give the Board back this hearing room, I need to place that on my calendar. Commissioner Samson clarified when we serve as the Board of Equalization, that is a public meeting and anybody can come and listen in. Chairman Martin – Yes. We do not take public comment other than the taxpayers. Commissioner Samson – The only ones allowed to talk is the Commissioners, Assessor and the taxpayer. Commissioner Houpt – on July 31st, there is the County program, the economic report, the second one being filmed. Fred – The lifestyles is on July 30th. Chairman Martin - It is a promotional issue about Garfield County. Commissioner Houpt would need to schedule her time on this, unless Don does not let her. Don noted this was a prior commitment. This will be on Fox Business News. A motion was made by Commissioner Houpt to direct to set hearings on personal property direct in front of the Board on July 30th and 31st and August 3rd, 4th, and 5th if necessary. Commissioner Samson – Seconded.

In favor: Houpt - aye Martin – aye Samson – aye Don also suggested the Board be available on 28th and 29th.

OTHER ITEMS NOT ON THE AGENDA

Discussion and Advice Administrative Litigation – COGCC and Discussion and Advice – Property Acquisition

Don requested an executive session, I need to received direction and provide advice concerning administrative litigation in from of the COGCC as it relates now to apparently two hearings that are going to be conducted in Garfield County as they relate to Battement Mesa gas development generally, West Divide Creek gas development and the impact on the water supply; and the development of gas resources in area of the Rulison nuclear blast site. And, we need to discuss with the Board and receive direction concerning property acquisition as it relates to generally as the Gillespie property, the Sheriff Annex and the Midland Center LLC. Ed said one other issue and that is the HR issue and legal guidance regarding policy and budgeting of the Sheriff office. Don had a question on this and there may be some executive session but there is finance, policies involved, and probably not an executive session item. Chairman Martin asked if there was any report on the Colorado Oil and Gas Conservation

Commissioner in reference to the Prather. It is over a year and the mitigation plan and reports have not been submitted. He has had numerous calls from the Prather's. Mr. Samson and I have been in the area in reference to this and even met on of the owners. Commissioner Houpt - COGCC had a presentation a few months ago on the work that is being done on this issue. Chairman Martin had an update on the owners saying there is not much done on it other than they collected some samples and then they disappear for a month or two and then come back and collect some more samples. Nothing is really being done. Don said this may be in executive session because we haven't proposed any time of administrative litigation on this at this point and wasn't sure if Judy had more information that is public that you should discuss with the Board on the Prather issue or not. Judy – I do but I am not sure it is more recent than what you have. Judy went out two weeks ago to the site with them. Don suggested adding to the executive session items to discuss to see if the Board wishes to give direction concerning administrative litigation. A motion was made to go into an Executive Session by Commissioner Samson and seconded by Commissioner Houpt. Motion carried. A motion was made to come out of Executive Session by Commissioner Samson and seconded by Commissioner Houpt. Motion carried.

Discussion and Advice – Property Acquisition

Don stated the actual negotiable monetary amounts need to remain confidential; the legal and administrative staff need direction to propose a contract for purchase of Lots 3 and 4 Plot 43 Original Town site of Glenwood Springs with the Chair authorized to sign a proposed purchase contract in the amount authorized in Executive Session. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

Don added that this is a purchase agreement and once it is recorded, it is a public document and recorded.

Attest:

Chairman of the Board

JULY 6, 2009

**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 6, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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. Commissioner Samson introduced Austin and Dillon Hazard from Troop 277. They are working on a citizenship merit badge and came today to sit in on our meeting. Commissioner Samson wanted to encourage everyone in the Boy Scouts and commend them for being Scouts.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Ben Miller, owner and operator of Mid Continent Limestone Mine presented. He is formally requesting a review of their mine, which is part of the permit requirements. He was not sure if the noticing procedure goes through this office, or through us, but they wanted to initiate the review. Chairman Martin explained he needed to talk to Fred Jarman and let him know you are starting your review process. Ben said they would like to have formal review before the Board. Don explained that we have provisions in our Land Use Code that will address how that type of application and consideration is made; so you really need to start with the building and planning department, and then at an appropriate time it will be brought to the Board. Chairman Martin explained there will be a publication, 30-day notice of all the adjoining property owners and then we will have a public hearing. Ben stated they have not had much response from the planning staff and they were getting concerned that they were missing an action that they were required to do. We are not requesting a change of permit; we are requesting a review of our existing permit. Don said if we had some notice, Fred would be down here to address this question. There are issues on the existing permit that they need to bring in front of the Board on a regular basis. Fred could explain that more fully to him and he is unsure what they are attempting to do today as a substitute for the last several decades in which it has not occurred. Chairman Martin thinks they had a permit issued in the 1980's. We can get this put on the docket and see if we need to do public noticing and a public hearing. Commissioner Houpt stated, Ben you need to work through the planning staff.

COUNTY MANAGER UPDATE – ED GREEN

APPROVAL FOR EAP RENEWAL – KATHERINE ROSS

CIGNA will continue providing the Employee Assistance Program services to our employees and their household members. The renewal information is for the 24-month period beginning January 1, 2010 through December 31, 2012. Katherine provided a renewal letter to serve as the amendment to the agreement. She is asking for authorization for the Chair to sign. Katherine explained employees could confidentially call an 800 number and deal with issues they want to remain confidential. Rather than health issues it tends to be mental health, psychological, or behavior issues. As an example, many employees going through divorces often call EAP for counseling and guidance. It is a valuable benefit and the price has not changed since 2004. As an additional benefit, they have added a service that we use occasionally. For example, if Katherine is working with Ed on a group or an individual employee they provide additional perimeters or consultations that could occur. They provide assistance to the employer as well as the employees. Katherine is recommending they continue with the program and designate Chairman Martin to sign the acceptance letter. Commissioner Samson asked if this was going to cost the County \$2.90 per employee, per month. Katherine said it would be approximately \$12,000 per year. Commissioner Samson asked how many employees take advantage of this. Katherine said that number varies. All employees have the option to take advantage of it. A typical number of employees, who take advantage of it during the year that she has access to, as some are confidential, are approximately 200. They are advertising more this year that it is available. Employees like to know it is there; it is like a safety net. Jean stated she has used this herself. She had some issues because part of this program you are supposed to get three free sessions with a counselor, and when she attempted to do that, there were no providers available in the valley. Katherine checked into this for her and she is wondering if they can now find people they can use for the service. Katherine said they always have problems in remote communities. There are more providers located in Grand Junction. They have a program now where they

are looking for providers and they have agreed to continually search for providers. Jean said the person they ended up using attempted for about 1 1/2 years to become certified with this group. She said it was very frustrating when she called they give you a radius of 90 miles to 100 miles and there was no one available. However, she believes Katherine is following up. Katherine said they are meeting at the end of this month and she will bring up the certification again. She meets regularly with a broker who has aligned them with CIGNA and the service has vastly improved. Commissioner Houpt asked if there were other companies that provide this service that could possibly be linked to the rural professionals. Katherine stated from her point of view, no. There is anticipation waiting to see what happens with the entire Federal benefits program. It is making brokers and insurance providers very nervous. Carolyn explained when we first entered into this contract with CIGNA, it was back in '03, and we were very careful to make sure we had in our base contract our year-to-year funding of contracts. She noticed this is a renewal for 3-years. She asked Katherine if Cigna is still respecting the underlying contract; Katherine said yes. Commissioner Houpt asked if you find a company that would better serve this area; we are not locked into three years. Carolyn and Katherine both stated we were not. Commissioner Samson - I move we approve the Employee Assistance Program with Cigna for an amount of \$2.09 per employee, per month, and authorize the Chair to sign. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

APPROVAL FOR MEMBERSHIP TO HUMAN SERVICES COMMISSION

Lois Smith, from Parachute, Colorado, submitted a letter to become a member of the Human Services Commission. Commissioner Samson said he does not know Lois very well. He met with her early in his term concerning getting a historical district formed in Grand Valley for a church. Lois is the pastor of the church. After looking at this Commissioner Samson said, he is definitely in favor of approving her for membership to the Human Services Commission and would so move. Commissioner Houpt – Second.

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

AMBULANCE SERVICE WITHIN THE COUNTY – FRANK BRESLIN & BRIT MCLIN

Dale Hancock, David McConahey, Dustin Dodson from Grand River Hospital, Aaron Taylor, Operations Manager for West Care, Susan Taylor, Director of West Care, Brit McLin Fire Chief and Frank Breslin, Mayor of New Castle were present. Frank spoke to Commissioner Samson a couple of months ago regarding being at a crossroads with emergency medical services. New Castle and Silt have an IGA, a contract with West Care Ambulance, and currently there is not an EMS with the fire district. David McConahey is here and has long been a proponent with Frank's Town Council of establishing an authority. Frank's Council is unanimously in favor of retaining advance life support with the ambulance service, which it has currently. They are also in favor of keeping some sort of transport between nursing homes and hospitals. His Council is flexible as to how we might expand the service, possibly with western Garfield County being a partner in authority. Glenwood Springs has expressed some interest in possibly becoming a member of a larger consolidated authority because they are in the red. West Care actually runs in the black as a result of having the transport care between the hospitals and the nursing homes. Chairman Martin asked Frank if he wanted to create a whole district countywide. Frank said he would not mind. If Brit wants to absorb the ambulance and keep the ALS aspect, his board would be in favor of that. Brit said, at this point he is a very interested observer. Our goal is not to compete with West Care, but to support them. Frankly, they are doing a fine job and we would prefer they stay in place and continue to thrive. Chairman Martin asked if West Care was still doing Grand River Hospital transporting. Brit said if it is appropriate. The brief discussion he and Mayor Breslin have had; they certainly are economies of scale. Talking about authorities or a countywide merger at this point is probably somewhat premature because not all of the players at all of the different levels have been contacted. Frankly, you have an agency administrator, an elected official, and his elected officials are not up to speed on this. Grand Valley for instance, he has no idea if you have elected officials down there think it is a great idea; an administrator thinks it is a terrible idea, or vice versa. Frank said what we do know is that he spoke with Dave Moore and he e-mailed Betsy who is the administrator. They are very much interested in absolving themselves of any responsibility with the ambulance service. That leaves the Town of New Castle in a lurch, because he thinks they should be maintaining ambulance service. He served for 12-years with basic life support and he does not believe anyone wants to go back to that. The quality of care that is there right now is very good. Silt wants out of the system. That is why he decided to ask Commissioner Samson if there are other partners, who would like to make an ambulance service work in western Garfield County. There is a district in Grant Valley-Parachute that has a fire and EMS with it. The City of Rifle has fire and ambulance. However, there are approximately 200 square miles that the fire district takes care of. The ambulance takes care of it separately. Chairman Martin asked Dale if he had a conversation at all with Frank and Dale stated no. Chairman Martin said he thought that is where we need to start. David McConahey, Attorney for the Town of New Castle. What Frank was talking about is an authority; one idea would be to create something similar to RFTA. You would not create a new district at all; you could, through agreement of existing districts, towns and perhaps the County comes to some entity that could provide a service where all the stakeholders would have a say. David has been suggesting that for about the last eight years. The only thing we might be asking from the County would be to try to get the stakeholders in a room, around a table, to kick it around and see if it is worth pursuing. It has been an idea but no one has picked up the ball and ran with it. Commissioner Houpt asked David, would you need to do that through an authority or could you have an IGA. David said there are two types of authorities and one could be created simply through an IGA without an election. Don explained that is the way your communication authority was formed. Dustin Dodson from Grand River Hospital. Mayor Breslin invited him because they are a big stakeholder in this as many people are. He has worked closely with Susie and her team with West Care. West Care provides all of our services for transportation from their hospital district and to a higher level of care for the patients. Grand River Hospital district is not all things to all people; but we like to think we do very well. Many times because of our limitations and service, we transport patients to a higher level of care. In 2008, they transported 109 patients to a higher level of care, whether it is St. Mary's, Glenwood Springs, Denver, etc. Of those 109, all but three required advance life support and West Care has done a phenomenal job for them. The Town of Silt does not want to be involved in the emergent transport services and so many people are saying, what's going to happen to these individual patients and residents. Not just within Grand River hospital, but within the entire County and western Eagle County etc. There is not one specific answer and he has done some research in Denver. The surrounding counties of Denver have developed a consortium that each county has agreed to a centralized transportation service. If they are a Medicaid recipient, the Medicaid reimbursement would kick in; but then the surrounding counties would subsidize it as well. That might be something we want to look at for an overall answer. Through our research and all of the conversations with West

Care, Town of Silt, and the neighboring fire districts, it has become clear there is not one single entity that can shoulder this alone. What we are all looking for is an answer in the bigger picture. Perhaps the County Commissioners or a body appointed by the Commissioners would be interested in serving as a rallying point and all the stakeholders would have responsibility to provide resources, not just financial but labor resources etc to a group that knows this part of the business; whether it be West Care or otherwise. They do feel there are many resources within our areas; we just need a group to centralize things for us, for all the stakeholders, and be able to bring us all together. One of the areas of concerns the fire districts have, particularly Rifle Fire, is while they could support this for us, at our expense. However, if there is a fire related emergency they must respond to then what will be their priority - inter-facility transport or a fire. What would occur if they have to send an entire dedicated crew on an emergency transport to Denver? That leaves them lower staffed to serve the constituents within their district etc. So you can see some of the challenges we have, it is not an easy answer. He thinks there are many people who want to be a part of the answer. Chairman Martin asked about our EMS council and their input? Dale Hancock said he thinks that is where this lies within the local EMTAC to have the conversation; they are the ones delivering the service. Chairman Martin agreed. Aaron Taylor, Operations Manager for West Care. We brought this before EMTAC a couple of different times and they have been reluctant to discuss it, because they do not want to step on individual toes of the different districts. They do not feel it is their place to enforce or even suggest a specific solution to an answer. Commissioner Houpt said it sounds like they need to get the stakeholders at a table and include EMTAC; but everyone needs to be at the table so the plan can come together. A regional approach might be the solution; however, we do not know until we get everyone together. Therefore, you are looking to the County to have a meeting. Frank said he is afraid if they do not do something soon there would be a sense of urgency than there has been before just because of the fact that Silt is ready to wash its hands of it. We feel we have a duty to our citizens to not only New Castle but also the greater part of the County, which New Castle has been providing service for to keep that in place. Commissioner Samson asked Aaron, please explain EMTAC that you are a part of. Aaron said the way the State has set up emergency services it is like councils. You have the State emergency, regional ones, which Garfield County is part of the northwest regional EMTAC. EMTAC is part of the local agencies and districts that provide emergency medical services. It stands for Emergency Medical and Trauma Advisory Council for Garfield County. They get together bi-monthly and discuss areas of need in the County for emergency medical services. Commissioner Samson stated what you are explaining to him seems like the most logical group to tackle this. Aaron said they do not disagree. Commissioner Samson asked how many are on that board. Aaron said there is one member from each department, Grand Valley, Rifle, West Care, Burning Mountain, Glenwood Springs, Carbondale, one member of Garfield County is Dale Hancock, Valley View, Grand River and ski patrols. Commissioner Samson said obviously we cannot direct them to do that because it is not our board; but he supposes we could request them Chairman Martin said it is our board. Carolyn explained it was setup as an advisory board to the BOCC. Commissioner Samson said you say they have been reluctant because they have not had direction from this Board to do something of that nature. Aaron said that was possible; it might be they lacked direction from the County Board or their individual departments. Chairman Martin said not to mention the disaster the State has put us all through changing rules, regulations and districts, etc. That is one of those little problems the State has handed us. We need to work on it. Commissioner Samson – I move that we as a Board give direction to our Administrator, Dale Hancock that is on the EMTAC to let them know that our wishes are that they tackle this problem; come up with a solution on how we are going to take care of the ambulance service. Commissioner Houpt stated, since their advisory board comes back to us, we want to make sure that they tap into all of the resources necessary for this process too. Commissioner Samson asked to have a report back to the Board within two months. Dale said they would start the discussion at the next meeting. He wants to attend and get a read on it, brief the Board and let them know how he assessed the issues and where they should go. Commissioner Houpt – Second. Susan Taylor, Director of West Care. The Town of Silt is interested in making this process go smoothly. Although they do not want the ambulance service, they are not going to just dump the transport service. They have expressed an interest in being part of the solution also. Chairman Martin said let’s start there and put a timeline together with a couple of different solutions.

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

CONTRACT APPROVAL FOR PURCHASE OF SERVICE AGREEMENT WITH ROARING FORK BUSINESS RESOURCE CENTER – DALE HANCOCK

Frank and Dale presented a power point presentation. The scope of work on this contract is as follows: Provide business education, training, mentoring, counseling and networking. RFBRC shall provide reports no later than September 30th and December 30th, quantifying and providing examples of the above named services. This contract is for an amount not-to-exceed \$25,000.00. Dale said this is not unique to the State of Colorado; however there are only two other resource centers for businesses in Colorado, and they are lodged within the organizations of Douglas and Jefferson counties. Dale was hoping he would be able to beg, borrow, and steal metrics from those larger counties to assess the competencies, or the outputs of the organization. However, despite receiving verbal assurances, he has none. In meeting with our finance department and running it by legal, he has come up with metrics that are identified in the scope of services that he thinks are reasonable. That would include several marketing incentives and proof that businesses have received loans to do business in Garfield County. It would include the creation of two new jobs in Garfield County or \$54,000.00 in payroll and show cash sponsorships from public resources of \$25,000.00 from Garfield County in 2009; there would also be the performance of customer service satisfaction surveys. The date certain in September and December to assess whether this is something we want to continue to do in 2010. Dale has the original with the appropriate Exhibit A, Exhibit B, and would ask that the Chair to be authorized to sign. Commissioner Houpt – I make a motion we approve the purchase of service contract with Roaring Fork Business Resource Center for 2009 in an amount of \$25,000.00. Commissioner Samson – Second. Don said the only difficulty he has is that the form utilized by the Administration is it is not in the format approved by his office. He would like that to be accomplished before signature. Commissioner Houpt said she would amend her motion to make sure this goes through legal and they approve the final form. Commissioner Samson - Second.

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

AUTHORIZE BOCC CHAIRMAN TO SIGN DOLA CONTRACT ASSESSOR SOFTWARE UPGRADE – RANDY WITHEE

In the spring, staff submitted a Tier 1 grant application to DOLA in support of the upgrade of the software package used by the Assessor and Treasurer’s offices. The middle of June, staff received notification from the executive

director of DOLA that the grant was approved in the amount of \$100,000.00 and to enter into a contract. The grant contract was received last week and the County Attorney and county staff are in the process of review. Staff recommends the BOCC authorize the Chair to sign a contract with the State of Colorado upon final review/acceptance by both the County and DOLA of any revisions. Randy stated last week they received some contract language that he and Don DeFord are working on. Today they want to get permission to have the Chair sign this once they have the revisions accomplished. Commissioner Samson – I move we authorize the Chair to sign the contract with the State of Colorado on final review of acceptance by both the County and DOLA for the grant request of \$100,000.00 for the software. Commissioner Hought asked if that was through the County Attorney's office for the final approval. Don - Randy and I will get together. The standard form of the DOLA grant agreement and the scope of services contain language that you have seen before that requires a type of competitive bidding process. Obviously, this did not go through that process. They need to convince Mr. Kirkland and others to alter that language. Once that is accomplished, it is a go. Commissioner Hought – Second.

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

APPROVAL OF CONTRACT FOR VAISALA INCORPORATED TO PROVIDE THALES 415 DME SYSTEM TO AIRPORT – BRIAN CONDIE – MIKE BALLARD

A proposal was submitted indicating the scope of work with VAISALA Inc. There were four provisions attached to this proposal. VAISALA Inc. will perform these services for \$305,200.00. Upon delivery of the hardware to Rifle, VAISALA will bill \$265,000.00 and the remaining balance would be billed upon contract completion. VAISALA Inc. will need to notify the manufacturer ASAP in order to meet this schedule. This proposal can only be held valid for 15 days. Mike Ballard explained; last Thursday they had a lightning strike and hit the existing system. They will probably not be able to get parts for this and it may be down for an extended period. Carolyn asked if this was the same entity they looked at a few weeks ago where the contractor told us a new company had bought them out. Mike said the existing system is Wilcox and they are out of business. Carolyn explained, generally these are sole source contracts and asked Mike if we had an ongoing contract with them. Mike said they do with the maintenance company. They will still be maintaining this system. Carolyn stated she has not seen this AMSI yet. Commissioner Hought asked if this could be brought back next week. Ed said he has also talked with Matt and he has not seen this either. Ed said, Matt needs to develop a contract format for this. Chairman Martin thinks we need to make sure we have good contract. Carolyn said Brian will be back next week and perhaps we could get on next week's BOCC. Carolyn is concerned that this says Rifle can provide a notice to proceed and sign the contract by the 6th of July. Carolyn asked if Brian was counting on this being approved today. Dale stated yes; this is also the \$300,000.00 versus the million-dollar question. Carolyn asked if this was already approved by the BOCC. Dale said it was approved on the 8th of May. Commissioner Hought said it was; but we cannot approve a contract today without having a contract in front of us. Carolyn explained if they are going to accept our standard form purchase contract then this is the scope of services. Chairman Martin said; let's delay until later this afternoon to see if we can approve today.

COUNTY SHERIFF UPDATE – Lou Vallario

REQUEST APPROVAL OF JUSTICE ASSISTANCE GRANT APPLICATION FOR PUBLIC RELATIONS AND SCHOOL PROGRAMS – HOLLY HOPPLE AND MARIA CONTRERAS

The main purpose of the application for this grant is to purchase needed supplies and to provide certification training to our deputies for the implementation of the *WhyTry Program* into our schools. The purchase of the needed supplies, the training and certification of deputies will be accomplished within a matter of 3 to 4 months after receiving the awarded funds. The implementation of the *WhyTry program* is planned for the 2009-10 school year and will occur as soon as possible after the deputies are certified and the program is purchased. The use of the *WhyTry* supplies and the AIMS educational videos will continue during every school year while our school programs are in place. The Garfield County Sheriff's Office will act as the fiscal manager for the funds received from the 2009 Edward Byrne Memorial Justice Assistance Grant, Local Solicitation. The finance supervisor will create and use a separate line item number to track all revenue and expenses in relation to this grant. It is different from all other grants. The grant coordinator will keep copies of purchase orders, invoices, payments and all other documents related to this grant in a file separate from all other grants, and will also ensure that all report deadlines and other requirements related to the grant are met. Maria stated the Justice Assistance Grant is for law enforcement and they provide a certain amount of money to the Sheriff's office. This year it is \$11,921.00 and we need to make sure it is used to benefit the community as well as our law enforcement. Chairman Martin explained the cost is approximately \$12,487.68 and the Sheriff will have the extra \$546.68 to add to the grant. Commissioner Hought – I make motion we approve the grant application to the Edward Byrne Memorial fiscal year 2009 local solicitation for community programming through the Sheriff's office in the amount of \$11,921.00. Commissioner Samson Second.

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

EXECUTIVE SESSION

Don would like a brief executive session as it relates to two potential discussion items and administrative litigation; those relate to potential action in front of the oil and gas commission concerning development in the area of the Rulison nuclear blast sight and continuing seep issues at West Divide Creek. Those are both issues in which Commissioner Hought has recused herself. Chairman Martin said he would need Commissioner Samson to make that motion. Commissioner Samson – So Moved. Chairman Martin – Second.

In favor: Samson - aye Martin – aye Hought – recused

Chairman Martin stated they would be discussing items G and H.

Commissioner Samson – I move to come out of executive session. Commissioner Hought – Second.

In favor: Hought – aye Samson – aye Martin – aye Don stated they would discuss the action when the topic arrives on the agenda. Commissioner Hought stated that she would sit in the audience for Items G and H.

DISCUSS 2ND QUARTER OIL AND GAS QUARTERLY REPORT – JUDY JORDAN

Judy passed out hard copies to everyone with the usual charts and graphs. You can see that complaints along with drilling activity are low. They have had only one complaint in June and a handful in April and May. Drilling activity in general, the APDS obviously were approved, the ones submitted were high in April; but the ones that are actually approved were low, down to 56. COGCC staff is crunching through the backlog. They have had 122 APDs approved in June, so they are moving through their backlog and the permit applications are starting to be approved. Ours in Garfield County were very low in May and she attributes it to an incredible backlog in April. In terms of a good litmus test is the number of drilling rigs running in the State. Judy explained we have 40 going and there were

more than 40 just in Garfield County last year; now they have 16 drilling rigs operating in Garfield County this month. Commissioner Houpt thinks it is important to note that is the case across the County. Judy said the permits by county with Weld and Garfield we have about 30% of the permits being approved by the State. The number of active wells is up to 6,317 and that is still more than most of the smaller counties put together. The Oil and Gas Journal and Baker Hughes have reported that rig counts have gone up nationwide for the first two-week period for the first time in 8 months. Most of the increases in those rigs were oil not gas rigs. Gas rigs continue to decline. Judy talked about the price of gas and it is well below what is profitable to drill in Garfield County. Judy explained they have completed two phases of the Mamm Creek study. The last one was finished last fall and since then they are working on a new scope of work for Phase III. The Board did authorize spending \$200,000.00 on that study this year. Judy has finished her draft scope of work and ran it by Ed Green and Jeff Thyne as well. Now it needs to go to purchasing to turn into a formal RFP and she wants to get some feedback from the COGCC folks at the meeting on the 14th and 15th. The State Engineers Office had a meeting following up on the Vance case where the Supreme Court had ruled that coal bed methane wells that produce tributary ground water do require permits. There was a bill passed HB1303, which directed the SEO to issue rules governing determination of whether ground water is tributary or non-tributary. On June 25, the State Engineers office held a meeting to explain their process on how they will develop those regulations. The regulations must be adopted by January 1. They will appoint a special advisory group that will include the oil and gas companies to help them draft the rules this summer. Staffing wise, an oil and gas representative was hired and she started July 1, 2009. Judy had mentioned at the last meeting that she went on tour with OXY with Dick Prather. Mr. Prather was very frustrated with the progress that COGCC has made in investigating and following up on the contamination incidents of last year. Judy did offer assistance to him in trying to raise that issue particularly when they are here on the 14th and 15th; but she and Don DeFord discussed it and Don suggested it would be better to have something submitted by Mr. Prather's attorney to us. They have not done that yet and she is waiting for Mr. Prather to contact her. Judy wanted to discuss pit liners. COGCC and CDPHE had a conference call with some of the western counties regarding these. They expect with the new rules there will be more disposal of liners that come out of the drilling pads. The liners are a big disposal problem for a variety of reasons. One is that they are huge and take up a lot of space in the landfill. The other problem is as they have inspected them as they come in is in a big wad and can easily take up a quarter of the space of this room. They typically have soil and sludge or a greasy smell; they smell like fuel oil. The landfill folks are concerned about what is exactly on these liners or absorbed in these liners. They have taken samples and sent them to a lab; however, Judy has not received any analysis yet. Judy will be following up. In the meantime the landfill will also be asking people, who seek to dispose these liners have someone go out and sample the pit that the liner comes from prior to them bringing the liner to the landfill. They want to see what on them before we put these in the landfill. Commissioner Houpt asked if they had to dispose of them as hazardous waste product. Judy said it depends; they would have to subject them to some of the hazardous waste characteristics tests and they may not be suitable for our disposal and still not be hazardous. Mesa County is willing to accept them; but that is a long way for operators to haul liners. Another thing discussed is the possibility that the operators create their own landfill. They suspect if that were the case; they would not fill their own landfill up and they might shred them, might steam clean them, or do something. Commissioner Samson - Marvin when companies bring these liners to our landfill and if we have a tremendous influx of these liners, it will fill the landfill very quickly. Number two, we are not quite sure what all the hazardous stuff is in that landfill, and number three, the added cost to us. Do we charge them extra such as a surcharge or do they pay so much a month? Marvin stated so much per ton just like all other trash from the County. Commissioner Samson is wondering, and I am asking for your input, is that wise. They are taking up so much space, which will create a problem for us in the future. Number two the chemicals and number three should we be charging more because of the nature of the beast. Marvin explained that he is concerned about the environmental impact to the landfill. When they come in, they are stuck in our compactors. There is no way they can compact them without being shredded; it causes extra work and they have them pushed up by the landfill wall. They are a real issue; the teeth go through the liner and it was up and there is no way to compact them. Commissioner Samson said he knows it is an inconvenience to them; but he was wondering if this was creating a big nightmare for us down the road. Should we say we are not going to accept these anymore, and let them go to Grand Junction? Commissioner Houpt said if we were able to absorb that, she could see us doing it. If we are not able to handle that type of waste product then we should not be. Marvin said the only way it would be acceptable is if they steam cleaned it and take it to the lab to make sure it is clean and then shred it. Commissioner Houpt thinks we would not want to accept this product until we can prove that we can do it without damage to our landfill. She asked if we needed a motion to do that and Ed Green said yes, to direct them not to accept. Judy said other issues might play into what you might want to do. One of those is another option for the operators; they can bury this stuff on site. They could backfill the pit, leave the liner there, and the other option is there is a rule CDPHE calls "one's own waste on one's own land". They could create their own landfill. EnCana is thinking about doing this. They do not have to have a permit if it is on their own land. Something you may want to consider, if these liners are too dirty to go in our landfill, do we actually want to leave them behind all over the County wherever the pits are. Commissioner Houpt said when we talked about the new rule; it said you had to pull the liner out. It was really CDPHE that pushed this so there would not be all these contaminated liners buried throughout the State. Judy mentioned that what she asked during the conference call was that our landfill appeared to be contaminated. A lot of them smelled strongly. CDPHE and COGCC both said they are innocuous; there is no problem with them. Judy asked how they knew that and they said it had to conform to the table they had in their rules that says what the concentration limits are for and what can be left behind in a pit. Judy asked if the operators submitted those results to them and the answer was if there is a complaint. Chairman Martin said again, we are taking that risk, we are contaminating if it is contamination. They should do samples on site and do what they have done in the past, shred it. Commissioner Houpt said, we need to deal with our landfill on a local level. We need to make sure that we protect the integrity of our landfill. Until we clear this up, we need to make sure of the proper accountability and protections are in place. She does not think we should accept them. We are not a large enough landfill to absorb the quantity that we are going to see. Chairman Martin said it is a double-edged sword, that burden has been put on us. Ed asked how many Marvin had right now and Marvin stated at least a dozen. Commissioner Samson asked would it be your recommendation that we halt... Marvin stated, yes until there is a safe solution. Ed asked if they could trace them back to whom they belong too and Marvin stated yes. Judy said they might be coming to the County for a certificate of designation. Don said this has come up during Judy's report; but he is wondering if there is enough

information that the Board needs to consider putting on the Agenda to get reports etc. Ed said, right now we need to know more. Commissioner Hought said we are talking about looking for solutions to an issue the landfill is facing right now. Do we need a report? Don said it is up to the Board, they are suggesting it would be a more orderly discussion if it were on the agenda with reports on status, potential contamination and any other issues. Commissioner Hought asked, what about the logistical problem. We already know there is an issue at hand that we need to cut off taking them until we know. Don asked how many would you get this week and could this be on the agenda next week. Marvin said if they brought them in and there was no contamination at all; it would still be an issue for compaction and filling our landfill. Commissioner Samson asked if they could direct them to not accept any. Commissioner Hought said we could also do a motion and have it come back to us in a more formal discussion; but for right now, we know this is a significant issue Statewide. There is great concern from CDPHE about pit liners and contamination; but one of the unintended consequences of all this is what do we do with these pit liners now. If we had a larger landfill, if we had a more technically sophisticated landfill, it would not be an issue for us. That is probably why it is okay with Mesa and with the landfill in Utah; but we are a small to middle size rural landfill and we do not have the resources as we heard from Marvin. She does not know what they would learn beyond that from a report. Carolyn said her concern is simply a process; it was not on the agenda for decision, so you will have to measure the risk, who would complain. Chairman Martin said they also have an analysis coming from the lab that they would like to see. Commissioner Hought said, let's put it on hold until it is on the agenda. Commissioner Samson said he thought that would be appropriate and let's not accept any more until we get it taken care of. Judy stated her next report is on legislation and she has a presentation. This is regarding the safe drinking water act and an attempt to amend that with a new bill that would put the regulation of gas wells that are fraced. Chairman Martin said he does not know of one legislator on the Western Slope that supports this. Commissioner Hought thinks it would be worth having the information presented in a public forum. She thinks there are great differences of opinion on what kind of regulations should occur with that activity. Chairman Martin said you could put hydro fracing out of business; you might as well go back to the hard rock drilling the way it is and cut your production. It is already regulated, it is already permitted, it is already inspected and now we need more regulation to make sure the regulators do their inspection. He thinks what we need to do is put the inspectors on the hot seat and make them do the inspection, the analysis, and quit passing more legislation. Enforcement is the issue. Commissioner Hought said we could get into a political debate on this. Mike, do you think it is something you want to hear. Commissioner Samson said he agrees with what Chairman Martin is saying; but it would not hurt for his own personal intelligence to hear more about it. Commissioner Hought stated for the record that she does not agree with what Chairman Martin is saying, but she thinks it is important for the public to be educated on this. Judy said one other thing on her report is incidents. There were two fuel spills reported to her. One was in regards to the tour she took with Dick Prather. This is the one which for she is looking for more facts. The other one was one of our inspectors went out on a well pad site and noticed a diesel fuel spill. This went back and forth between CDPHE and COGCC over who has jurisdiction. Her concern about this is that when we made the report the operator also made a report to COGCC. COGCC ended up saying the CDPHE had jurisdiction over this fuel spill. CDPHE then said they do not because it was fewer than 20 gallons. This is a no man's land situation and one of the spills was in the area of Dick Prather's ranch. Her concern is, if they are in no man's land and no one is taking jurisdiction over them; then the issue is whether an operator report gets muddled up for them too. They do not know who to report it to and none of this is clear. There is no enforcement that causes the operator, if they would not otherwise report it to report it to the State. The follow-up for that spill is that it is very possible that what is in Prather's water came from a diesel spill based on the components. Number one, we don't really know what the cause is; but it could very well be a diesel fuel spill and number two, she suspects if they are ordinarily going unreported then no one is finding out and following-up on them. Many small spills are much worse than one big spill. If you have one big spill, it draws attention and everyone follows-up on it. The right sampling and reporting are done and we make sure that it is actually cleaned up. Little small spills that no one pays attention to end up in the water some place and we find out there is water contamination; we do not know what the source is. We do not have a responsible party that is held responsible for either remediating the spill and/or replacing the drinking water supply that it has affected. Judy is asking the Board to consider whether there is something we need to do as a County where we have some authority to follow-up on these spills and compel remediation, follow-up reports to Judy to make sure they are addressed. Chairman Martin stated consider the pad is approved by the State of Colorado and they have the authority and the responsibility to investigate everything that takes place throughout their permitting process. Commissioner Hought stated Judy is talking about spills all around activity not just on pads. Judy explained, if there is a diesel fuel spill that otherwise the State regulators wash their hands of... Chairman Martin said if it is not on a pad; then we should have authority through our Health Department. Commissioner Hought stated, if there is a threshold number that the State is looking at, then we need to backfill that. She asked Judy if she and Jim talked about proposed policy language or are you looking for some direction. Judy stated she had not talked to Jim; however; she would like some direction whether they should spend the time trying to work something up on that. Commissioner Hought thinks it would make a great deal of sense. She stated they have back filled on other issues in the past with oil and gas development where the State does not have the resources or deemed authority. She thinks it is important that we... Chairman Martin said he thinks they have the resources but not the desire. He believes the State wants the local government to take on that risk and responsibility. They continue to pass that down and we can make rules but we cannot enforce them. He feels we need to push the State of Colorado more and let's take care of our citizens. Let's make sure it's safe and do our mitigation and then send the bill to the State in reference to their rules and regulations. Commissioner Samson said he agrees, but what are they going to do, thumb their nose at us. Chairman Martin said they can say no but at least we make the effort to put the burden where it needs to be. Commissioner Samson - Why not do both? Chairman Martin said we would. Commissioner Hought said, CDPHE has the authority over environmental spills and they do not look at anything under 20 gallons. She is not quite sure where that came from. Judy said she does not know either, but she suspects what they are saying is they view that to be de-minimis to the point where they don't have the resources to deal with it, and they won't deal with it. However, for us we have 2,000 well pads that are otherwise not being regulated. Commissioner Hought thinks Judy should come back with a proposed process and policy, and at the same time, we need to educate the State on why that is not a de minimis number when you are looking at thousands of wells in an area. Chairman Martin thinks they are aware; especially the Health Department and all the rules and regulations that we had with just the ambulances, where you put your logo and what is going to be in certain places. That passed the cost on to all ambulance services, review

criteria, inspections, etc. They know they are passing every decision on, cost wise, to the local governments. They are aware of the 20 gallons and what it will cost us and they do not care. Commissioner Houpt said we could continue to educate them and encourage them to move toward.... Chairman Martin said instead of taking 6-weeks to do rules and regulations on ambulance services alone it took 4 ½ years. They still got out of it; they did not have to pay anything; we are still paying. On those rules, we have never sent them a bill and we need to. Judy will bring this back to the Board.

DISCUSS THE COGCC MEETING IN GLENWOOD SPRINGS ON JULY 14 AND 15 – JUDY JORDAN

A letter was prepared to be sent to David Neslin, Director of the Colorado Oil and Gas Conservation Commission for Chairman Martin's signature. In the letter there was a summarization of Garfield County's concerns regarding the Rulison site. This meeting will be at the Hotel Colorado. Judy said there are two things she would like the Board's direction. One; the Board has contracted with Dr. Thyne to do a report on West Divide Creek and there is a question as to whether you would like him to present information at that upcoming COGCC meeting. Commissioner Samson asked if that required a motion. Don explained if you want to authorize Dr. Thyne to speak officially on behalf of Garfield County, then yes, it does. Commissioner Samson asked if that is what Judy needs; she stated yes and he so moved. Chairman Martin - Second. In favor: Samson – aye Martin – aye Houpt – recused

DISCUSS RULISON – JUDY JORDAN

Judy explained this is for Dr. Thyne to also present at the COGCC meeting; the rules and questions and in addition Judy has drafted a letter for the Board, which she would submit representing the county's position, if you concur. If you would consider a motion to send the letter; have Chairman Martin sign the letter and send it to COGCC, specifically Dave Neslin, with changes. Chairman Martin stated there were some changes; one of them is going to the Governor of the State of Colorado, as well as The Department of Energy and he thinks they could send the letter. Commissioner Samson – So moved. In favor: Samson – aye Martin – aye Houpt – recused

Don wanted to comment saying after the letter is finalized and signed it then becomes a public document.

AIRPORT AREA MINERAL OWNERSHIP QUESTION, ANTERO PROPOSAL – JUDY JORDAN AND CAROLYN DAHLGREN

Carolyn showed the Commissioners a map indicating the road coming into the airport. Some people call it 352A some call it Runway Road. It is a part of the perimeter of the legal description of the airport. We did get this land by means of a fee interest deed and we used federal money to purchase this. However, clearly the reason we obtained this was for access. To be consistent with the general policy and statutes on State highways, county highways and public rights-of-way, she is asking permission to let Antero know that we decline any mineral interest underneath that right-of-way. We are using it just for a road; all we get is enough subsurface to support our road. Carolyn stated she could do this by email to Mr. Wade at Antero if that is okay. Chairman Martin explained we needed to inform them that is our position; we do not own the minerals underneath the road; we only have surface use. Commissioner Samson – So moved. Commissioner Houpt – Second.

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

AIRPORT AREA ISSUE:

Carolyn stated the other one she is confused about partially because she cannot read the document and she is hoping one or more of the Commissioners have some history on this. It is a 1939 deed from the Evans Irrigation and Realty Company. This is a well, called Northbank B12 and for some reason the BOCC has a strip of land on both sides of Hwy 6. Carolyn asked if there was any clue why we would have had land along the State highway. Chairman Martin said it might be a fence or a utility going in there in the future. Carolyn will have to look for something more readable and bring it back to the Board. Carolyn gave the reception number as 135516, Book 188, Page 349.

BATTLEMENT MESA MINERAL OWNERSHIP QUESTION, ANTERO PROPOSAL – JUDY JORDAN

Don said he received information from Antero concerning the history of title on this property and their position was that it looked like it was minerals underlying a roadway. Don agrees with their analysis related to deeds for property 30-feet either side of the centerline. It looks like a road. In those instances, you acquire the surface and subsurface to the extent you need to support the road but no minerals. Therefore, Don believes the Board should send correspondence to Antero indicating you claim no mineral rights and do not to want claim those rights.

Commissioner Samson - So moved. Commissioner Houpt – Second.

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

ANTERO RESOURCES INJECTION WELL – JUDY JORDAN

Judy stated in all these cases, the wells they have just discussed in connection with the title search, Judy has asked for a 20-day extension with COGCC to review the permits that have been submitted. This injection well is proposed to go on the Hogback behind New Castle, off Buford Road. Judy did not have direction from the Board to request more time; but at the time you were not meeting, so she went ahead by default and asked for more time. The question is do you want to do anything further with that? It is just an injection well for waste. New Castle is concerned about it and she does not know exactly why, she will learn more about it tomorrow night. They will have Antero go to that meeting and describe what it is they have in mind. She suspects it is water supply and traffic as some of the things that are of concern. John Black seemed to think that Antero would probably install pipelines to take the waste over to the injection well, which should relieve the traffic problem. Commissioner Houpt asked if this well will be serving many different pads and Judy stated yes. Commissioner Houpt felt this was a land use concern; she feels it would be important for Judy to follow-up. Chairman Martin said he thought each one of us has been invited to the meeting and he would be there. Judy said right now she would just stick with the extension she has asked for and see if later the Board wants to give her further direction. Chairman Martin stated he would like to listen to them and see exactly what they are planning; he does not have much detail. Commissioner Houpt will be in Denver.

DEGETTE BILL/SDWA/TOWN RESOLUTION – JUDY JORDAN

Chairman Martin wanted everyone to know there are at least three sides to an issue. He was contacted regarding other legislators and was asked to take a position to oppose this bill, as they have throughout the State; however; he declined saying simply because he thought they needed both sides of the argument before we could make a decision. If we see this one side, he suggests we see the next side before we make any position. Commissioner Houpt said she thinks they have all been contacted on all sides and thinks there is some great validity to the language being brought forth and the question of why the exemption exists. We may end up having different opinions on this issue.

Chairman Martin said that is why they need to have both sides of the story told. Commissioner Houpt asked Judy if she took a position and Judy said she did not. This is actually about what the bill does. Judy will give her presentation at the next meeting.

COUNTY ATTORNEY UPDATE – DON DEFORD

Don needs to have a 2-minute executive session to discuss documents he has provided concerning item 2C - the new Procurement Code. Commissioner Samson - I move to go into executive session for the said subject. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Samson -I move to come out of executive session. Commissioner Houpt- Second.

In favor: Houpt – aye Samson – aye Martin – aye

PUBLIC HEARING:

Don informed the Board they would need to come out of the Board of County Commissioners and reconvene as the Board of Equalization. Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

BOARD SITTING AS BOARD OF EQUALIZATION

CONSIDERATION OF RESOLUTION ORDERING ASSESSOR TO CORRECT ASSESSMENT

ROLE ERROR TO RAISE VALUATION ON TAMARISK VILLAGE PADS, LLC – LISA WARDER

An error was discovered in the valuation of Schedule R770001 owned by Tamarisk Village Pads, LLC. In order to ensure equalization among competitive properties in the County, they feel that it is necessary to amend their erroneous valuation of this property. They are asking the County Board of Equalization to pass a resolution increasing the valuation on the property to the proper level of value as shown:

Actual Value on Nov.:	\$1,896,210.00
Corrected Actual Value:	\$3,562,500.00
Change: (+ or -)	\$1,666,290.00+
Assess Value on Nov.	\$ 150,940.00
Corrected Assessed Value	\$ 283,580.00
Change (+ or -)	\$ 132,640.00+

They are requesting the BOE increase the actual value to \$3,562,500.00. Lisa explained this was a clerical error by their commercial appraiser, which resulted in an over valuation. His error increased the values during the 2009 reappraisal. R770001 is actually the Saddleback Village Mobile Park. In the course of the protest, the appraiser realized this property was incorrect due to clerical error and did not get the proper value to increase the value in 2009 and actually decreased the value by a good percentage. We are asking in order to ensure equalization among the mobile home parks in Garfield County, that the Commissioners raise the value by \$1,666,290.00, bringing it to a corrected actual value of \$3,562,500.00; you are giving us authority under Colorado Revised Statute 39.8102 (1).

Don explained he had a few process comments to add. The statement the Deputy Assessor has presented is complete and describes both in substance of the statute and the problem. You should have in your packet a draft letter that will actually be over the signature of the Clerk and Recorder informing the property owner of the proposed action. This is a unique process in this County; but state law has almost since the beginning of the State provided the method to equalize valuations when there is an error in the assessment roles. This is the process we are asking you today; it has occurred occasionally in other counties around the state and we have traced what other counties have done in bringing this to you. Don would second Ms. Warder's position and ask that the Board to direct the Clerk and Recorder to inform the taxpayer of your decision pursuant to the letter of July 6, 2009.

Commissioner Houpt – So moved. Commissioner Samson – Second. Chairman Martin explained that the taxpayer, the receiver of this letter, still has a full gamut of appeal of the process and we are not to steamroll any individual.

Understanding; that all those in favor? In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Houpt made a motion to come out of Board of Equalization.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

AUTHORIZE THE CHAIRMAN TO SIGN THE LETTER OF SUPPORT FOR THE SUTHEY RANCH LAND EXCHANGE WITH THE BLM – FRED JARMAN

Below is the context of the letter Fred is proposing and to whom he is sending it.

Congressman John Salazar	Senator Mark Udall	Senator Michael Bennet
326 Cannon HOB	317 Hart Senate Office Bldg.	702 Hart Senate Office Bldg.
Washington, DC 20515	Washington, DC 20510	Washington, DC 20510

RE: Letter of Support for the Sutey Ranch – Bureau of Land Management Land Exchange in Garfield and Pitkin Counties, Colorado

Dear Senators Udall, Bennet, and Congressman Salazar,

I am writing to provide you with Garfield County's support for the pending Sutey Ranch – Bureau of Land Management Land Exchange in Garfield and Pitkin Counties, Colorado. As you may be aware, the 520-acre Sutey Ranch, located in eastern Garfield County, is a beautiful property that has supported long-time ranching activities as well as continues to serve as valuable wildlife habitat for elk and deer. (Garfield County understands the land exchange contains lands in another county; and would defer to that county on issues relating to lands within their jurisdiction.) Garfield County sees the conversion of this valuable ranch from private property to public lands as a unique opportunity to preserve the ranch's sensitive wildlife values while also being able to provide public access for carefully planned and managed recreation. This exchange will also have the added benefit of merging a fragmented public / private ownership landscape in this portion of the County. A goal specifically cited with the County's Comprehensive Plan provides that Garfield County "should provide adequate recreational opportunities for County residents, ensure access to public lands consistent with BLM/USFS policies and preserve existing recreational opportunities and important visual corridors." Additionally, the Comprehensive Plan contains policies that state, "Access to public lands will be expanded and maintained." While the County is supportive of this land exchange, it believes strongly that motorized uses for recreational purposes be prohibited on the property by way of a sensitive recreation management plan that is consistent with the County's position in order that the natural scenic and wildlife values remain intact, which may involve seasonal closures to public access for sensitive Elk and Deer habitat during the winter months. Limiting recreation through a sensitive management plan over the property has also been a concern of the Colorado Division of Wildlife due to the sensitive wildlife habitat. More specifically, Garfield County supports the land exchange with the following principles incorporated into a management plan:

1. Protecting and enhancing wildlife and plant species as a top priority, including seasonal or other closures of all or portions of the parcel to public use as may be determined appropriate in the planning process, to protect wildlife and plant communities;
2. Utilizing existing roads, ways or other areas on the parcel to locate one or more non-motorized trails to connect to and access adjacent or nearby public lands;
3. Utilizing water rights appurtenant to the parcel to benefit fish and wildlife species on the parcel and/or other nearby areas of environmental concern;
4. Assessing the historic significance and feasibility of preserving the historic Sutey cabin near the east end of the parcel; and
5. That the mineral rights will transfer from the Sutey property to the BLM along with the water rights and the rest of the property. Once the BLM acquires the property, Garfield County supports legislation that permanently withdraws all minerals from leasing, mining and disposal under the public land laws so they will be permanently off limits to development.

Therefore, by these comments, Garfield County offers its support of the pending Sutey Ranch – Bureau of Land Management Land Exchange in Garfield and Pitkin Counties, Colorado, which would allow for a sensitive blend of increased public access to public lands while providing lasting wildlife habitat and rural lands protection from adverse development of a historic ranch in Garfield County. Chairman Martin said he was in direct contact with one of the adjoining property owners who this affects. He has come to terms, as well as the Homeowners Association and they are satisfied with the exchange and the contribution that the property owner is going to receive with this exchange. They have worked out all their details locally and talked to the others. The access is by foot; no horses are allowed, no motorized vehicles; however, he thinks you can ride a mountain bike. The letter is fine with Chairman Martin. Commissioner Houpt said there has been a great deal of support and she understands that Pitkin County is still reviewing this land exchange. I make a motion we approve the letter as presented to send to Senators Udall, Bennett and Congressman Salazar in support of the Sutey land exchange.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

BATTLEMENT MESA PUD RESIDENTS' PRESENTATION REGARDING PROCESS FOR REVIEW OF POTENTIAL ANTERO DRILLING – PAUL LIGHT AND OTHER RESIDENTS

Paul Light, Bonnie Smeltzer, Dick Buckan, Sandy Gather, Joanne Mayo, John Chance, Bill Quailo, Bill Nelson and Chuck Hall, and Mary Ann Kennedy were introduced. Paul said he and his wife bought a home in Battlement Mesa about 5 ½ years ago. His plans were to retire, fish, listen to music and it looks like this would not be their future. What they are concerned about in Battlement Mesa is regarding the proposed drilling by Antero within the boundaries of the PUD. Our lives would be turned upside down if this occurs. They can accommodate themselves to many things; however, there are some things they want to recognize early in the discussion. We recognize the right of mineral owners, we recognize the right of companies to drill for those minerals; but they recognize two rights that they think are greater. Those are the rights to public safety and public health. They want an opportunity to speak to those rights in every case where Antero asked for a drilling permit. They feel that within the PUD regulations and within the original Exxon agreement, the right to a hearing under a special use permit is the way it has to be done rather than a use by right. They want the Commissioners to go on record as affirming that and helping them in the process. Paul will be living close to two pads that are projected, and there are certain public health issues and public safety issues related to those pads. They want to have the Antero rights established by special use permits. They have some questions as to whether it can be modified in their favor. He thinks the time limit for the procedure is 120 days. He is wondering if the time can be extended. They do not have any staff to research; they only have volunteers. They do not have any money to hire people to research and they are finding out many of those cases very important things have to be researched. For instance, what does it mean for the Core of Engineers to declare an area of wetlands, what does that mean for Antero's plan to drill in that spot? They may have to have some authorities testify in the area of public safety and public health. What will the hearing process be? They not only want a special use hearing; they want to know upfront and throughout the transparency of how that operates so, we have a chance to have input. They do not want to argue that mineral owners do not have a right to their minerals. They do want to argue that people have a right to safety and public health. They will be arguing for a 1,000-foot setback from homes, from the Colorado River and from water wells that are now in existence. They hope they have a chance to do that in each case when a drilling permit is being asked for approval. Richard Buckan, 0019 Willow Creek Court. He and his wife live 100- feet above a proposed well pad. They have a community in the Battlement Mesa of about 5,500 people and they will all be impacted by Antero's drilling. Their concerns need to be heard and we need to maximize the opportunity to be heard. He believes the special use method of plan review does that it provides for a hearing before the County Planning and Zoning Commission as well as you folks and before the COGCC. Apparently, this process is also required by the original amended versions of the PUD. That is good because we do need the opportunity to challenge whether there will be any drilling at all in the PUD. We need the opportunity to challenge the sighting of individual well pads. Some of these pads are ridiculously and dangerously close to dwellings. There are many issues ranging from dust and traffic, lighting, pollution, noise, obnoxious fumes, explosions, extreme fire danger and contamination of water supply by benzene and methane and only God and the industry knows what else. In addition they would be negatively impacted by decreasing home values and a virtual freeze on home sales due to the drilling. Our quality of life will decrease dramatically. One thing Richard is particularly concerned about at his residence is fire danger. He is 100- feet above the slope and it is tender dry cheap grass. Any explosion, spark, or fire could set that off and it will be up the slope before anyone can react. All these issues need to be openly discussed before the Board and government agencies that have some control. A special use process best serves this end and they need to take the position that special use controls over a use by right, and demand that the process be followed. As your constituent's we need your help and would like a commitment from each Commissioner that they would support the special use process. He thinks a negative or passive position in this matter would be a disservice to 5,500 predominantly voting citizens of the Battlement Mesa Community. Richard stated if he was not out of order he would like to take a poll and ask if you folks.... Chairman Martin stated there is only one position and that is what is on the books right now. It is a request, a position we have to support because it is an approved PUD. Any change in the PUD has not been requested;

therefore the rule still stands in place and that is what we support. It requires a special use permit under the PUD approval. Now is there a process to change that; yes. Has anyone requested that, no. Have we seen anything or promised anything for that change; no. It is still on the books and it is still a requirement of the PUD.

Richard asked if a request was made would they be notified. Chairman Martin said of course; any change on any PUD has a process they would follow. Everyone would be noticed. Commissioner Houpt asked if an application comes forward for a change in a PUD then who is noticed. Fred stated it is generally those parties affected in the PUD. Chairman Martin knows that Battlement Partnerships will notify everyone if there is a request of any kind of change. Commissioner Houpt stated, at this point absolutely what is on the books is a requirement for an application for a special use permit and that is what they are anticipating coming to the Board. Chairman Martin said that is not passive; that is just the way it is, that is the rule. Joanne Mayo has lived in Battlement for 8-years and moved there for the same reasons as everyone did the view, the tranquility. Antero's map of proposed wells shows pad M, which is an area designated by the Core of Engineers as wetlands; they would like an investigation. Chairman Martin explained they do not issue the permits. Commissioner Houpt said that would come into play with a special use permit application; all of that information should be included in there. Joanne said the same thing, special use permit rather than the use by right. Chairman Martin stated the permit process has to go through with the Core and they issue their permits. That would have to be in place if that was a requirement, if they still have it mapped or not, and he is not sure if they still have it mapped. We have seen some exclusion from that and remapping of different areas of Garfield County. In fact, he had two last week that are no longer classified as in the floodplain or wetlands area. That again is the revised documents of the Core. If it is a requirement, the Core not this government must issue that permit. If they are going to do anything in the wetlands, even build a house or extend their patio, and it is in the designated wetlands, they would have to get a Core permit, do mitigation, and then go through the process.

Commissioner Houpt said part of our conditions would be to make sure that all of those permits are in place. Sandy Getter has lived in Battlement Mesa for 10-years and is appalling as a member of the trails committee in Battlement Mesa. The plan that Antero proposes in our community is going to undo a great deal of planning and actual trails we have, so we will definitely need a hearing. The idea of an underground pipeline is great; but if you notice, it follows West Battlement Parkway's existing trail and that will be wiped out. There is no room to relocate that part of the trail or even the pipeline because it is adjacent to the golf course and to the road. We also have the problem of well pad M on the golf course, which is off number 6 green, which would cut right across the trail. Garfield County, John Lyons, Battlement Mesa Service Association and our committee have spent many hours and a lot of money trying to get a connecting trail between Parachute and Battlement Mesa. The trail along John Lyons property is just about ready to be approved. He has gotten everything in order and it is supposed to cross West Battlement Parkway and join up with this trail. It will be a trail to nowhere. These details are very important for us to be able to discuss if the permit is issued and that is why we wanted to make sure we would be notified and stay within the special use permit. Bill Nelson has lived in Battlement Mesa for 11 ½ years. He is also the President of the Consolidated Metropolitan District and they have concerns that two of the proposed pads are located very close to the water treatment plant and the wastewater treatment plant. We have received assurances from Antero because we have already had a meeting with them about this subject. They said their drilling methods would not materially affect any of these installations. Bill has heard stories of seepage in certain areas and failure of concrete and so on. We would like to address the issue of pad locations throughout the PUD. In addition, it seems so far all the decisions have been made by either Antero or Battlement Mesa Partners for the entire community without any input from the residents or even considering the residents. Antero talks about mitigation of so many nuisances including the noise, odors, traffic, and disturbance of the surface and so on. Mitigation is not elimination and in addition, there has been no real indication of how long this is going to go on. Some very rough arithmetic tells him they will be there for at least 6 to 8 years and then what happens. There are still areas they are not covering with their drilling, which means more people will be coming in. This is going to be a never-ending thing and many of the residents who retired there will not last as long as the drilling operations. Commissioner Houpt said that is why the special use permit process is important because there will be a public hearing and you can share your concerns. Write letters submit them to Fred Jarman, they will be put into the packet, and we will look at everything. Chairman Martin said there is another issue. There are two separate processes that you are talking about and combining them. The comprehensive drilling plan is an agreement between the representative, the mineral owners, and the drillers as well as the landowners that these pads will be sitting upon including Battlement Mesa Partnerships, Antero, Williams and Exxon. The control, location of the pads, conflicts, setbacks and all those other issues are under the comprehensive drilling plan that must be addressed now and then presented to the State of Colorado for approval. The land process and allowing them to go forward with this particular approach is under our control and we have a special use permit within the PUD. Instead of saying, it is a use by right; it says we will have a review of this particular one. To tell the developers of the minerals, no, you cannot develop your minerals is not up to us. That is going to be the State of Colorado. The comprehensive drilling plan is a new regulation that helps communities to understand what is going to take place, how long it is going to be, the locations, and the surface use agreement. Then with the community meetings and he understands that the staff and the oil and gas conservation folks will be there on the 8th to sit down and listen to your concerns. They will review the comprehensive drilling plan, your concerns, come up with guidance for everyone, and include the public on that. Again, there has been no request to make any changes under the PUD by Battlement Mesa Partnerships because of the comprehensive drilling plan. Commissioner Houpt said she believes under the special use permit process we can look at the location of facilities and pads. She expects them to do that. She also trusts the comprehensive development plan process; it is new and it is a time to make sure the people who should be at the table are at the table and she is glad that the COGCC staff will be in Battlement Mesa this week to talk about process with everyone. She does not believe that the special use permit process does not allow us to talk about what happens on the surface. Paul asked what the order of things was with respect to the special use permit hearings or the comprehensive drilling plan. Commissioner Houpt thinks the comprehensive drilling plan is already in process and it depends on when the application for the PUD comes to the Board. Paul said they were told for the last 6 to 8 weeks they would see that soon and they have not seen it yet. Chairman Martin said that would be between the parties who are entering into that agreement to release that. We have no control. Bill said the comprehensive plan, as he understands from Antero, would not be ready until February. Commissioner Houpt said it depends on when they submit the application for a special use permit. Fred explained the permit process, if Antero submits an application to the County, we would take anywhere from two weeks to 30-days to make sure we have everything we need, set it for a hearing and then it comes to this Board. They will determine whether they

want to send it to the Planning Commission for their review. It is a 30-day time notice for each one of these Boards. Generally, a 90-day process does require formal notice for public hearings, if they chose to go through the special use permit process. The same is true if Antero wants to change the rules of the PUD, you will still be noticed and you will still be able to come to this Board and participate in that hearing. Any questions that you have, you can always call our office. Bill asked where the public hearings would be held. Chairman Martin explained. Bill stated as far as the surface use agreement, he understands that Antero is still editing it and it has not been released yet. We have been told that we will have access to it as soon as they finish. Chairman Martin said he would probably have it before the Board sees it. We are not a party to that access; the agreement is a contract between a company and a private property owner. What they agree to is not usually open for government participation. Once you get it and if we do not have it, let them know, as Chairman Martin would love to read it as well. MaryAnn Keller, 2 Meadow Creek Drive. She came from the polluted state of New Jersey thinking Colorado would be safe and healthy. Her concern is walking her dogs past the Rulison bombsite and there are two wells up there. We have noticed all the trees and shrubs are dying up there and water seeping out. Her concern is that the wildlife is drinking this water and no one has done any studies about the health hazards. When she has gone online, she cannot find any research that has been done on this. Chairman Martin explained the Department of Energy has been studying this since 1969 and has done numerous documents on that. The Division of Wildlife has also gathered information. That information is there and our Health Department is there, we have heard from the landowners and their concerns and we are talking about this subject in Battlement Mesa. Depends on the Oil and Gas Conservation whether they want to put out their agenda, that is one of the subject matters we want and we have taken a position. Garfield County is now submitting correspondence to the Governor, the Department of Energy, and the Oil and Gas Conservation Commission on those issues. Commissioner Houpt asked if the trees and shrubs were adjacent to the pads. MaryAnn stated they are far away. She does not know what kind of trees they are; it is a mixture. It is obvious they are dying. Her concern is that she moved here from New Jersey, where chemical plants came in and they said the water was safe. There are cancer studies that have been done that the chemicals have seeped into the water. They did a survey before the chemical plant went in and after and the cancer rate went up after it seeped into the drinking water. Sandy Getter said she volunteered for about 4 years for the Division of Wildlife and also with Nancy Limbach and she has seen firsthand, ducks pulled out of open pits they were washed with Dawn but they all died from being exposed to those chemicals and those open pods. She has also seen the rate of elk coming down Mamm Creek, when the traffic increased with the drilling and it has made an impact on wildlife. Chuck Hall, President, Battlement Mesa Service Association. At their last meeting they had a motion made that assigned our oil and gas committee to be the focal point within the committee, it is chaired by Bill Nelson. They have monthly meetings on the second Tuesday of every month at 3:00 p.m. He is hoping people with concerns will bring those concerns to that committee, which that committee can then take to the bodies that will be in the hearing processes. He would like to add that at the current time, they have scheduled a monthly meeting with Antero to discuss several subject they have identified, and it's not to say that additional items cannot added to the list. It helps to have goals and items to discuss; but if the community has those concerns, they need to be brought forward so we can discuss that with Antero as well. Commissioner Houpt said, the folks living in Battlement Mesa can attend all of these meetings and the representative will bring their concerns forward. Chuck stated that was the objective behind it; every person that owns property in Battlement Mesa is a member of the Homeowners Service Association and every one of the meetings, with the exception of something similar to your executive session, is open to the entire public. Our discussion at the last oil and gas committee meeting was the idea to have some open meetings and to have the community there so we can get their input and concerns. Chairman Martin said it is good that everyone understands what a disclosure is on mineral rights on the piece of property that you buy. Please research that on your legal description and all of the other documents you get to sign. Sometimes you do not realize what you are giving away or gave away or do not own. That is one of the important issues regarding mineral rights. If you do not know that and cannot find your documents then go to assessor's office and look at records then go to the recording department in the Clerk and Recorder's office. Commissioner Houpt said in the meantime it sounds like the CDP process especially is going to be important for you to work with the oil and gas committee and the service association to make sure that all of your concerns are brought forward. Chuck said in their discussion with Antero; they indicated they believe they have that surface use agreement and that document should be available soon. Prior to that time they have put out a fact sheet that identifies what they believe the major point are in a surface use agreement and what some of the planned mitigation activities will be. That is one of the main missions of the oil and gas committee in Battlement Mesa, which is to worry about public health, safety, and what goes on within the PUD. Bill stated they would be meeting with Antero twice a month. They are trying to setup a schedule so some of those meetings can be in the evening; people who work will have an opportunity to come. Don Chance said the energy companies have consistently talked about what they are going to do to control their drilling operations. We have heard it from EnCana, Williams and Antero. Unfortunately, they are not the ones out there doing the work; people doing the work are contractors. They come from all over the country. He has questioned these companies many times and they never put anyone in the field to control those people. We can have all the meetings we want and they are necessary with the oil and gas committee, but unless the energy companies are going to put people in the field to see that the contractors are actually adhering to the things they say they are going to do, it has no effect whatsoever. His property backs up on north Battlement Parkway. This is a main route for all the trucks, the drill rigs, and the workers. His wife jogs on this road and she has actually flagged some of the people down to tell them they are speeding, using Jake brakes, and he cannot tell them the verbal abuse she has received from these people. In any kind of comprehensive drilling plan there needs to be something in there to control contractors they are the problem; what is Antero going to do to control the contractors. They are the ones that create the problems. He thinks the energy companies are very sincere in what they say and what they tell us about the controls they are going to put on; but they have to have people out there to watch them. Chairman Martin said both internally and externally. The policies are there, you see some of the companies putting monitors on all of their vehicles and that is voluntary. They also post signs regarding employees and the Sheriff is always interested in phone calls. There are many different facets that need to be corrected; it is not just someone in the company telling them we are watching your subcontractors. It has to be enforced and it also falls on the State of Colorado who gives those permits. James Golden, 648 Village Drive, Rifle. He would like to clarify, as he believes the road has already been paved by the original planned urban development approval, which he believes Garfield County gave this Battlement Mesa project. Back in the beginning it was stated somewhere in

there; he got this from the Glenwood Post. Chairman Martin stated in the original approval. James said in there it was clarified that any oil and gas exploration or development would require a special use permit and that still holds. Chairman Martin said there has not been a request of any kind of change; we still honor that. Bill said; as of today, there will be special use permit hearing concerning these. Chairman Martin said if it is requested they would hear it. Otherwise, we expect it to be requested. James asked, if what is requested. Chairman Martin said any development within the PUD under the requirement. There has been no request from anyone to make any changes.

Commissioner Houpt said if there is not a permit that comes forward, or a request for a change in the PUD, they will be out of compliance if they move forward without that and we will respond accordingly. James said he knows how those go. He wants to make sure and he has seen it happen a few times where the deferral of a decision to hire entities such as the State or the Federal Government has occurred. Such as COGCC to walk in to make the decisions on it so Garfield County does not have to make the decision on it and such as the State is being deferred to make the decisions on what is going to happen here. This is a situation where it is your day in the sun; it is a very exciting day. It is also a place where delineation needs to be made, a line needs to be drawn, and where that line needs to be held. He does not want to see it be deferred to other entities, even the COGCC - no offense Tresi. Commissioner Houpt said she agrees with him. She thinks it is a very important time to identify local entities, authority versus State and authority over permitting energy extraction. It is very unusual to have this use be a special use permit in Garfield County. She agrees we need to move forward accordingly with the special use permit process. James added and on the subject, he feels very close to his heart so please look at these people from Battlement Mesa, the people that live there. Having the industry come in and walk all over them and their neighborhood is like stealing candy from a baby. He does not think it is moral and he does not think it is right. So many things that are not moral and are not right happen anyway; but make that delineation, draw that line and hold onto it please. Chairman Martin said it is called unfunded mending's. Paul asked if a request from Antero or someone else, comes to the Board to change the PUD regulations; such as to get rid of special use permitting process, how would you handle that request. Chairman Martin said just as we explained the process; it has to be a noticed public hearing. There is an application criteria within that application. Fred has to find it complete and at that point the requirement is either to go to the P & Z and this Board, or to just this Board; he thinks they would probably do both. It would have to be noticed. All of the changes within the PUD and you would have your moment to testify here as well. We would make the decision if it would go forward or not. Paul said that is very similar to the special use. Chairman Martin said it is the same. James asked if Antero went ahead without getting the special use permit what recourse does the County have to deal with that. Chairman Martin thinks those are a violation of the terms and conditions of approval of the PUD. Commissioner Houpt said they would move forward with code enforcement violations. Chairman Martin said it would also mean they would be drilling with the permission of the State of Colorado who is ignoring the rules and regulations in Garfield County. The State of Colorado is one of the issues he keeps stressing, we do not issue permits to drill or pads; it is up to the State. If they go forward, they are calling it a preemption of local land use and they need to justify that decision. If it is an operational conflict, the attorney has already said we would preempt local land use. This Board is saying, that is on the books, it is a special use. The PUD was approved in 1983 and we still hold that true. There is no request to make any changes and we expect the landowners to live up to that obligation. Otherwise, it is a code enforcement issue and a violation of the PUD condition. He does not know what other position they can take; we have nailed it down pretty good. Paul said that would mean Battlement Mesa Partners or the corporation would be in violation not just Antero. Chairman Martin said that is correct. Then they would have to have the backing of the State of Colorado for the drilling activity and a permit to do such. Commissioner Houpt said it will probably be a bit more complex too because we would move to stop the activity and it would go to the courts. It would just be nice if everyone would move forward with the requirements that are in place. Chairman Martin thinks that is why you see the comprehensive drilling plan and try to work with the landowners as well as the neighbors. That is why it is taking as long as it is. That is why your participation is much needed. Chuck said he did not want to speak for Antero; but he understands their plans and they have a commitment, a requirement to have access to minerals by a certain time. That time is coming up. Before they could do the major land use impact review that the County requires, they have taken alternative action to get with the COGCC and will probably get access to those minerals. Commissioner Houpt said yes and she has not heard otherwise. She assumes that is what they plan to do. Chuck said from his discussions with them that is their plan. Just like the plan to go for the voluntary comprehensive drilling plan for the whole PUD and they will include all of the pads within that plan. As Bill mentioned they are looking at a time where that approval can be sometime around February of next year; but they would get that approval for the CDP from the COGCC. Commissioner Houpt stated the approval for the special use permit is completely dependent on when they bring to the County. Paul asked if the use for the pad, which is outside the PUD, is that a right by use. Chairman Martin said it is outside our jurisdiction; it is the Oil and Gas Conservation Commission and the activity that takes place there. Paul is hoping the Board of County Commissioners will support this.

CONSIDERATION/DIRECTION RE: NEW PROCUREMENT POLICIES AND PROCEDURES – MATT ANDERSON AND LISA DAWSON

The major changes in this manual are raising the thresholds from \$1,000.00 to \$10,000.00 and from \$10,000.00 to \$50,000.00. The implementation of the New World Systems Requisition and Purchase Order system and all purchases under \$50,000.00 will be delegated to each department and elected office with approval and oversight from the Contract Administrator office. Purchases on \$50,000.00 will receive approval from the BOCC and will follow formal procedures. Purchases for goods and services under \$10,000.00 will not require a contract or purchase order but will require all applicable insurance and other requirements with oversight from the contract administrator's office. Invoices for procurements above \$10,000.00 will no longer be paid without a corresponding Purchase Order or Contractual Document. Matt stated if the Board remembers they came before them several months ago with their critical issues and detailed the initial plan on how to put this structure into place. Matt explained this is the final piece to the first step and this whole process is to put in a structure to have better controls over our procurement and acquisition. This is going to allow Matt's office to have better oversight and actually enforce our procurement regulations, which is something that has been lacking. A few of the changes being made are just steps they need to do to move forward to implement the system. After which they will be able to identify items much more easily and make further changes through the year. This will create accountability; we will be more fiscally responsibility and it will help the department's budget easier. We will encumber funds, it will be a lot more efficient, legal, and we will have a lot less risk than we currently have now. Commissioner Houpt said she

appreciates the time put into this. As she was reading through this she has several questions, some comments, and they received some comments and questions from the attorney's office. She would like to set this for a Work Session. We did it for the personnel policies; they have done it with other policy changes with the code. This warrants having a Work Session with the Board so that we can go through it line by line and ask our questions. She does not think they have time today to give it the attention it needs. She certainly would not be able to do that without going through all of these questions. Don added to her list of questions. Chairman Martin stated they needed to get this done before mid-July. Commissioner Houpt asked why we are under these time constraints; she wants to do this properly. Lisa said this is the final big piece in step one and they envisioned a rewriting within 12 months. In order to put some of these controls in place; one of the critical issues was to increase the approval limit for the purchase orders and that was the focus of their change to the Procurement Code. Instead of just changing that, they also went through and cleaned up a few other things; but this is an interim step. The reason they want to implement this soon is that they have gone through our accelerated schedules; Ed mentioned doing training with the departments, setting up our software system and everything is pending your formal approval of increased approval limits. They would like to get that done fairly soon so that departments can take on the duties they are training to do and not forget the process. Chairman Martin said the items we need are listed as the top eight. Matt said, more importantly the longer it takes to implement these procedures the more at risk we are.... Commissioner Houpt said let me point out that we received this in our packet at the end of last week. This is a very thick document with many changes and there are some significant policy changes that go along. She does not want to be chastised by staff for wanting to spend more time going through this in a work session. She thinks it is very important. Lisa agrees. Commissioner Samson said he thinks instead of talking about it now let's schedule a work session. Don stated if you are doing a workshop you will have to come back to take final action. You might want to make it a regular meeting. Commissioner Samson - I move we have a special Board of County Commissioners meeting on Thursday, July 16th to have a special meeting at 2:00 p.m. Commissioner Houpt-Second.

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

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-fund Transfers
- d. Changes to Prior Warrant Lists
- e. Grants – Sales Tax Recovery Distribution for June, 2009 \$51,658.53 – Georgia Chamberlain
- f. Authorize the to Sign a Special Use Permit for a Temporary Produced Water Treatment Facility on Well pad 35-BV in the Resource Lands Zone District North of DeBeque on CR 211 – Applicant; Chevron USA, Inc. – Dusty Dunbar
- g. Authorize the Chairman to Sign a Resolution for a Special Use Permit for the Story Gulch Compressor Station in the Resource Lands Zone District, Plateau subzone – Applicant; EnCana USA – Dusty Dunbar (Correcting Scrivener's Error on Resolution #2009-42)
- h. Authorize the Chairman to Sign a Special Use Permit for the Conn Creek II Compressor Station in the Resource Lands Zone District, North of DeBeque or CR 213 – Applicant; Oxy USA WTP LP – Dusty Dunbar
- i. Authorize the Chairman to Sign a Special Use Permit for the Conn Creek II Compressor Station Control Facility in the Resource Lands Zone District, North of DeBeque on CR 213 – Applicant; Oxy USA WTP LP – Dusty Dunbar
- j. Authorize the Chairman to sign a Resolution and Special Use Permit for a Limited Impact Review Permit for the Circle B Produced Water Storage Facility #4 in the Rural Zone District, Located in Section 35, T6S, R 92 W, Silt – Applicant; Bill Barrett Corporation – Dusty Dunbar
- k. Authorize the chairman to Sign the Resolution of Approval for a Text Amendment to Articles 3, 7 and 16 to Add the Use of "Inclement Weather Vehicle Safety Area" in Resource Lands – Gentle Slopes Zone District – Applicant; Chevron USA, Inc. – David Pesnichak
- l. Authorize the Chairman to Sign the Special Use Permit for an Accessory Dwelling Unit on 20.22 Acre Property Located at 44523 Hwy 6 & 24 and Approved on July 18, 2005 under Resolution 2005-73 – Applicant: Rocky Gabossi – David Pesnichak
- m. Authorize the Chairman to Sign the Resolution of Approval to Extend the Special Use Permit for one Temporary Employee Housing Facility Memorialized Under Resolution 2008-65 One Additional Year Beginning July 7, 2009 and Expiring July 7, 2010 – Applicant; Marathon Oil Company – David Pesnichak
- n. Authorize the Chairman to Sign the Amended Final Plat of Rock Creek Subdivision Amending the Boundary Lines Between Lots 3 and 4 – Applicant; Margaret McVoy – David Pesnichak

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - n; carried.

CONSIDERATION OF REQUEST FROM BLM FOR COUNTY TO BECOME A COOPERATING AGENCY ON (1) TRANSWEST EXPRESS TRANSMISSION PROJECT AND (2) ENERGY GATEWAY SOUTH TRANSMISSION PROJECT

The Transwest Express Transmission project is proposed to provide the transmission infrastructure necessary to deliver approximately 3,000 megawatts of electric power generated in Wyoming to the Desert Southwest – Arizona, Nevada and southern California. The project will allow consumers access to domestic, clean, renewable energy resources, meeting increasing demand with improved electrical system reliability. The Energy Gateway South Transmission Project: The existing transmission system in the region is at capacity and the regions energy needs have and will continue to grow. Don stated, you simply need to give direction to BLM and staff on this matter. Commissioner Houpt said it looks like the alternate route goes through Garfield County and suggests they are very involved in the discussion. In the Energy Gateway South Transmission Project, Garfield County is in the study area; but the routes do not actually go through Garfield County. Chairman Martin stated that was correct; the Western Governors Association on the study was under advisement. Since Chairman Martin sits on that Board, he thought they might as well include that. He felt they would learn from the other entities and any kind of impacts we might be missing. We can sit at that table, be a member and bring back the information. Commissioner Houpt said she would support being a participating partner in both reviews. That is a motion. Commissioner Samson – Second. He asked if someone should be appointed to go there. Commissioner Houpt explained that Chairman Martin has been involved in these discussions so he should be involved. She thinks they need to make a formal decision on how we

feel about the alternate route once we gain more information. Chairman Martin stated they would not commit to any individual position; we share the information and if we have an official stance, this Board has to make that stance and then we take it back as our position in that meeting. Don stated historically the Board has designated some member of the county administrative staff as a representative and a liaison. Commissioner Houpt said historically that has been someone from the planning department. Chairman Martin stated he would let Fred Jarman know. Commissioner Houpt said that is very important because they have been able to put together very comprehensive reports for us. Don said the letter from BLM actually calls for a county position could the Board do this by motion. Commissioner Houpt amended her motion; I make a motion that we participate as participating partners on both projects; both the South Gateway Transmission Light Project and the Transwest Express Transmission Project; our staff contact will be Fred Jarman, Director of the Planning Department and our Commissioner representative will be John Martin. Commissioner Samson – Amended his second. In favor: Houpt – aye Samson – aye Martin - aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don would like to discuss contract negotiations related to his office; litigations concerning County Road 165 and Iron Rose Ranch; update and receive direction concerning personnel matters; discuss and receive direction concerning the status of two purchase agreements, one concerning the Midland Center LLC, and property located on 7th avenue referred to as Lot 42, block 24. Cassie needs to discuss five items concerning code enforcement litigation, **Caltex**, K & L LLC, RIM W LLC, Blizzard and Vezzoso one and two; provide an update and receive direction concerning the application of a land use code to rejection drilling and power line, and discuss proposed litigation involving the Power Line Park. Commissioner Houpt stated before we go into executive session or make a motion; there is an application she needs to read over during the lunchtime. A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

CALEY LIMESTONE QUARRY

Don stated with the code enforcement issues; regarding the Caley property identified generically as the Limestone Quarry; staff is looking for direction to submit communication to the property owner. Commissioner Houpt – I make a motion that our planning director contact the owner and suggest they feel very strongly about him following County regulations and he needs to move forward on that process or we will be forced to have a revocation hearing, which we do not want to do. However, if he is not going to follow the process; that is what we will have to do. Fred will report. Commissioner Samson stated he wanted to amend that by saying contact him by phone and by letter. Chairman Martin and Commissioner Houpt agreed. Commissioner Samson – Second.

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

K&L LLC

Don stated this relates to property owned by K&L LLC. Don is looking for public direction to authorize his department to institute enforcement litigation. Commissioner Houpt- So moved. Commissioner Samson – Second.

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

IRMW LLC

Don stated a third item they are looking for is property owned by IRMW LLC; similarly, he is looking for authority from the Board to proceed with code enforcement litigation. Commissioner Houpt - So moved. Commissioner Samson – Second

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

Blizzard Landscape

Don stated a property owned by Blizzard Landscape, in the area of the Aspen Glen Sub-division by Hwy 82. This is again a code enforcement issue. Does the Board wish us to proceed with code enforcement with litigation and if so, the Board needs to authorize by motion. Commissioner Houpt - So moved. Commissioner Samson – Second.

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

COUNTY ROAD 165

Carolyn stated on County Road 165 they are looking for authority for the Chair to sign a letter from the BOCC to the sheriff instructing the Sheriff to remove the barriers on the public road. Also for the County Attorney to proceed at his discretion with litigation, if need be, either in the current or any existing litigation or to start a new piece of litigation to force the public roads open. Commissioner Samson – I would so move. Commissioner Houpt – Second.

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

DISCUSSION AND DIRECTION REGARDING DOCUMENT RETENTION AND LITIGATION MANAGEMENT SOFTWARE

Don stated this was listed on the agenda and relates to the acquisition of file management retention software for his office, which amounts to a new file management and control system for the County Attorney's office. Don has submitted a memorandum to the Board and MaryLynn has submitted one related to the cost, which now can become public items for discussion. In a quick summary, Don thinks the two memorandums explain where we are and the reason he is bringing this to the Board. They are at the point, very shortly within the next week or two where they will go through a selection process for a provider for these systems. MaryLynn can explain the process she has been through and the demonstrations they have seen. Charles IT department has been involved because of the obvious IT implications and there will be necessary hardware acquisitions that he can explain. Don's understanding is that the hardware would serve not only his office but other offices as well. This system is really the precursor to what they anticipate for the rest of the County as indicated in the memorandum for the last few years; this type of a system has been proposed for the County as a whole. Don knows from attending one of the demonstrations, they recommend we not put the County on the system all at one time. Rather, do it incrementally by office. This system would benefit not only his office but also the County as a whole because it would allow us to act as the test case. Don would like to move forward this year with the file management and file retention systems; next year they could put the litigation management system in place and by the end of 2010 have both systems operational. Commissioner Houpt said in your memo you mentioned some very important timing issues with courts requiring digital and electronic formats. Don said the Federal Court has already gone that route. In Federal Court, Don is required to present their case digitally; they cannot present documents in Federal Court. State Courts are moving that way although their budget constraints have slowed that process. Other larger judicial districts particularly on the Front Range have already gone the way of the Federal Court. This side of the mountains has not yet done so. Don stated

they are trying to get ahead of the curve so they do not have to play catch-up once they are in place. Commissioner Houpt asked, is it \$61,000.00 for 2009. Don said that is the total cost; they are looking for \$45,000.00. MaryLynn explained the \$61,000.00 included the litigation management system. Don said they could either do it all now with a budget supplement if you would prefer. The other way is to do a budget supplement for \$45,000.00 move forward with file management, file retention and then budget this for litigation management next year. Commissioner Houpt asked if there was a possibility they will be ready for the litigation management software before the end of the year. MaryLynn said if you approve it; then yes, she will make sure that they can start implementing it and purchasing it before the end of the year and setting it up. Commissioner Houpt said it made sense to her to cover the whole thing. Don said that Charles and other members of his office have been very helpful. In terms of hardware acquisition, he asked Charles what they are looking at this year. Charles said they would need just a server. We already have a device for the capacity for storage on the network that will take care of the storage. A server is required; it allows database searches and they might need a workstation; however, you can have a workstation at each scan station or not. MaryLynn stated she did have a part in there for IT. Don said MaryLynn did budget for \$20,000.00 for hardware and he asked Charles if that was an adequate amount and Charles felt it was. Don stated their next step would be to select the provider and then literally bring a contract back to the Board. Commissioner Houpt – I make a motion we approve the document retention software and litigation management software and costs for additional storage as presented by staff in an amount not-to-exceed \$61,000.00 for fiscal year 2009 for the County Attorney’s office. Commissioner Samson – Second. Chairman Martin thinks it is a sad day in the Federal Court when you cannot carry your binder up there, place it in front of the court clerk, and have it stamped. He thinks it is a shame that the State of Colorado is going to require the same thing. It is great to back everything up but to refuse the file paper in a court is a travesty. That is what the court is all about. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER AN APPLICATION FOR A MAJOR IMPACT REVIEW FROM AMERICAN CIVIL CONTRACTORS (ACC) FOR THE EXTRACTION OF FILL MATERIAL FROM THE FURR PROPERTY FOR THE CONSTRUCTION OF CR 204 (PLANNING DEPARTMENT PROJECT NO. MIR2309) – JOHN NIEWOEHNER

Nick Poles was present and is working on County Road 204 on behalf of the County.

Deb Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. 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; Exhibit F - Staff memorandum; Exhibit G – Staff Power point presentation. Chairman Martin entered Exhibits A - G. Planner John Niewoehner explained the 120.1-acre property is located in North Dry Fork stream valley on North Dry Fork road (CR 200) approximately 2.5 miles west of Roan Creek Road (CR204). The 11.75-acre portion of the property, which will be used for material extraction, is flat and has previously been used for grazing. The project proposes to extract soil from the property and will result in a shallow depression on the property. The soil, once extracted, will be trucked and used for reconstruction of County Road 204. Through a contract with property owner David Furr, American Civil Contractor (ACC) has the owner’s permission to extract between 20,000 and 180,000 cubic yards of materials from the property. American Civil Contractors began extracting the soil from the site in February 2009 but stopped their operations after learning they needed a County Major Impact Permit and a Colorado Division of Reclamation, Mining and Safety permit. Because the stoppage could potentially delay the County’s County Road 204 reconstruction project, the Board of County Commissioners voted on February 4, 2009 to allow ACC to continue extracting materials from the Furr pit once ACC had submitted a completed application to the County, agreed to any special requirement of the County, and obtained a State DRMS permit. On February 26, 2009, the County received an application from ACC and subsequently on March 5, 2009, the County determined the application to be technically complete. On March 6, 2009, the State approved a DRMS permit for the pit.

STAFF RECOMMENDATION:

The staff recommends the planning Commission forward a recommendation of approval to the Board of County Commissioners for the Major Impact Review Permit. The following should be conditions of approval:

1. All material representations made by the Applicant and their representatives in the application or during the public hearing must be adhered to as conditions of approval unless otherwise stated by these conditions.
2. Expiration of Permit – No extraction from the Furr Pit can occur after July 1, 2010.
3. Use of Extracted Materials – Materials extracted from the pit can only be used for the reconstruction of County Road 204.
4. County Roads – Any damage to the County roads or County right-of-way resulting from the extraction operations must be repaired to the satisfaction of the County Engineering Department.
5. Repair of Stream Buffer – (a.) County Code prohibits construction activities within 35 feet of water bodies. The excavation that has already occurred within 35 feet of Dry Fork Creek must be returned to pre-existing grades and re-vegetated. By July 2009, American Civil Contractors must provide the County Building and Planning Department with a grading and re-vegetation plan for the area within the 35-foot stream buffer. (b.) The grading and seeding of the area within the 35-foot stream buffer must be complete by October 2009. (c.) Until re-vegetation occurs within the 35-foot stream buffer, the contractor must install and maintain a silt fence between the stream and disturbed ground.
6. Stockpiling of Top Soil – Top soil must be removed prior to the extraction of materials and stockpiled onsite. After the extraction is completed on a portion of the site, the top soil needs to be re-applied and the site seeded.
7. Final Elevation of Pit – The final grade of the pit bottom must slope towards the outlet swale. In order to prevent the creation of a water impoundment within the pit, the final elevation of the pit floor must be at least two foot higher than the high water elevation in the stream.

Discussion:

Commissioner Houpt asked if they had already repaired the stream buffer and Nick replied no. Commissioner Houpt asked if it was scheduled for this growing season. Nick said yes and he believes they have to have it done before October and they have equipment in there working now; it should be restored by the end of the month.

Terry Kirk asked if this benefits the County and the cost of the expansion of that road and Chairman Martin stated absolutely. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson I make a motion to approve the application for a major impact review from American Civil Contractors for the extraction of fill material from the Knirlberger pit for the construction of County Road 204.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER AN APPLICATION FOR A MAJOR IMPACT REVIEW FROM AMERICAN CIVIL CONTRACTORS FOR THE EXTRACTION OF FILL MATERIAL FROM THE KNIRLBERGER PROPERTY FOR THE CONSTRUCTION OF CR 204 (PLANNING DEPARTMENT PROJECT NO. MIR3209) – JOHN NIEWOEHNER

Nick Poles present. Deb Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She did note that there was not an actual proof of publication; Nick had the receipt. She advised the Board they were entitled to proceed. 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; Exhibit F - Staff memorandum; Exhibit G – Staff PowerPoint Presentation

Planner John Niewoehner explained: American Civil Contractors is seeking permission to excavate fill materials from two locations on the 245-acre property. The pits are located approximately one mile west of the Roan Creek Community Center (Cowboy Chapel) on County Road 204. Both extraction areas are on the steep hillside on the north side of County Road 204. Once the soil is extracted, it will be trucked and used for the reconstruction of County Road 204. American Civil Contractors began extracting the soil from mining area 1 in February 2009 but stopped their operations after learning they needed a County Major Impact Permit and a Colorado Division of Reclamation, Mining and Safety permit. Because the stoppage could potentially delay the County’s County Road 204 reconstruction project, the Board of County Commissioners voted on February 4, 2009 to allow ACC to continue extracting materials from the Erwin pits once ACC had submitted a completed application to the County, agreed to any special requirement of the County, and obtained a State DRMS permit. On February 26, 2009, the County received an application from ACC and subsequently on March 5, 2009, the County determined the application to be technically complete. Subsequently the State approved a DRMS permit for the pit. Unlike the Furr Pit application, the County placed no special conditions on the Erwin pits.

STAFF RECOMMENDATIONS

Staff recommends the Planning Commissioner forward a recommendation of approval to the Board of County Commissioners for the Major Impact Review Permit. The following should be conditions of approval:

1. All material representations made by the applicant and their representatives in the application or during the public hearing must be adhered to as conditions of approval unless otherwise stated by these conditions.
2. No extraction from the Erwin Pits can occur after July 1, 2010
3. Materials extracted from the pits can only be used for the re-construction of County Road 204.
4. Any damage to the County roads or County right-of-way resulting from the extraction operations must be mitigated to the satisfaction of the County Engineering Department.

Commissioner Houpt said she sees the conditions are more extensive for the other pit and they include stockpiling of topsoil on the final evaluation of the pit; why wouldn’t those be included in this. John said the two things that concerned our department, regarding the Furr pit, they had excavated within 35-feet of the stream. The second major consideration was, he looked at it and he wanted to know how deep they are digging. If they dig too deep, they would create an impoundment there; that is the other major difference in those conditions. Commissioner Houpt said 6 & 7 of the Furr pit seemed universal; she wondered if there was a particular taking out the repair of the stream buff, because there isn’t a stream your concerned about with these other pits. Are you concerned about topsoil? John said it did not have to be a condition in either one because that is a part of the State permit. Definitely, that is a concern. If you look at the pits here there really is no topsoil, it is pretty much sand. There is nothing to stockpile in that case. Commissioner Houpt asked about the final evaluation of the pit. John said as part of this...

Commissioner Houpt said you are trying to make sure a water impoundment is not created. John said yes and there is no place for a water impoundment to occur; they are basically scraping off the side of the hill and next to the road. Chairman Martin stated to answer those questions on the review; Mr. Anthony also approved the application and the reclamation plan as was required by the Colorado Division of Mining and Safety. Meeting those requirements, a bond was also placed. The bond is with the State in this case. Nick wanted to expand on the concerns. The stipulations required in our State permit covered retaining topsoil on the property, replacing it, seeding it in accordance with the final plan they submitted and is part of the application. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing.

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

Commissioner Samson – I move we approve with the conditions of staff the application for a major impact review from American Civil Contractors for the extraction of fill material for the Knirlberger Property for the construction of County Road 204. Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A CONTRACTOR’S YARD WITHIN THE ARRD ZONE DISTRICT – APPLICANTS; AUGUSTUS AND JENNIFER HAMPSON, 1177 CR 259, SILT – DUSTY DUNBAR

Melody Massey was representing the applicants and the applicants were present. This is a continued meeting and Chairman Martin swore in the speakers. Planner Dusty Dunbar 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; Exhibit F - Staff memorandum; Exhibit G – Staff PowerPoint Presentation; Exhibit H – E-mail with attached comment letter from Garfield County Road & Bridge Department Administrative Foreman Jake Mall, dated May 4, 2009; Exhibit I – E-mail from Garfield County Environmental Health Department Director Jim Rada, dated May 20, 2009; Exhibit J – E-mail from Garfield County Vegetation Management Department Director Steve Anthony, dated July 1, 2009; Exhibit K – E-mail and attachment from Rifle Fire Protection district, Fire Inspector Jason Clark, dated May 14, 2009; Exhibit L – Citizen comment letter, Terry Kirk, 1500 CR 259, Rifle, dated May 8, 2009; Exhibit M – Citizen comment letter, Karen/Bob Miller, 520 CR 259, Rifle, dated May 16, 2009; Exhibit N – Citizen comment letter, Keith Gilstrap, vacant parcel on CR 259, Rifle (mailing address; PO Box 781, New Castle), dated May 19, 2009; Exhibit O –

Citizen comment letter, Jennifer Shepherd, 1171 CR 259, Rifle, dated June 3, 2009; Exhibit P – Citizen comment letter, Kyle/April Constanzo, 4412 CR 233, Rifle, dated June 4, 2009; Exhibit Q – Citizen comment letter, Alan/Linda Dwire, 1164 CR 259, Rifle, dated June 5, 2009; Exhibit R – Citizen comment letter, Sherry Liske, 1451 CR 259, Rifle, dated June 8, 2009; Exhibit S – Citizen comment letter, Craig Seal, 1102 CR 259, Rifle, dated July 1, 2009; Exhibit T – Citizen comment letter, Chris Pepe; Exhibit U – Rick and Lolita Shaffer, and Exhibit V- comment letter Melissa Waldron. Chairman Martin entered Exhibits A – V into the record.

Planner Dusty Dunbar explained:

REQUEST

This application was deemed ‘technically complete’ before December 31, 2008, and hence is being considered under the ‘Old Code’, the Zoning Resolution of 1978, As Amended. The application is to consider a Special Use Permit for a Contractor’s Yard whose main purpose is store heavy equipment on a residential property in the A/R/RD Zone district. The Applicants seek permission to utilize a small portion of their property (11,000 sq. ft.) for parking heavy trucks, trailers, implements, storing straw and to utilize an existing enclosed garage for storage and minor repair. Augustus & Jennifer Hampson operate Rocky Mountain Environmental Concerns (RMEC). No employees work onsite. The employees that are assigned to drive the equipment to the site arrive and park their personal vehicles or carpool in a vehicle in an area adjacent to the garage, then drive to the job sites with the equipment. (Once the equipment is on the job, it generally stays on the job site and employees commute to the job site rather than 1177 Jewell Lane.)

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a “Contractor’s Yard” with the following conditions:

1. 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 comply with all performance standards identified in §5.03.07 and §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
3. The use of the site shall be between the hours of 6 a.m. and 7 p.m. daily.
 - c. Volume and sound generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute (CRS) 25-12-103, except as detailed in (b).
 - d. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors, vapors, vibration or glare beyond the property boundaries will be conducted within the building, and those activities that cannot be performed inside the structure shall be in compliance for those residential standards in CRS 25-12-103.
4. Any new lighting to be installed shall be downcast and directed to the interior of the property.
5. The truck and equipment storage area shall be limited to that depicted in the application.
6. The number of vehicles and pieces of equipment listed in the application shall be the maximum permitted with this Special Use Permit, those being:
 - 2 Tractors: Massey-Ferguson 5470 Tractor, Massey Ferguson 941 Tractor
 - 2 Seeders: Bowie 100-gallon Hyrdoseeder, 6’ Drill Seeder,
 - 2 Straw-handling pieces: Finn B40 Straw Blower, Finn 8’ Straw Crimper,
 - 2 Excavators: Kobelco ED150 Excavator, CAT 304CCR Mini-excavator,
 - 1 Loader: single-axle tractor for hauling equipment on a trailer: CAT924G Loader,
 - 2 Backhoe/skid steer: CAT420D Back Hoe, CAT247B Skid Steer,
 - 3 trailers: 20’ Flatbed trailer, B&B 30’ Flatbed Trailer, 20’ Tilt-deck Trailer,
 - 1- Heavy Disc Cultivator- 8’
 - 1- ATV- Rhone ATV
7. On-site parking for vehicles used to transport employees to this site shall be limited to two (2) vehicles that are not owned by the Hampsons.
8. All requirements of Garfield County Road and Bridge shall be met, including the installation of a stop sign that conforms to the MUTCD, and all vehicles shall have proper oversize/overweight permits, applied for and issued at the Road and Bridge Department.
9. A plan for road maintenance and dust abatement to the satisfaction of Garfield County Road & Bridge Department and the Garfield County Planning Department Project Engineer shall be developed and implemented by the Applicant.
10. Loading or unloading equipment in the Garfield County right-of-way is prohibited.
11. To help ensure safe operations and courtesy in the residential neighborhood in which the Special Use Permit is to be sited, the Applicant shall hold a safety meeting no less than annually with all employees, with documentation (employee/employer signatures) to be maintained on file for a period of one year.
12. No materials and wastes shall be deposited upon the property in such way that they may be transferred off the property by any reasonably foreseeable natural causes or force.
13. The Applicant shall prepare and submit a Spill Containment and Cleanup Management Plan (SCCMP) to utilize Best Management Practices shall implement the plan in conduct of this permit to meet all local, County, State and Federal regulations, comply with CRS 30-20-105.

In addition, the Applicant shall satisfy the requirements of the Rifle Fire Protection District that being to schedule an inspection of the facility and completing the Hazardous Materials form provided by the Rifle Fire Protection District.
14. No more than 600 gallons of oil in conjunction with this use may be stored on site at any time. That accumulation must be stored in compliance with all requirements set forth in all local, State, County and Federal regulations for the proper storage of used oil and other chemicals.
15. Permits required in the execution of this Special Use Permit shall have been secured from Garfield County prior to the initiation of the activity requiring a permit.
16. Any new fencing on the parcel shall comply with the ‘Wildlife Friendly’ Standards set forth by the Colorado Division of Wildlife (DOW).
17. The Special Use Permit shall be limited to the equipment listed and shall be governed by the conditions

of approval set forth by the BOCC. Any substantial expansion of the number or type of vehicles / equipment or change to the permit shall be considered only with an application for a Major Impact Review Permit Amendment of the use as per the new Unified Land Use Resolution of 2008, as amended (ULUR).

Deb Quinn wanted to clarify some of the conditions - 8, 9 and 13 had requirements for submission of certain things but there is no time line on when they should be submitted. Dusty stated that 15 is rather inclusive. It says the requirements say permits required in the execution of this special use permit shall have been secured from Garfield County prior to the initial activity requiring the permit. Deb stated these are not permits. Dusty said on 8 and 9 she had no objections making them a requirement. The only part we have gotten crosswise with special use permits of late is requiring a building permit. This particular one she does not see any objections to making these all qualified that they should be in place prior to the issuance of the special use permit. Dusty asked Deb Quinn if she took exception to item 15, which permits require in the execution of the special use permit shall have been secured from Garfield County prior to the initiation of the activity requiring the permit. Deb said she did not have a problem with that one. Dusty asked if she wished to modify any of the language of the conditions to set forth a requirement. Deb said only the ones she mentioned. Chairman Martin said they would review those if this goes forward. Melody explained as Dusty stated Rocky Mountain Environmental Concerns, of which Mac and Jennifer Hampson are the principals, is a small business, which provides consulting, materials and labor for reseeding, weed control, other businesses, individuals and agencies. The use is compatible with the agricultural enterprises of the area and they are seeking to legitimize this use and mitigate any impacts of the use. Rocky Mountain Environmental Concerns and the majority of their work takes place off of the property. They go to the site to complete the work. She knows there was a question about the equipment going out to jobs. According to Mac and Jennifer starting in March or April, the equipment to be used on the jobs usually goes to a job and then goes directly from job site to job site, as a cost saving measurement. Usually the equipment will return to the site in December where it sits on the property for a few months until it can be used again. Employees do come to the property briefly to punch in and have safety meetings every Monday. Sometimes employees go directly from the job to their home; sometimes they come back to the property. As Dusty stated, most of the equipment used and maintained by Rocky Mountain Environmental Concerns is agricultural equipment. If you look at the pictures they provided, it is no different from many of the equipment on the surrounding properties. The Hampsons have built a berm, as you saw, to screen the equipment and the property is clean and organized. Melody went over the materials again that are stored on the property. We had continued this hearing so that we could have a meeting with the neighbors. They called all the neighbors on County Road 259, left messages to let them know about the meeting. They had a meeting on June 22nd and it was scheduled to educate the neighbors about what was going on. Melody prepared a handout for the neighbors giving information and seven neighbors showed up. Out of seven, they received five positive reactions. Concerns on the impacts of the road; the Hampsons maintain a small portion of County Road 259 at no charge to their neighbors. It is approximately a 1,700-foot section of County Road 259. They spent about \$75,000.00 per year over the past three years for dust suppression, grading, and plowing this section. They have been grading on average five to seven times a year. If you went to someone else that would be about \$1,000.00 to \$1,500.00 per time. The Hampsons plan to continue this practice. On snow removal, they have plowed the neighboring driveways and the 1,700-foot section of the road for 2008 and 2009 for a total of 14 times for a cost of \$2,800.00. Traffic: Dusty talked a little about this and the survey the Hampsons took included installing a camera at the bottom of their driveway in January 2009 and took a survey from January to May. The camera took still pictures of cars and they were able to calculate the number of road use trips on County Road 259. This included the Hampsons, Rocky Mountain Environmental Concerns and three of their other neighbors. They calculated the trips over a five-month period; the Hampson and his business accounted for approximately 25% and the other 75% were the other neighbors. The employees leave once in the morning and return once in the evening. The work is not done on the property, as Dusty stated, there are no clients coming in and out of the property on a regular basis. The Hampsons are trying to do the right thing here. Many of the neighboring properties currently employ uses similar to what the Hampsons are doing or more industrial uses but they have not received special use permits for these uses. The Hampsons are attempting to legitimize their business and are happy to comply with the staff recommendations and the County requirements. They have already put up a berm. The Hampsons have sought to improve their neighborhood by maintaining this portion of County Road 259. They have hydro-seeded portions of neighboring properties at no charge and they try to eliminate noxious weeds from their property. They have screened their equipment to make the property more visually appealing, which will add value to the surrounding properties. A little bit about Rocky Mountain Environmental Concerns - they are an environmental and community minded company. One thing they have done recently is they sponsored an earth day clean up in 2009 and donated their time, their employees and their equipment to clean up and recycle trash in a local public area - Rifle GQS. The approval of this contractor's yard will assure that this use is done in a limited area that meets or exceeds the County standards, and can be screened and guided by the requirements of the Land Use Code. Commissioner Houpt stated they have heard a couple of suggestions on vehicles that transport employees to the site. Back in the conditions there is a two-vehicle limit, in your equation Dusty, there was a three-vehicle suggestion. If they all come in the morning and leave in the evening, do they come together and leave together? What this condition says is no more than two vehicles, that are not owned by the Hampsons can be parked at the home during the work hours. Augusta (Mac) stated that his employees also drive his vehicles. They come in the company vehicle and then leave in the company vehicle. It is hard to sit here and have a set of absolutes we are a seasonal business. Jennifer is from a farm background, he is from a landscaping and construction background and we farm the oil field. They are usually the only people that anyone is happy to see because it means everyone else is leaving and there will be green grass again. Seasonally, as Dusty described, there are times when they are busier and in the wintertime, they really do not do a whole lot. During the winter last year, there were three staffers there. They came in the morning and stayed in the shop all day working on equipment and organizing things for the coming year and left at the end of the day. Two of them commuted together and one drove by himself only two cars coming in and out. Since it is not very active, he and his wife for the most part, only leave the house two or three times a week. In the summertime, there is a potential for more people. They have been sensitive to that this year and in the fact, they have been trying to have people meet in town or meet at commuter lots to pick up temporary employees. Instead of having the temporary workers come to the house, they have them go to Wal-Mart and pick them up there, or the commuter lot in Silt. They are doing this in order to try to mitigate and minimize traffic. The permanent employees use company vehicles. Commissioner Houpt stated, daily there is a

purpose for having the staff congregate at the shop. Augusta stated for safety meetings. It is the law to have safety meetings and it is law we have to put our men in our vehicles before they go out to the job site. Given the industry we work in, they are strictly regulated. They are also a federal and state contractor; storm water and seeding is a very big thing for the States EOT and for federal jobs. We have to adhere to all of their things; we do not have the freedoms that other businesses do in their inherence to the letter of what is required by law as far as our employees. Terry Kirk, 1500 County Road 259, Rifle. He drives past this place every day. Of the items mentioned that will be stored on this property, they failed to mention the fact that there is probably 50 or more concrete jersey barriers stored there in plain view from County Road 259. He knows he saw them go up there; those trucks were approximately 80 thousand pounds per truck going up that road. Our CR259 is not a very big road, it is a chip sealed. It has been patched numerous times with asphalt. He thinks this was chip sealed a year and a half ago and it has already gone to hell. At the intersection of 259 Road and Silt Mesa Road, there is a blind hill to the west and to the east the vegetation along the side of the highway, which is back off the edge of the road. It is still very limited visually. You have to pull way out in the middle almost to the center of the westbound lane of Silt Mesa Road to see all the way down and at the same time look to the west to see over the hill. He is concerned about irrigation water on the Mesa that is our only source of water. He thinks that ditch runs right along the bottom side of their property, which means any contamination that would be spilled on that property would just directly deposit into that irrigation ditch. Dust from the gravel road going up that way; Terry Fitzpatrick put in a cul-de-sac and extended the road. Terry does not know if that is the end of the road or if 259 Road goes up further; but there is a considerable amount of damage done to that cul-de-sac already. If they are in fact repairing that, it is a wonderful thing and the County should thank them. It has no affect on the rest of the people, they have three neighbors that use that road north of where 259 takes a dog like to the right. This is a very difficult corner to negotiate with a pickup truck and a horse trailer, let alone semis, winch trucks pulling 40 and 50-foot trailers loaded with 80 thousand pounds. It is a 90-degree turn from north to the east, its uphill and it is very narrow with a fall off to the lower side. They used to have a school bus that came up just past that 90-degree turn that is where the children would get on the bus. The school no longer sends a bus up to the top of that hill. The children either have to walk or ride bicycles, or are taken to the corner of Silt Mesa Road and 259 Road. Commissioner Houpt asked where the corner was that he was referring. Terry showed her on the map. It is dangerous the way it is, let alone having more truck traffic. By heavy traffic, he does not mean a lot of as much as the weight capabilities that the trucks have. Many of the people who live in this neighborhood are in fact contractors, just from that map, there is a neighbor who rents equipment and they have a shop in Silt on zoned property. There is another drywall contractor with a shop in Grand Junction. Terry is a contractor and has zoned property in Garfield County. Gilstrap is a field contractor and has zoned property in Garfield County. North of Terry's house is Glen Street; they are also contractors and have rented commercial industrial property in Garfield County. Just east is Dave Santee, he is a contractor and has rented property, not on Silt Mesa. Our area is clearly zoned agricultural and not industrial. The uses these people are asking for is definitely an industrial use. It would benefit only one person to approve their request. It would not benefit any of the other people up there. Linda Dwire, 1166 County Road 259 guesses their issues are the dust problem and we have had them previously except for the last couple of months. They have been maintaining it; but who is to say they will continue to maintain this. Her question is; will they continue to do this. They say they maintain this road and in fact, they have not. Another problem is the noise; every morning at 6:00 am, one of their employees honks their horn and she does not know if it is to tick them off. Our dogs are not out; there are no animals on that road at that time and so she would watch to see where the vehicle went and it did go to the Hampsons residence. The traffic and the impact of the heavy loads are a concern. We have had our irrigation taken out by their trucks because it is a sharp corner. By the time the truckers realize this they have already gone by, or they have to back up to make that corner; they have wiped out our irrigation system. The speeding: The employees or the Hampsons themselves, not sure who it is but she knows they come down that gravel road and skid because they are going too fast. They put the brakes on and end up spinning their tires and throw gravel all over making dust problems. Commissioner Samson asked Linda, you say the big heavy trucks have taken out your irrigation ditch a time or two. Linda said it is the cement. When they have a heavy load on a flat bed or any kind of semi, they have to make the sharp corner they have to back up. Her husband went out and said, "Hey you guys you're taking out my irrigation system, you have taken it out twice", so her husband put rocks up there as a berm to deter them. Her husband said I know it is not your fault; there is not enough room to make these turns. Linda did not know what company the driver was from; this is just what her husband told her. Commissioner Samson asked; since you last talked to them has it happened again. Linda said they do not talk to the Hampsons there is so much animosity on their side; we just stay away from them. Erin Ellsperman, 700 County Road 259, lives just north of the Millers. Erin stated she did not know the Hampsons. She does not have any issue with someone helping the environment and reclaiming the land that is destroyed. Her main concern is the speeding on the road. She has a young son who rides his bikes and she personally rides horse back on the BLM property. They drive excessively fast. Erin said she has lived there for seven years now, you know the neighborhood, and you know the vehicles. The speed limit in 35 mph and sometimes it has to be a minimum of 60 mph for these people. The semis too are a concern due to the use of their airbrakes; it is noisy. She wants safety in the area and she wants to be able to walk her dogs down her road and to be able to ride her horse without them being spooked. These people have not done anything to me directly; but they do drive very fast. As your heading north, you can see their property and things that are going on. Shawn Crawford and wife Tammy - they do not have an actual address yet; however, the long narrow parcel belongs to them. They do drive past the Hampsons going to their property. Pretty much everything has already been said but he wanted to add the concrete barriers that Terry Kirk mentioned are an eyesore. In addition, whenever they take them out to a project and use the semis to haul the heavy equipment it is a concern. The additional truck traffic and all the dust prevention has not been too bad the last couple of months; but they actually bought property in May of last year and there has been very little maintenance done to that part of the road. The possibility of real estate prices dropping in the area due to a construction yard is a concern. He is in a construction business himself and he works for an employer. It does not mean he wants to see this type of business in an agriculturally zoned community where he bought property and plans to eventually build a house. Jennifer Shepherd is the closest neighbor to the Hampsons and sees their property every day. Every morning she hears their trucks. Shawn when you said you own that narrow spot; I live next to them. If you own that she is unaware, because she thought she owned that. Shawn explained where the property was and it borders her property. Jennifer said she thinks it is almost a personal thing because she counts on Mac to plow her driveway during the winter. She bottoms out on some of the potholes because they are

not being maintained. She asked them to help her out so she could go to and from work. She has two boys in sports and she thinks she is probably a good percentage of the traffic going up and down the driveway. She goes home two or three times a day and then she has to get animals or kids and go back out. She is probably the reason for a lot of dust as well. She has come across some of the equipment coming off their property, never a big truck, but they are larger than her car. They are courteous; they drive off where they can and it is a common driveway. It is not a road and it is a single car lane. Even if there are two small cars trying to go up the driveway someone has to yield to the other car. That corner is dangerous; she thinks for just even hauling a truck and trailer. It is dangerous if you are in a car and she thinks it is probably safer in a bigger truck because you can see higher up. She jogs up and down Jewel Lane regularly and she can say there is not one person who passes her that is going the speed limit. It is not just the Hampsons; it is everyone. It has been very scary. There has been a couple of times she was tempted to carry a stick and hold it out there and let the car hit it because it is so close to her while jogging down the road. The speed problem is across the board for everyone. She said she would be honest; she is not sure if she does the speed limit, she does not know what it is. There is no sidewalk; it is a country road and running up and down Silt Mesa Road is dangerous. They have done the seeding at the end of the driveway for free. She thinks they are an asset to the community and if you could look out and you can walk 20 paces from her house, you can see it is not an eyesore. She hears the back-up beeper whenever they are unloading and it is not any worse than the dogs that echo through the entire valley. She would actually like them to keep their equipment there; she can actually get up her driveway plowed in the wintertime and the potholes can be fixed. Lee Kirk lives on County Road 259. She thinks that was a wonderful testimonial as to how these people have helped. If they had been that way to the rest of the neighbors, we would not be here today. Everyone she knows on that road has had these people spray gravel at them as they came out of what is their driveway. The 170- foot section that they are so proud that they are maintaining is there driveway essentially; it is not officially County Road 259. As you swerve past that S turn to get onto 259, it has been dangerous and it has been incredibly rude. There has not been much mentioned of a material yard which is extensive on this 36-acre property and they are highly visible from our road. We have worked long and hard to be where we are, which is a quite a county rural dead-end road. Everyone that is out there is doing their own little thing in an agricultural rural setting. Most of these people are in fact contractors that have commercial yards off their properties on commercial property located elsewhere. As her husband said, this is not going to benefit anyone other than the Hampsons, and evidentially Mrs. Shepherd. She thinks it is totally of the character of the neighborhood and you should disapprove it. They have been doing this for 2-3 years already without permission and if you do permit this, how will you monitor the activities. How and who is going to police this? It is okay to say you can do this, this, and not that, but who polices this, no one does. That is why it has existed as long as it has. As far as she knows there is only one other neighbor who is doing the same thing without a permit. It has been an issue with the neighbors; but no one reported them that she knows of and she is not going to do it today. It is a quiet neighborhood; we all know each other. We know the cars and these people have been difficult since the day they moved in. That is her impression and she gets along with all the other neighbors. Commissioner Houpt asked if the material yards were separate from the garage area. Lee said yes they are. Commissioner Houpt wondered, indicating on a photo, if those were the materials. Lee said there are easily two or three dozen jersey barriers sitting... Commissioner Samson asked Terry; in your letter you wrote, the covenants on most of and possibly all of the adjoining acreage state that no contractor's yards will be allowed in this area. Terry stated yes; there are covenants that say no contractor's yards will be permitted on any of the areas from the cattle guard in. He does not know what happened north, if they are part of that or not. It was the Jewels property at one time. Kenny Elder had some of that property and he does not know if he included those covenants in that deed or not. All the surrounding landowners have covenants that say it is not a permitted use. Fifteen parcels in there have that covenant. Commissioner Samson asked Dusty if she knew anything of this. Dusty said covenants are applied by subdivisions in the county and there are covenants on some of the areas that have been created by subdivisions. The county does not enforce covenants; they are enforced by Homeowners Associations and are the volition of the applicant that creates the subdivision on which that restriction or permission may be exercised. The county code, our present code, requires covenants of some sort be developed for all of the new development that is going on to address those sort of things. Parcels that are created through action in the State, which she suspects this parcel was as it is in excess of 35-acres, do not require covenants. The special use permit consideration does not have a strong involvement with that requirement because there are covenants adjacent to the parcel that may or may not be an issue. You cannot apply covenants from one parcel onto someone else's parcel if they do not have that requirement on the parcel. There is nothing that puts this subject parcel out of compliance as to a covenant. They are not part of those covenants; they were created as part of the subdivision rules and this parcel was not created as a part of a subdivision. Unless it was created as a State action, which does not require covenants, it is an option not a requirement. Special use permits are completely guided and directed by the Board of County Commissioners. One of the reasons that the contractors yards, under the old code were not considered in platted subdivisions were because they often had smaller parcels. Language is in place that may or may not make it appropriate to consider this action. This parcel was not part of a platted subdivision and has no covenants on it to guide that. Terry stated that 13 or 14 years ago Dave Santee was man enough to come to all the neighbors and say he would like to do a contractors yard on his 40-acre parcel. The 35-acres do not really have anything to do with anything other than it could be expanded into a 36-acre industrial park. It is bad enough someone is asking for an 11,000 square foot industrial park. Santee came to the neighbors, said he wanted to do his business there and everyone agreed it would not be a good idea and he went away and leased an area elsewhere to do his log business. Craig Seal, 1102 County Road 259. He has felt no negative impact from their business. Their employees have been friendly with him. He knows there have been some standing concerns about the way the property may look. He thinks they are earthy type people who will keep it as clean and orderly as possible. If you were to question them on that, he thinks you could go through all of the Silt Mesa area and question the other properties on their cleanliness and orderliness. Again, he would like to state he does not have any problems with their operation and it is not affecting him negatively. You have to appreciate the fact they have taken the time and the money to come before the Board to make it legal. Commissioner Houpt asked Mr. Seal to talk about the corner next to his property; some concern about how safe it is for large vehicles. Craig said looking at the map on safety issues; he does not drive up and down that corner so he is not seeing any people running into his yard or any real potential issues that he could state. Dusty would like to make a point of clarification; the jersey barriers were mentioned as part of the analysis under 3 of 503. Melody wanted to make a few points after some of the comments. There obviously are some tensions in this neighborhood and

perhaps people are standing up and saying things because they do have personal issues here. We will try to keep this to what is applied for. One thing she would like to point out; after Mr. Kirk made comments about how this is the only business in the area etc. After doing a search of the Secretary of State's records, they found 11 businesses that have their principal place of business at locations along County Road 259. She is happy to give them as another exhibit. Some of those belong to some of the people sitting here today. The Hampsons are here today to try to make their business legitimate and they want to keep it focused on what they are willing to do for their property and what they are willing to do to mitigate their use. As far as the semi truck traffic being complained of and the heavy traffic along the road, she thinks they have explained that to the Board. Mac and Jennifer can actually tell you how often semis come to the property. Augusta stated there are several issues. The first is the irrigation issue for the Dwires; that was completely settled when the Patrick's put in their subdivision. They were required to expand the entrance and move that irrigation tap and now they have expanded that entryway to a 45-foot wide apron as per the counties requirements. That road is now a county road to the end of the cul-de-sac in the language with the HOA that the Patrick's finished. That County Road was turned over to the Patrick's and we maintain it. They had an agreement with the Patrick's that they would maintain that road and the County. That is a County Road up to the end of the cul-de-sac so half of it is a public road. That is well known to the Dwires and the Kirks as they exercise the right to drive up and down it regularly. The Dwires problem with their irrigation was addressed when the Patrick's had to open up the apron of that road and it's accessed to County Road 259, Jewel Lane, to a 45-foot wide apron so semi traffic could enter there to facilitate the building of homes in the subdivision. The next thing; Terry Kirk had no problem with the jersey barriers until I stopped buying them from him. End of story. Otherwise, the semi traffic we receive - the rack truck comes up about once a week with some materials, maybe three times per month. It is a 10 wheeler and driven by a guy who lives on Silt Mesa; Herb. Some of the people may know him; he has been here for 50 years or so. He is a local and has grandkids that live up there; he does not speed, it is that simple. The other semi traffic is relatively non-existent; once again, we have two pieces of equipment, one a large farm tractor and another excavator that actually requires a semi to move. Obviously, the large farm tractor should not be anything out of place on Jewel Lane. It has been an agricultural center forever; there are large farm tractors on many of the properties. The large excavator only comes in and out a few times a year as stated in the permit request. When it leaves it usually leaves for 4 to 5 months at a time and then it comes back briefly to be serviced and goes back out, or it sits in the lot until it is needed. The jersey barriers were a fluke; a client bought them from us and the client has since gone out of business and deserted them. They are presently for sale and until they sell them, they really do not have anything else they can do with them. To move them once would be preferable as opposed to moving them around the lot as expressed by everyone here. As far as the appearance of our home affecting property values in the area that is ridiculous. There are junk yards everywhere around our house and I do mean junk yards. Some of them consist of several acres of junk, highly visible and not screened. They have helped everyone around them who has wanted help; those who have been aggressive with them and used to being able to kill people's animals to make them back off have found that we respond differently. Sorry if they are used to people backing off but that is not my style. Melody said they are not aware of any covenants. There are no covenants in Mac and Jennifer's title work. They have not been provided any other covenants from any of the surrounding areas that show there is any prohibition from a contractor's yard. She has a list of the Secretary of State's records if you would like them regarding other businesses in the area that do not have special use permits. She can leave it to the Board if they would like them submitted. Augusta wanted to state that Mr. Kirks home faces a home that has a trucking and heavy equipment repair business registered that regularly has semis coming out; logging trucks ironically that he has had no complaint about at all. Commissioner Houpt asked Dusty, is this an application for the contractor's yards that is up by the house and for the material storage yard. Those are fairly extensive. Dusty said the jersey barriers she did not associate that because they are not part of the ongoing operation and are represented as being removed as soon as they can sell them. Commissioner Houpt said it was represented that was where they stored things for their business. Dusty said those particular things related to the business are also agricultural in nature, storing straw could occur any place on the parcel. She did not feel for that particular kind of material that it was industrial in nature, commercial in nature and needed to be included in the yard area of the contractor's yard. The major mitigation we were focusing on was the heavy equipment that was outside of the rural type of neighborhood; but we can certainly modify the dimensions or requirements of where those particular things are stored and screened. Commissioner Houpt said, without an application for those material yards; it can really only be agricultural use. Dusty said it is a type of material that is also used for agricultural use and we do not regulate those. She did not feel it was an issue; but they could certainly entertain a modification to designate where you would like to see those set and put them adjacent and expand the site plan for those particular materials and lump them up near the berm. Because it was straw and straw was an agricultural commodity and mulch is agricultural, she was less concerned and less focused on that. We did talk about the jersey barriers and if you want to make a condition for approval to set a timeline on removal of those, we can. Normally they do not have barriers delivered to the site. Melody said the barriers were the wrong size and they are going to sell them. You could give them a timeline and if they do not sell them, they could move them to the shop area. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson said he assumed that in the past contractors yards if they meet the stipulations in the agricultural zone, have been approved. Commissioner Houpt said not necessarily. If they are compatible with the nature of the neighborhood that is why she is troubled today. She is not sure she is completely convinced they are compatible with this neighborhood. Contractor's yards are very controversial; wherever you are unless you are in a commercial or light industrial or industrial area. They generate heavy traffic and because when you typically purchase a piece of property in a rural area, you do not anticipate having that use next door to you. For that reason, historically it has been a unique situation with every application, but it is never easy. Commissioner Samson stated, so depending on the neighborhood, you do deny them based on those reasons and other times you do not. Is the use of a contractor's yard defined as agricultural? Commissioner Houpt said no it is an industrial use a commercial use. Commissioner Samson asked why staff in an agricultural zoned area would approve an industrial contractor's yard. Dusty said the special use is considered with conditions to mitigate any adverse effects on adjacent properties and there are stringent performance standards for containing any kind of adverse affect from going onto another property. That is why they developed a spill containment permit and require screening, and require consideration from other county... Commissioner Samson said, because in some agricultural settings, such as a gas company buys something way down Parachute Creek... Dusty explained that ca not be a contractor's yard. A contractor's yard

has to be an individual business; it cannot be a corporate entity like oil and gas. Commissioner Samson said okay, just a private person and it is zoned agriculture and it's way out in the middle of nowhere; in that situation you look at it and say, no neighbors, no big deal; he wants to put a contractors yard. Dusty said it is easier to permit that however there have been a number of contractor's yards for plumbing contractors, for an excavation company, for another heavy equipment firm whereby she calls it a guy in a truck kind of permit. Whereby the equipment goes home with the independent businessman and the consideration by the Board is based on how to adequately mitigate whatever potential adverse effects may be present that would adversely influence the neighborhood. So no, it is not always involved; some things are in quite small parceled areas where they do have neighbors and mitigation efforts by the Board have included vegetation screens, sizeable fences, earth and berms, enclosures within a business, restrictions hours of operations and the like. That was the reason we came up with an individual and small sized spill containment permit that was well below the thresholds of the EPA requirement, which were hundreds of gallon that Garfield County wanted to keep a tight finger on any kind of potential adverse drainage and spill. Chairman Martin said to answer the question; you can allow a special use within the zone district. If the conditions of approval have mitigated your concerns, it would be approved. If the conditions do not mitigate the circumstances and create more of a problem, you should deny. Commissioner Houpt said we heard some testimony today about the school district not sending a school bus up this road anymore. They typically would not do that unless there is some kind of safety concern on the road. That concerns her when you have families on a rural road and you are hauling large equipment back and forth. It is probably one of her major concerns about this and she does not think you can mitigate that because the use is storing large equipment and allowing employees to come up every day and leave every day from the site; there is a lot of traffic generated. Chairman Martin said on that you have to remember we have not approved this and it is not in there yet; but the school district has chosen to do what they have done without this permit. So issuing this permit in a positive would not really change their opinion right now. They have already made their decision. Commissioner Houpt said she is not talking about their decision; she is talking about how we approach the road situation. Chairman Martin stated you have to have the finding to say negative on this one and that would not be a positive finding. Deb Quinn wanted to read the code section that allows for denial. It is the old code Section 503.11 – Denial of Special Use: The County Commissioners may deny any request for special use based on the lack of physical separation in terms of distance from similar uses on the same or other lots, the impact on traffic volume and safety or on utilities, or any impact that the special use, which it deems injurious to the established character of the neighborhood where zone districts in which such special use is proposed to be located. Those are the denial standards and it is any one of those. Chairman Martin stated one or more. Commissioner Houpt – I make a motion, I don't know where it will go; but we need to move this discussion forward, that we deny this special use permit on the basis of traffic safety along County Road 259 and the feeling I have received after reviewing the materials and hearing testimony today, it is not within the character of the neighborhood. Commissioner Samson – Second, convince me. Commissioner Houpt said anytime you are permitting a use that is simply for storage of large equipment that is used on a regular basis, you are going to have impact to a road and to a neighborhood. Commissioner Samson said, in our Land Use Code, we not have specific industrial zones for those purposes specifically, correct. Commissioner Houpt said yes. Chairman Martin said for industrial areas, yes they are very limited, maybe three in the entire county. He also stated commercial is different; you have three different levels of commercial. Commissioner Houpt said the use is not just for parking machinery that has been taken to different sites; it is also for the home office of a company, where they require employees to come on a daily basis. It expands the use of a contractor's yard to an office that holds meetings on a regular basis with employees. There are the material handling yards that were not even brought into this discussion. She does not know what that can expand into. Commissioner Samson stated if the material is straw, yes that is agricultural. Commissioner Houpt showed a picture of the jersey barriers; it means that anything that is dropped off could be stored there too. Dusty said that is not what was represented in the application. Chairman Martin said we have to be careful of that because we are going to start regulating hay bales and start folks covering with a silver one instead of a yellow one and what have you. Commissioner Houpt said maybe that should have been covered in this report. Chairman Martin said in reading the recommendations from the road and bridge folks; all of the model traffic code that is applicable, as well as everything from 2 to 3 to 5 axel vehicles require permits before they go on any county road. They cannot exceed 80 thousand pounds and he thinks they need to adhere to the weight restrictions based upon the road and bridge folks in that particular area. It may not be 80 thousand pounds; but they have to abide by that one. If they do not, they are in violation of a traffic violation and not a zoning issue. Dusty wanted to contribute about the school bus turnarounds; the school district has been reluctant to allow its school buses to exit hard surfaced areas for fear they may be stuck. If there is no house occupied that warrants the bus going down there, they have been less and less willing to go into places that is a little dicer surface. Dusty thinks that is the reason that they do not enter into that cul-de-sac. Commissioner Houpt asked, are there no kids serviced by the bus. Dusty said there are kids served by the bus; but the school district prohibits its bus drivers from going into a place where the MUTCD required turnarounds. They cannot back up even if it is surfaced. There are requirements from the school district that are related to their guidelines for safety and not necessarily for the configuration of the roadway. Commissioner Houpt stated that is not every school district because she sees one every day that backs up to be able to turn around. She does not think we have cul-de-sacs in all of our areas; but we will accommodate that. I am not second-guessing your statement. The people who bought into this area had an expectation that it would be residential/agriculture. Some of them even have covenants on this property. She stated she knows it does not transfer onto this property; but it is still part of that neighborhood. If there were 11 other businesses doing business out there without a special use permit, with heavy equipment she would feel the same way. She has not been convinced that this is an appropriate location for this. Chairman Martin stated the motion has been made and seconded. Commissioner Houpt stated they are seeing a lot of industrial and commercial activity move into rural Garfield County and it is impacting a lot of people who are living in the county. She thinks we need to be careful about how we allow that to grow. Chairman Martin said he thinks there is another side to that. It is extremely hard to get anything within municipalities because of their restrictive land use. It is very obvious they will go outside of a city to try; is this the right location, we'll find out. If it is the wrong location, we will find out. However, it is trying to stay alive, it is trying to do business, it is trying to keep people working and it is trying to get along with the neighbors. However, you want to look at it; but it is an attempt to stay in business and an attempt to employee people, which sometimes benefits everyone. However, he does not always like what he sees too. Commissioner Samson said if we deny, we are not precluding them from locating somewhere else to continue their business. Chairman Martin stated no, and

also the request that you are making, a decision in error and to show the other 11 businesses that you have not required them to do such, which then turns into a code enforcement and violation on the other 11 people. We will have our hands full there as well. Or, you can say it is going to be agriculture and that's all it's going to be and you can't drive your tractors if it isn't too wide. You cannot have your heavy equipment there no matter if its ditch cleaning to mowing your field, to herding sheep and your cattle truck is too big, and you cannot take that up there. You have to have the right findings for this. Have they met all of the requirements, do we have the flexibility, is it the right decision based upon these recommendation, or not. That is what you need to make a decision on. That is what has been presented to us. Therefore, the motion is to deny based on traffic and out of character for the neighborhood. In favor: Houpt – aye Samson – aye Opposed - Martin – aye

Executive Session:

Don needs the Board to assemble in executive session so he can provide legal advice and also receive direction concerning a personnel matter in the sheriff's office; discuss the status of contract negotiations on the Midland Center LLC; lots 3 and 4 off 7th Avenue for contract negotiations; Deb needs to provide legal advice and received direction concerning potential litigation on a subdivision improvements agreement; provide legal advice concerning application of our Land Use Code to injection wells; Ed needs to discussion and receive direction on contract negotiations on RFTA, and Don needs to have a brief discussion concerning a personnel item in his office as it relates to the special board meeting you set for the 16th. Chairman Martin explained they had one more item before executive session.

Vaisala Contract - ISLDME

Carolyn stated they were unable to speak with Brian Condie; but she and Dale have been talking with Mike and the old firm AMSI, which has merged with Vaisala, as best she can put together, you approved the expenditure of this money on June 8th. Back in March, you were made aware of the merger between AMSI and Vaisala; she cannot tell if they are a sole source. She is assuming they are because they have had the contract for maintenance for 9 years at the airport. She imagines Brian went from that and assumed they were a sole source. She does not know if there are other providers out there who could bid this. Brian and the contractor want you to approve this today because they have to get the information to the manufacture. It has to be specially manufactured - these pieces of equipment for our system. If not approved today they cannot guarantee they could have it done by October. Chairman Martin stated that is pretty close to a sole source since there is only one manufacturer. Why delay it by going out to bid and they have a relationship. We have already approved the expenditure and he thinks they need to ratify the contract and request it. Carolyn said they have a scope of services; Matt will prepare the standard contract to go with that scope and get it out to the new contract manager for signature. Commissioner Houpt asked if they were approving the scope of services today. Carolyn said yes and the authority for John to sign the contract. Commissioner Houpt – I make a motion we approve the scope of services with Vaisala Inc. on the ISLDME upgrade and authorize staff to move forward on a contract and if there are any questions or changes, legal will review those changes and adding to that motion the authority for the Chair to sign. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin stated we have identified all the items, except for Fred Jarman on this report regarding the quarry and he would like to include that into the executive session. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to go into an Executive Session; motion carried. A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

Action Taken:

MIDLAND CENTER LLC PROPERTY:

Don started with the existing contract between Garfield County and the property owners for the Midland Center LLC right now the contract provides by the first of July, close of business, we were to receive copies of as built construction drawings. We were to receive all documents and all documents affecting title. We were also to receive all building permits as similar documents as well as all major development permits and governmental agreements burdening the property. In regard to those items on the 1st of July, Don received in his office approximately mid-day, a proposed amendment to the contract signed by the property owner President, Al Capo requesting an amendment that would allow them to the first of August to give us updated as well construction drawings, as well as some discussion on finalizing a declaration of protected covenants. Obviously, those items were not provided to us by the 1st of July. On that basis as well as the provisions of section 7F of the contract functional review wherein the Board retains the sole discretion to terminate contract if they determine the property was not functional; therefore, he is requesting direction as to the desire of the Board to proceed with this contract or terminate it. Commissioner Samson stated because of the stated objections you just said, with the emphasis on the due diligence and function ability study, it appears as though it is leaning toward it will not suit our needs; he moves to terminate the contract. Commissioner Houpt – Second. Don asked if the Chair was authorized to sign an official communication of the County terminating the contract under the findings you have set under your motion. Commissioner Samson stated yes. In favor: Houpt – aye Samson – aye Martin – aye

PROCUREMENT CODE:

Don stated earlier the Board discussed setting a special meeting on the 16th to discuss amendments to the purchasing procurement code. At Don's request, he understands the Board is willing to reset that for July 17th at 8:00 a.m., is that correct. Commissioner Samson – I move we change the procurement code meeting from Thursday, the 16th at 2:00 pm to Friday, the 17th 8:00 am. Commissioner Houpt - Second.

In favor: Houpt – Samson – aye Martin – aye

SHERIFF'S BUDGET:

Don stated there have been discussions regarding the status of the Sheriff's budget. Don understands the Sheriff will be available for discussion of the status of his budget and any proposed supplements to accommodate changes he has made in his department. Does the Board desire that to be set for public discussion and on the agenda for next week? Chairman Martin stated yes and to notify the Sheriff and the finance department.

RFTA

Don - in regard to RFTA contract negotiations; does the Board desire to give direction to staff concerning discussion of both the current budget and any future budgets of RFTA. Commissioner Houpt stated yes and we would like to have them come in and talk with us. Don asked if that would be publicly. Chairman Martin stated yes and give a presentation to tell us what they are up against and the article in the paper saying they are considering cutbacks to our contracts. It needs to be discussed openly. Don asked Commissioner Samson if that was also his sense.

Commissioner Samson stated yes.

POWERLINE PROPERTY OWNERS ASSOCIATION:

Don said they have a request from the Powerline Property Owners Association to voluntarily participate in litigation between that association and the developers of the property; does the Board wish to give direction concerning such participation. Commissioner Houpt – I make a motion that we not participate in that litigation. Commissioner Samson – Second. Chairman Martin stated, a wise second. In favor: Houpt –aye Samson – aye Martin – aye

OIL AND GAS MEETING JULY 8, 2009:

Don stated there is a meeting set at the direction of the oil and gas commission for oil and gas commission staff on the 8th in the evening in Parachute; he knows Commissioner Houpt has indicated she will be there. Do any other Board members intend to be there so we know if we have to notice this meeting? Commissioner Samson said he would be there. Chairman Martin said we will notice that; but will not have to have a record.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JULY 13, 2009

**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 13, 2009 with Chairman John Chairman Martin and Commissioners Commissioner Houpt and Mike Commissioner Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

COUNTY MANAGER UPDATE: ED GREEN

RE-CONSIDERATION OF RAC FOR WHITE RIVER NATIONAL FOREST – PATRICK THRASHER

Patrick Thrasher, Public Affairs Officer for the United States Department of Agriculture – Forest Service presented a briefing paper on the “Secure Rural Schools and Community Self-Determination Act of 2009, Reauthorization for Fiscal Years 2008 to 2011.” The formation of a RAC is a new challenge for the Forest Service.

This Secure Rural Schools and Community Self-Determination Act of 2009 (SRS) was reauthorized to extend the provisions of the SRS Act until the end of FY2011. In the process, certain portions of the Act were changed significantly. As with the earlier version of SRS, counties must choose between the traditional 25% payments to county’s authority or the SRS authorities. Of the eight counties influenced by the White River National Forest (WRNF), three counties Eagle, Summit and Pitkin, elected to continue the 25% payments to counties. The other five Garfield, Gunnison, Mesa, Rio Blanco and Routt elected SRS. *SRS Title I – Secure Payments for States and Counties Containing Federal Lands* - Garfield County will receive \$498,158 under Title I during FY 2009. Counties receiving payments under SRS Title I must use these funds to *support local schools and roads as stipulated in state statute*. *SRS Title II – Special Projects on Federal Land* – Garfield County elected to receive \$47,750.00 under Title II during FY2009. These funds may be used for the protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the SRS on Federal land and on non-Federal land where projects would benefit the resources on federal land. Counties that wish to participate in the Title II provisions of the SRS must be participants in an SRS Resource Advisory Committee (RAC). RACs must have fifteen members with a minimum of nine required for the RAC to conduct business. RAC members must be appointed by the Secretary of Agriculture. Title II funds are held by the Treasury until RAC’s have been formed and there are approved projects for which the funds can be expended; then this is the point when the funds are released to the Forest Service. FY2009 funds may be carried forward into FY2010 should RAC’s not be in place before the end of FY2009. *SRS Title III – County Funds* – Garfield County elected to receive \$41,025.00 under Title III during FY2009. These funds may be used only to carry out the Firewise Communities Program, develop community wildfire protection plans, and reimburse for emergency services paid for by counties and performed on federal lands, such as search and rescue and firefighting. *Resource Advisory Committee Alternatives* The rules under which RACs are formed are very specific. RACs are approved and chartered by the Secretary of Agriculture. Members of the RAC are recruited and recommended by the agency but are appointed by the Secretary for a specific term. There are three basic alternatives for the formation of Resource Advisory Councils:

- RACs could be formed on some sub-regional basis
- RACs could be formed on a county by county basis
- RACs could be formed on a forest by forest basis

At this time, Gunnison and Mesa Counties have elected to join a sub-regional RAC being formed by the Grand Mesa, Uncompahgre, and Gunnison National Forest (GMUG). Routt County has elected to join a sub-regional RAC being formed by the Medicine Bow and Routt National Forests. At present, it is envisioned that these RAC’s will focus on the distribution and spending of SRS Title II funds.

Forest Service Recommendation It is our recommendation that Garfield County elect to join the RAC currently being formed by the GMUG NF. Garfield County will be able to nominate members to the RAC. Provisions can be made in the RAC By-Laws that will assure that Garfield County funds will be spent on projects in Garfield County. Rural schools over the life of the funds will sunset in 2011 and will decrease. At the end of fiscal year 2011, the RAC that deal with project funds would cease to exist. Cal Westin, new district ranger met with Ed Green and Commissioner Samson and made a recommendation to this Board to take up a proposal. Look at the package provided. One paper he submitted summarizes the Spruce Picnic, Rifle Ranger District, and White River National Forest in Rifle Mountain Park. This is located approximately 18 miles north of Rifle. It was originally designed to accommodate 90-people and is approximately 2-acres in size. The Rifle Ranger District wants to improve the facilities of this developed recreational site to its original design. This endeavor would consist of repairing and

staining the picnic tables, buck and pole fence, replacing the outhouse, graveling the parking area, and reconstructing these parking sites, volleyball court and horseshoe pits. The cost to accomplish this task is \$48,000.00. This would be an appropriate project to benefit to WRNF and the County. This project was brought forth in a meeting with the WFNF, Ed Green and Commissioner Mike Samson. Commissioner Hought – Were there other priority projects? Pat stated that other projects were not necessarily a part of this discussion. The Spruce Picnic Area needs rehabilitation and it is used by County residents in Rifle and other areas of Garfield County. Ed – Three-forks campground had to be abandoned so this put more pressure on the Spruce area. Commissioner Hought – What is the benefit of the RAC? Pat – Should Garfield County federal revenues remain at the current levels, the Board can elect between \$40 to \$50,000.00 for projects of a mutual benefit. These are projects that might not be high on the Forest Service priority list. Commissioner Hought – Second question – What does the County lose that focuses on the WRNF? Under the terms of this version, there are 15 members. There is concern with being able to join in serving on the RAC and that by coming together with several other counties it helps. That is a concern about the BOCC losing some input or influence on issues that can be addressed in other ways other than this RAC. One of the benefits, it gets the laundry needs and prioritizes for those projects. Commissioner Hought stated she would like to see an alternative to this RAC. She would like to see what the Forest Service thinks are very important with respect to the limited funds everyone has. Commissioner Samson – This is a newly formed RAC here, which we would be joining, the GMUG (Grand Mesa Uncompahgre Gunnison National Forest. It is already formed. Pat – Yes, it is in the forming stage. Commissioner Samson – There would be one representative from Garfield County. Pat – Not necessarily. Commissioner Samson wanted to know what that formation would be. Pat – We are looking at, under Secure Rural Schools, a resource advisory council must have 15 members – those 15 members are distributed over three categories: elected officials, citizens at large and then individuals which represent users of the National Forest and those could include representatives of outfitter and guide organizations, snowmobile organizations, the livestock industry etc. A portion of RAC would be made up of those individuals or representatives of that group of users of the National Forest. The idea being there would be a spectrum of representation. In the process, the RAC would also have representation from all of the affected counties perhaps not an elected official from each county but in the process of populating them in those three categories that would also be a representation from each of the counties. Similarly, there would be a representative from each national forest – the White River and that would be Lynn Adams who would be there as a liaison, an ex-officio member to advise the RAC on issues associated with that national forest. Commissioner Samson said we in Garfield County would be represented. This RAC would only deal with the Title II funds in the amount of \$48,000.00 for 2009, \$48,000.00 for 2010 and \$48,000.00 for 2011. Then it is up to us in Garfield County to make sure that our portion, this year \$48,000.00 as well the years will to come would be spent in Garfield County. Commissioner Hought – And, will there be reference to the White River National Forest in the name of this RAC so no one forgets that it also includes this forest; and also, how is Routt County dealing with this? Concerning the name of the Resource Advisory Council, that would be up to the Resource Advisory Council once formed to formally adopt a name for the group. Chairman Martin hopes they will send us an invite since the Routt National Forest is also in Garfield County and takes in a whole bunch of area that search and rescue might have to go into as well - on the backside of the flat tops. Talking about the \$48,000.00 for this year and the next two years and then it is gone; this is a project that I would like to see happen. This area is used constantly in the Rifle area and it is one of the most organized and used area in the County. Commissioner Samson asked Tresi if she had ever been there. No was the answer. Commissioner Samson continued saying and I am sure there are other projects, etc. but in my opinion, I would like to see Buford and Four Mile improve the campgrounds and a few other places by Haystack.

Chairman Martin – There are three different reservoirs up there on the north side just bordering Routt and White River National Forest. There are heavily fished as well as the irrigation and campgrounds – that would be a nice improvement too, on the Devil’s Causeway. Commissioner Hought stated she would like to see an alternative to this RAC. She would like to see what the Forest Service thinks are very important with respect to the limited funds everyone has. Pat, you will be a part of organizing this RAC and I think it is going to be very important if we go that route and that you make sure that is on paper and in discussion so that we do not end up in no man’s land. Therefore, this is going to turn into not only a GUMA but also a White River National Forest RAC. I do not want people to think that we just need a seat at the table. Someone might find money to fund this program into the future, therefore making sure we are protected. Commissioner Samson – If for whatever reason we felt that this is not the best for Garfield County in the future we could also opt out. Pat – Yes, you can. Commissioner Hought asked Pat if Routt was going to be invited for the White River National Forest service – how is that going to work. Chairman Martin – If they choose to do so, it is up to their choice; just like we are part of the Routt National Forest, we will have to opt to see who wants to participate. Commissioner Samson – I would move that Garfield County would join the RAC as currently formed by the Grand Mesa, Uncompahgre and Gunnison National Forest so that we would be able to participate in that RAC with the stipulations that the By-Laws reflect that Garfield County funds will be spent in Garfield County on projects. Commissioner Hought – Do you want to include your contact? Chairman Martin – Not in this motion. Commissioner Samson – I am assuming we would have to do that first. Commissioner Hought – Would you mind if I added something. Commissioner Samson – No. Commissioner Hought said that it does not end up just being a GUMA RAC and only recognized by the national forest but also by White River National Forest RAC. I will second your motion.

In favor: Hought – aye Martin – aye Samson – aye
 Commissioner Samson moved that Title II fund from the Secure Rural Schools re-authorization be directed to be used in the amount of \$47,750.00 for the project at the Spruce Tree Campground. Commissioner Hought – Seconded and added, in the future when directing our money regardless of how limited that money is, we need a comprehensive list of all the projects in that price range that need to be accomplished so we better understand whether we are directing our funds in an area that is most needy. I do not know what the time constraints are and I do need a lot of information on this area but I’m going to on the representative’s recommendation and support this but would ask that next time we have a more comprehensive list of needs. Commissioner Samson – Fair enough.

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

ASSESSOR REPORT OF TOTAL ASSESSED VALUE OF ALL TAXABLE PROPERTY – JOHN GORMAN

John Gorman and Lisa Warder presented. There was nothing included in the packet because John stated the work was completed over the weekend. John read the following information into the record. The Assessor’s office completed the Real and Personal Property Protest hearing as of July 5, 2009. A list of the Real and Personal

Property Protests were included in his report and the decision on each protest. John also attached the most current Abstract of Assessment. This abstract does not include the updated State Assessed Values, Possessory Interests Values or County Board of Equalization changes. There were 2,753 protests in this period. This includes 2,613 protests of Real property values, 30 protests of Personal property associated with commercially classified property values, and 110 protests of Oil and Gas production property values as well as the properties that had the value adjusted in the protest period, which was 1,411. The number of protests denied was 1,342. The total value was adjusted by \$252,840,980.00 This includes both increases and decreases to value. As of July 10, 2009, the Assessed Value for Real property is \$1,240,714,560.00. This is an increase of 34.5% over the 2008 value of \$922,171,030.00 This value does not include State Assessed Property. The final State Assessed values for both Personal and Real property will be mailed to Garfield County, by the Division of Property Tax August 1st. The values will be entered into our computer system and will be reflected on the Abstract of Certification presented to the Chairman for signature by August 25th. As of July 10, 2009, the Assessed Value for Personal Property and Oil and Gas is \$3,910,939,340.00. This is an increase of 71.7% over the 2008 value of \$2,277,520,490.00. This includes drilling rigs, which are apportioned to our County in the amount of \$182,790,740.00. John Gorman also attached a list of all personal property accounts that either did not file a Declaration or filed after the statutory April 15th due date. All of them will receive the Declaration Penalty allowed by Statute. This is either 15% of the taxes due or \$50.00 whichever is less. This will be attached to the 2009 tax bill due in January of 2010. Commissioner Houpt asked if there were any surprises. John – The increase in oil and gas was very large; it was the largest assessed evaluation. Earlier we talked about this year dropping; this is the big bang before the bust. We are 25% below in the rigs and all over the news, gas transmission lines are full and gas is low. This will depreciate the oil and gas and have a huge impact. Many oil and gas communities are facing this as well as the State Severance Tax. This will affect the revenue to the County. Don asked John if the Abstract reflects the change the Board ordered last week. No, per Lisa, that will not be until August. Commissioner Houpt commented that we need to plan well for our budget so next year we will have stability. Chairman Martin – We need to be exceeding prudent.

CONTRACT – MATT ANDERSON

Matt Anderson presented the request for a sole source contract for additional rock crushing stating that a contract was recently awarded to Overlook Mine LLC for rock and concrete crushing at the Landfill through a competitive bid process. Recently BLM has given the County approximately 25,000 cubic yards of rock, which could be crushed to gravel for a significant savings to the Road and Bridge Department. Matt feels this additional 25,000 cubic yards of rock located at a different area would be out of the scope of the current contract; however, due to time restrictions and the fact that Overlook would not have to remobilize their equipment, (the contract was as recent as June), this formal solicitation process would not be beneficial to the County. Therefore, a request was made to the Board today to award the contract amount in a not-to-exceed amount of \$100,000.00 with the rates currently utilized by Overlook. This will save us over \$200,000.00. Commissioner Samson moved to approve the sole source contract for rock crushing with Overlook Mile LLC. Don stated there is a bidding process included in the Procurement Code. The Board will discuss this further on Friday.

LANDFILL

Matt requested consideration on one more item, the new cell at the landfill. Don once again said this needs to be an agenda item.

DISCUSSION OF THE FRAC ACT – JUDY JORDAN

Judy Jordan provided a power point July 5, 2009 regarding “What does the Safe Drinking Water Act (SDWA) have to do with Oil and Gas.” The Energy Policy Act of 2005, in paragraph one of section 1421 (d) of the Safe Drinking Water Act was amended to read as follows: The term ‘underwater injection’ excludes the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas or geothermal production activities;” whereas in the Safe Drinking Water Act. SDWA focused primarily on treatment as the means of providing safe drinking water at the tap. The 1996 amendments added source water protection, operator training, funding for water systems improvement and public information - Safe Drinking Water Act. The Environmental Protection Act (EPA) law was amended in 1986 and 1996; and, requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. SDWA does not regulate private wells, which serve fewer than 25 individuals. SDWA focuses on water suppliers and the quality of their product. It establishes primary and secondary drinking water standards. It requires private water systems to treat so as to reach standards set by the EPA. It established source water protection programs; enforcement has been handed off to the states including the Colorado Oil and Gas Conservation Commission for CI II – EPA who retains the others. It also regulates the injection of wastes underground (UIC). Drinking water standards apply to water served by public water suppliers. However, they do not apply to ambient groundwater except as the Water Quality Control Commission (WQCC) promulgates regulations that invoke the standards and it does not apply to private water sources. What is Fracking? It is the injection of a solution under high pressure into a formation, to increase permeability and to extract natural gas. The DeGette Bill – HR 2766 actually brings the commercial production of gas wells under the Safe Drinking Water Act. The DeGette Bill would amend Section 1421 of the SDWA to include frac fluids in the definition of underground injection. It also amends SDWA to require disclosure of the chemical constituents, but not the proprietary formulas used in the fracking process of individual companies. It also requires the government to post the reported constituents for public viewing including on a website. It requires the fracker to disclose the formula if it is needed to treat someone in a medical emergency.

Summary:

1. The EPQ of 2005 exempted gas wells that are fracked from the definition of UIC under the SDWA.
2. It did not exempt waste disposal wells.
3. It did not preclude state regulations of UIC or of fracking, which are regulated by the Colorado Oil and Gas Conservation Commission (COGCC).
4. The DeGette Bill removes the exemption so that fracking would be subject to EPA regulations under the SDWA.
5. The Bill would also require disclosure of the frack constituents.

The debate is this: EPA reported that there has never been an instance of frack fluids contaminating water supplies. The industry says that fracking is already regulated by the states and the feds, so the DeGette Bill will just add another expensive layer of regulation. This new bill would put fracking underneath the EPA.

Chairman Martin stated this is taking authority away from the state to the federal government; the COGCC already knows the contents. He wants to leave this as currently written and does not support any changes. Commissioner Houpt – COGCC has addressed the chemicals and disclosure issues but; not everyone has had an opportunity to address this issue. The EPA has looked to the COGCC and there is a dialogue going on. It is not intended to take authority from the state; it is a cooperative approach to cover the entire basis in other states. Chairman Martin– The COGCC ready has that authority and other states do not want to get involved with the federal government. Judy read, in the papers, of the big controversy between the EPA and state officials; this is not an argument with the feds. Her first point is that it is disingenuous; Colorado is ahead of requiring the contents. Prior to that change, we did not know what was in the fluids. She referenced the situation south of Silt where private wells were contaminated by oil and gas development. State official could ask, and honestly, they were not aware that fracking fluids had affected the water wells. Chairman Martin said the same person issued the fracking for the permits. Judy wanted to clear up the fact that there are statements in the paper that reflect a big secret to what chemicals are used in fracking fluids. At an Energy Advisory Board (EAB) meeting months ago, one of our operators John Black actually went to a presentation as to the types of constituents they put in fracking fluids and the purpose of putting them in the fluids. He later made a statement at an EAB meeting that there had never been any fracking fluids in a drinking water supply. I talked with him about that notion that people say there is nothing found in the drinking water supply from frack fluids but yet you people are not telling us the contents. The response I got from three or four operators was yeah, we will tell you what is in the fracking fluids – we have no problem at all. I got a material safety data sheet (MSDS) from one of the components of frack fluids from Laramie II; and, another company told me we have it listed on our website. I took John Black’s presentation and took the genetic components that he talked about that were in frack fluids, went on-line and searched and found material safety data sheets for each of the components. Those are posted on the County website for Oil and Gas. All of the operators said they had no problem with posting those constituents. There is some public information available about them, not all of them are treating the constituents as proprietary. Companies use different things in different frack fluids. Somebody is pumping up this idea that this is very secretive and it may not be so. Commissioner Houpt – I am not sure those lists are as comprehensive as you said. We have talked about this at the state level and part of that discussion during the hearing that we had on chemical inventory brought out some real concern with Halliburton. It was stated that if you require this chemical inventory we may not use our frack fluid in Colorado anymore because we do not want to disclose all our constituents used in that fluid. We talked a great deal about not using the formula because of the importance of that issue. I think it depends on who is on board with communication. She is very happy that companies in Garfield County are willing to share the information. I still think that there is a Safe Drinking Water Act in place to specifically look at those public drinking facilities. It is hard a hard issue to argue and hard for me to understand why there would be an exemption when so many other areas require the disclosure. Chairman Martin– It is simple to understand– they do not have the manpower to inspect and test it all; what they did was to go ahead and delegate the state to do that because they have manpower in the region. However, if you give it to the federal government to do 50 states, you are not going to get the inspections or the other data, which is what you really need. It just puts it into the federal bureaucracy. The bill actually reverses what we have. Do not do that, just extend the cooperating status to the other states that do not have it and we then we do not have to create new legislation, etc. It is already there; all they have to do is say, do you wish to have it. Those states that want to take on that responsibility take it on; those who cannot afford to it then falls on the federal government to inspect it and follow up on the enforcement. That is where the responsibility lies right now. Commissioner Houpt – And so, the debate continues. One last question, there has been a lot of debate about the DeGette Bill; there is a concern about the increase cost of doing business. What does this really means? The DeGette Bill does not mean shutting down fracing. It may not be necessary but incumbent on us as an industry to make sure that water facilities are clean. Judy was not sure what the effect this would be on our industry and there is nothing in DeGette’s Bill to shut down commercial oil and gas wells or discontinuing fracing; there is some concern about the cost. However, all the bill does is to require a disclosure. A disclosure would just be for a question of the engineer that knows what fluids are in the fracing to pass the content to the EPA, which simple provide a report. In the SDWA, the EPA delegates their authority where the state wants it. They have already given the authority for a regulated disposal law for underground injection wells. My guess would be since COGCC already regulates the fracing of the well, the set up is already there and the EPA would simply delegate that to the Board in Colorado. It does not seem like there will be that much additional costs on our operators. Ed asked if this would affect the spacing depths. Judy – No, because this is already done and in the diagrams she showed the Board previously. The underground injection has been done for a long time as well as the standards therefore, in her opinion this would not change. Chairman Martin – This just brings more federal government into your life.

COGCC MEETING OF JULY 14 AND 15 – GEOFF THYNE AND JUDY JORDAN

Judy reported this was their last chance to discuss what is going to happen at the Oil and Gas Conversation Commission meeting Tuesday and Wednesday. Don said we have discussed some of the issues that will be presented to the Oil and Commission in executive session on the presumption they would be in the form administrative litigation. It does not appear based on how the Commission has set these that it is going to be litigation; it appears to be of an informational presentation than a hearing. No hearings are set on any of these issues presently. Chairman Martin – Mr. Neslin said he would give us 3 to 5 minutes on the presentation of our issues. Don passed out a copy of the latest agenda from the COGCC website – this was posted as of Friday morning. We finally have a complete agenda from COGCC. You will see that the first anticipated presentation on this would be short in the way of introductory comments from Garfield County welcoming the COGCC to our County. It will include explaining the issues that are direct concerns to the County. I would tell the Board that it appears appropriate that Commissioner Houpt as both a member of the Oil and Gas Commission and this Commission could make these short introductory comments. Otherwise, it is not anticipated that Garfield County would say anything during the first ½ day on Tuesday. The first and noted presentation would be in the afternoon; apparently, we have been listed last on the agenda for the discussion of Dr. Thyne’s review of what we have referred to as the Hydro Study II - the second round of study in the West Mamm Creek area. I do think it is curious that they have listed for discussion Dr. Thyne’s review of the study but not the study itself. I do not know if the study has ever been formally presented to the Oil and Gas Commission. If it has been that’s fine; but, they listed us last with no time allocation. They have set two hours for discussion and it’s anticipated that COGCC will make a presentation through the S.S. Papadopoulos & Associates, Inc study group that performed the Hydro Study II; however, their comments that have been provided to us only relate to Dr. Thyne’s report – not the study itself. We have no idea what the industry is

going to present. Dr. Thyne is prepared to address this in his report but we are not sure what the critic will be so it is difficult for him to make a judgment on exactly what he will have to say. If the Board wants to talk to him, he is available via conference call, as Judy has indicated. So the Board will know what is on the agenda at 1:00 p.m. is the presentation of Dr. Thyne's Hydro Study II; 3:00 p.m. on Tuesday afternoon there is a discussion of the West Divide Creek Seep; and, Judy has indicated to Mr. Neslin that Garfield County will be there. Depending on what is in the presentation we have told the COGCC staff that they really need to take the lead on this issue. It is not an opportunity to critic Dr. Thyne. You will see going through the agenda they have also set for Tuesday afternoon, sometime after 3 o'clock the rest of the consent agenda, which normally does not take a great deal of time but it is major. Then they move to Wednesday but again I would think there might be 15 minutes to 30 minutes for the County to participate. Chairman Martin said 15 minutes is what is listed for all the issues and comments. Don continued saying they set aside virtually the entire day on Wednesday for an informational session that is not structured under their rules at all concerning project Rulison. The only official time they have allocated during that entire for Garfield County is in the morning – 15 minutes. Commissioner Houpt is planning to ask for clarification because everyone else has received 60 minutes and she is wondering if we gave them the 15-minute period or was it what was given. Judy – The 60-minutes for Rulison, no, we did not ask or discuss a specific amounts of time. Commissioner Houpt stated as a member of the Oil and Gas Commission she will be asking the staff to make sure everyone keeps the same amount of time. Don – On that issue, the Board has officially authorized tender of written correspondence to the Oil and Gas Commission on Garfield County's position on Rulison shot-site gas development. Has that occurred? Judy – I sent the letter to Dave Neslin on Thursday last week and asked him to distribute that to the Commissioners. He had promised that he would distribute the letter to the Commission however, whether that has happened I do not know. Don – So, if that letter had been distributed as we requested, I would think it would shorten our presentation some because as you know that letter is fairly detailed in terms of Garfield County's technical position. If that letter has not been distributed, then we would certainly need more than 15 minutes to present our position. That is a quick review of the agenda and, what we anticipate to occur. We will be there both to respond to questions and to allow Dr. Thyne an opportunity to present his technical position in regard to all three issues we have talked about today. The question right now is do you wish to speak to Dr. Thyne about anything he would say on behalf of Garfield County at the Oil and Gas Commission hearing. Judy has arranged for a conference call if you the Board wishes to have that discussion. Commissioner Samson – We will just be there and listen to what he has to say on the public comments in these various segments on both meetings whether it is on West Divide Creek or the Hydro study or Rulison. Were the principal players notified that these meetings were going to be held or was there just public information put on the website. I have seen it in the newspapers. Example, Lisa Bracken obviously has a lot of interest with West Divide, were those people notified? Chairman Martin – I think they have ruled no standing on this particular issue and since it is not an evidentiary hearing, it is only a discussion, she could probably give comments during the public period but it would be limited. Commissioner Houpt – But, if the rule is of no standing they work that through the County. You people are their introduction into the meeting. Commissioner Samson – It says public interest groups and then public comments. Chairman Martin – Lisa could be part of the group or she could speak just an individual. Commissioner Samson – Just using Lisa as an example, but what I'm thinking is with Rulison; all the landowners, they were not notified individually only like anyone would be – nothing special even though they have a vested interest. Commissioner Houpt – That is a great question and she was not sure. Don said he has neither personal knowledge nor institutional knowledge for Garfield County on what the COGCC staff actually did. Their normal practice would be to place this agenda on their website and to do a short notice as they have done both on their website and publish it that indicates that public comment will be taken. In terms of direct contract if the matter is not set for a hearing that requires such contact, I would not expect any special effort to contact these interested parties. Commissioner Houpt asked Judy, as a party of interest, were you contacted from the COGCC. Don – That is probably not a fair analysis of how others would have been treated because Judy has had frequent and regular contact with Mr. Neslin that I would not think most private citizens would have. Commissioner Houpt – The reason why I asked is because the way the rule is outlined, such as parties of interest, it puts a great deal of responsibility on the County. If there is notice, perhaps it should be the County making sure these folks are aware that their topic is coming forward at a certain time. Don – That could be. I am not saying that maybe informally there should not be some contract from both the County and the COGCC. But, in party interest for a party to a proceeding is a specific reference to a hearing process in Oil and Gas Commission rules; and, as I have said repeatedly the way the Oil and Gas Commission has set up this agenda, these are not hearings and not anywhere contemplated in the Oil and Gas Commission rules so there is no provision to provide formal notice or contact. Commissioner Houpt – Technically, that is true and that is why I was saying that the County might take up that charge. It would be true if it were a hearing because they may not be a party of standing. Chairman Martin – My question is to go back to the Rulison area. You know we have an agreement with the State of Colorado that they will have hearings, etc. I have a memo from Mr. Neslin to Mr. Udall, Mr. Bennet, Mr. Salazar, and several other people and in that comment, it says, and I would like to know if you have received these notifications for the hearings, and if we have not been attending these hearings, I would like to know why. In January of 2008, the Colorado Oil and Gas Conservation Commission approved 95 APDs for locations within the three-mile zone district and more than ½ mile from the blast site of Rulison. Of these approvals, 45 are located 2 miles to 3 miles away; 39 are 1 to 2 miles away; and 11 are located ¾ of a mile to 1 mile away. 33 APD's are currently pending for locations and all these locations are at least 2-miles away. Have we had any information in reference to their 3-mile sphere of influence and holding public hearings on those 95 APDs? Judy – I am aware that there are eight APDs submitted for those areas because the APDs are submitted to me, but there are no public hearings that I am aware of. Chairman Martin – These are wells; there are already wells. Commissioner Houpt – Well, they have come before the COGCC. Chairman Martin – So have we lived up to the agreement that the State of Colorado and the Oil and Gas Conservation Commission have notified this County that they will have those hearings within the 3-mile area? We are talking 95. Judy – No, I do not think there have been any. The ½-mile, yes. Chairman Martin – That is not just the state, but we had this Oil and Gas Conservation Commission in this room on January 8, 2008 saying that anything within the 3-mile area would have a public hearing. Has the oil and gas notified the County? Commissioner Houpt stated every packet we received has a map with an indicator or where all of the APDs are located and there is a specific one for that 3-mile range. It has a range circle. There have been quite a few, I know, because there have been many 8-1 votes on the Oil and Gas Commission for those permits but they have not come to

hearings before the Oil and Gas Commission. Chairman Martin – My question again, those are hearings, but have we been notified that they will take place. Judy – We have not received a specific notice about those hearing – no. Chairman Martin – This is my relationship with the Oil and Gas Conservation Commission, they say one thing and do totally different. Commissioner Hought asked Judy, do you receive those to review? Judy – The hearing notices. Commissioner Hought – The APDs? Judy – The APD – yes. Don – We need to be clear, the APD itself does not require a hearing. The hearing has to be set by the Oil and Gas Commission after the APD is filed, or we have to request an extension of time and request a hearing. Commissioner Hought – You are right, I am talking about spacing applications. There have been several of those that have come in front of us. Chairman Martin – Again, I am going back. Don, on that agreement and you have that letter saying that any APD will require a hearing – any well would have an automatic hearing by the State of Colorado with the Oil and Gas Commission. Don – I am not aware of that for the 3-mile area that is the so-called moratorium, which is not a moratorium area, which is the ½ mile that is a requirement for a hearing. It is not a moratorium but a requirement that a hearing be held for any APD within the ½ mile. Now the Oil and Gas Commission may have held hearings on APDs within 3-miles but I am not aware of any requirement for a hearing that this occurred. Commissioner Hought – Don, it is actually the spacing applications; I stand corrected. Judy – For the spacing applications, yes I do get notices. Don – That is a different thing, hearings are required on increase well density in spacing requirements. Chairman Martin – And then the question being, do we want a statement or just to be available on Tuesday and Wednesday, sit in the audience to see what happens. Then if we need to go ahead and do a presentation or not or to give each of the Oil and Gas Conservation Commission members a copy of his report to see if they will read it – that’s another issue. Commissioner Hought – We have it; it was given to us. Don – We started this discussion and I will come back to that, do any members of the Board wish to hear any more information from Dr. Thyne on what we would anticipate to be his participation in front of the Oil and Gas Commission on Tuesday and Thursdays. Chairman Martin – Not unless it varies from his draft proposal. Don – There is not as far as we know. Of course, because of the way the Oil and Gas Commission has put these matters on the agenda, some of which Dr. Thyne will have to do is react to what is heard. Therefore, it would be very helpful if the Board members can be present so we can confer with you about that type of issue if needed. Chairman Martin – The other question is, has the information on the Dr. Thyne and his study been released to the public? Judy – No, it has not. Chairman Martin – It is important that the public and the industry has that study as well. Judy said there are two different reports. Don – We explained to the Board that will not be released until the hearing itself so Dr. Thyne could make a verbal presentation to the Commission rather than submit the report in writing earlier. Chairman Martin – I understand that but I just have an e-mail that says they already have that information – it is from an industry member. Commissioner Hought – We have the Hydrological Phase II report. Judy – The Phase II report has been publically released. West Divide Creek – no. Chairman Martin – It is based on assumptions and they have stated they wish to challenge. Judy – There has been a lot of question about that saying, do we have your report and we asked which one? There has been a lot back and forth and confusion of which injection wells.

Ed’s Executive Session Item:

Ed stated he had a place marker for Executive Session item on negotiations personnel and property acquisition

COUNTY SHERIFF UPDATE: LOU VALLARIO

DISCUSS FIRE FEES

Lou Vallario presented a letter he had received from the Colorado State Forest Service, Terrie Craven, Fire Division Fiscal Manager stating Garfield County has refused to pay the indirect cost of a number of fires, which invoices were submitted in the total amount of \$13,523.23. This is at a rate of a 23% overhead fee to process these bills. The letter states the Forest Service needs to collect the amount owed from these previous fires and to receive a commitment from the County that no further deduction of F & A will occur. Otherwise, the Forest Service will not be able to continue providing the County this service in the future. They will send cooperator reimbursement requests directly to the County for processing for fires in which your organization is the responsible party. For a million dollar fire, this 23% overhead charge is a substantial amount of money to pay an accountant to process these fees. The bigger issue; Garfield County in no way entered into any type of an agreement on this. This was done by the Colorado State University, who manages the Colorado State Forest Service with an agreement with the federal government. There is nothing in our annual operating plan; nothing that Lou signed off on; and, probably nothing, the BOCC signed agreeing to this sort of fee. It has become a controversial issue; Lou refused to pay it and continues to do so. You can see by the letter received they want us to pay it. This was a topic of conversation at the last Sheriff’s Conference. It has also become a topic of several of the firefighting organization, local and at the state level and it has some attention with the State Legislators. Lou will pursue this in the future to have this fee reduced or eliminated to something of a more reasonable percentage. Lou wanted to present this to the Board so they would be aware of his refusal to pay this bill. Perhaps look to the BOCC for some guidance or legal support on this issue. We have paid every bill that has been presented to us for the fire services that we clearly purchased. Chairman Martin – The federal government has to make up for their deficit spending. 80% of the Forest Service budget goes for firefighting and the rest of it they are cutting. The only other option we would have is under Title III of the Secure Bills Act to pay for those services on federal land. At present, it is \$41, 025.00 if we need to tap into that to pay a fee that is where it should come from. That is federal money that comes to the County and, we give the federal money back to them. If that is what we wish to do because it is limited on what we can use these funds for. On the other one, I do agree with Lou, bureaucracy paying that way is just ridiculous and should not be there. It is a cooperative issue - we help them out. Commissioner Hought – Counties do charge an administrative amount and not charge you a tremendous amount for more expensive fires when the same amount of work is being done to process that fire. Have they shown you their costs at all and indicated to you why it would be a larger amount of money for a million dollar fire versus a \$10,000.00 fire? Lou – What they shared from the Forest Service was what other examples of overhead costs are for other related things and this particular agency charges 24% and another one charges 32% - so, they were more or less trying to justify the 23% percentage. My argument again, this is an agreement made between CSU and the feds and has nothing to do with Garfield County or any other of the 63 counties in this State. I do not think we should be subjected to a fee that we did not agree with. Commissioner Hought asked where are the other counties on this. Lou said the interesting thing is this really pertains to a handful of counties that have general wildfire issues and Garfield and Larimer Counties both are the ones who tap the emergency fire funds. Moreover, to the best of my knowledge very few have been billed. Some of those counties actually do provide, through the Sheriff’s office, certain levels of fire protection services. We are the glaring

example as far as this process. I have talked to a lot of sheriff's and they look at me as if I am crazy. Number one, I am concerned about the consistency or lack of in this process and number two that these are exorbitant fees that are attached. Chairman Martin – This is nothing new that the universe has done before in reference to the 4H program and Extension. We would send them a payment and they would have to take care of their own billing. It was an extra 23%, which is very common for them to process their own payroll checks and their expenditures on 4H projects. It is an internal issue; it is not a federal issue. I think it is a State of Colorado the University and its collections. Lou – Their argument was they agreed with GSA or one of the federal agencies who manage this. I have no problem paying it although in the letter they did threaten if we did not pay it, they would send the bills directly to us and we would have to deal with it. My guess is that my staff could deal with it for a lot less than 23%. Commissioner Houpt – Are you set up to do that? Lou – We do not have that many fires. First of all the fire districts have mutual aid agreements so there is no billing back and forth. This is only where we require outside resources, especially on federal resources, which is very expensive. Commissioner Houpt – But do you get reimbursed? Lou – The issue is not if we would be reimbursed; the issue is we would have to reimburse those agencies and submit a bill to help fight our fires. Chairman Martin – Why take it out of there, why not take it out of the Title III projects that you have for two years – you have your fire fighting in place and the community project - we have none. Now we have \$41,000.00 left to go and spend on expenditures that take place on federal lands for emergency purposes. That is not search and rescue – this is fire. So take your \$13,000.00 out of Title III funds, pay them back their money and let it go at that. You are talking eight fires and the largest is \$5,000.00 but for eight fires its \$13,500.00. Commissioner Samson disagrees and thinks Lou's original statement that he did not want to pay it and I do think 23% is too much. The others seem to say go ahead and pay it but I would say – I would not pay it. Commissioner Houpt – Lou you should definitely make your objections. Ed said organizations like this, that do business with the feds, are audited by the feds on a regular basis and as a part of that they establish the rate structure for reimbursement and that is what CSU is citing to cover their overhead costs. Lou – I could proceed to respond and send letters to the state, senators and representatives to get their attention and see if we could change this in the future.

DISCUSS BRUNO, COLIN, JEWELL & LOWE, P.C. LEGAL DEFENSE SERVICES PROPOSAL

Lou Vallario submitted a proposal to provide legal defense to public safety employees for acts or omissions within the scope of employment under civil, criminal, critical incidents, civil and criminal including court costs. This coverage would include each member to have separate counsel. Earlier this year a couple of deputies were charged with criminal contempt and were facing criminal charges and it was necessary between the County and the City of Rifle to hire Bruno, Colin, Jewell & Lowe to defend these two officers at a cost of \$28,000.00 combined. Therefore, what they said is we can provide this protection for law enforcement personnel for \$7.00 a month per person and then they pick up all those legal representations that may not be provided by the County. In certain cases, someone may have the right to an individual representation as well. Lou likes it and has no reason not to participate, but he wanted Don's opinion as well before he committed to something like this and see if the Board would think it would be something conflicting with how we do things or see as an advantage. Don prefaced this by saying, I have worked with this law firm even longer than Lou. This law firm goes back many years and they specialize in representation of law enforcement officers individually. As a firm, they do excellent work and he has recommended them in the past both for the sheriff's office as well as police departments. Don referenced page 2 of the letter from the law firm, this is very helpful as it describes the areas of protection the insurance would cover. Lou calculated an annual cost for 120 employees it would be \$10,000.00 per year. Don – There are potential areas of conflict arising in this area. CAPP provides full defense on all issues except for some employment related issues in terms of Title 7 both to the County, the sheriff in his official capacity and usually to individual officers. Unless there is a clear and almost indisputable allegation of an officer acting beyond the course and scope of their employment, CAPP provides cost for the defense. They may not provide indemnification if there is found to be a liability at the end of the case; if that liability is actually determined by actions beyond the course and scope of employment. All of this is driven by the Governmental Immunity Act that has a special provision that requires that the Board provide that type of defense until there is such a judicial determination. In those cases in; which it has not occurred in this County since Don has been employed, where there has been a determination beyond the course and scope in a judicial setting. That is the type of case where the Board probably would not want to pay for the defense or the insurance for that defense because; it would be extremely rare and probably based on extreme bad acts by that officer. In criminal settings and Lou described that circumstance and others when plaintiff's counsel goes off the deep end and starts to make allegations in criminal wrongdoing by members of the sheriff's department. Those issues have come to the Board and, because normally the county government is not in the jurisdiction and, in the scope of authority for the County to provide defense in criminal matters. The Board rarely sees this and occasionally you have determined that, yes, this attorney and their client have gone off the deep end – it is simply not fair and just that the employee bear the cost of this defense – we will pay for it because it is in the public interest. Now, what this would provide is regular defense regardless of the nature of the allegations in a criminal setting. The BOCC has to weigh whether or not when this does occasionally occur that you want to retain that ability to make that determination or whether you want to pay for this in defense of an insurance upfront and not be involved in that determination. Ed and Don have had this discussion over the years about County employees not just sheriff's employees because this comes up in the context of regular governmental employees not just law enforcement. This type of protection provides the defense but it does not provide indemnification so in that instance it is not full insurance. It is the cost of defense insurance but not payment. Therefore, the Board has to make that determination. Commissioner Houpt – Like a civil opening paragraph where it talks about being secondary counsel; is it true with the bullet points or would this be where they would step in where there was no attorney? Don – From my perspective and he is sure of CAPP's perspective, they would not be considered secondary counsel in the sense that CAPP would not authorize them to enter an appearance and actually act as retained counsel. They could provide advice to the individual officer but they would not be actual litigation counsel. CAPP has to authorize that from the set of attorneys that they have approved; because of the unique service that this law firm provides all over the state. Insurance companies rarely accept them as defense counsel or insurance pools because there is a tension between their representation of the individual and the protection of the public coffers so they would be advisors to the individual officer but not actual litigation attorneys. That is the area where there could be some confusion on who is doing what for whom. There is some potential conflicts however, that does not usually happen. Don provides first line of response to Lou on records issues and Pati Frederick is actually

responsible for that in the legal department. Issues that require a quick turnaround through both Don and other assistants in the legal department have good familiarity with how to respond on these issues with Lou's department. The instance where this could be beneficial to Lou's department, and he used an example that has come up over the last couple of years because of a couple of incident in the sheriff's department. When we get a records request when it relates to an individual officer's personnel file, it is not necessarily true that the response from Lou's department to the records request will be the same as the individual officer. The individual officer has their own individual right to privacy in certain personnel records that they might want to protect even though Lou may not want to take this kind of aggressive approach. In most instances, our interest is aligned with the officer's interest, but there have been occasions in the past where individual officers where they have occurred where that individual officer wants to have their own attorney represent them in court. This would provide that type of protection. From Don's perspective that is something the Board may want to weigh in. If it does occur whether you want to pay the cost of that, but it is coverage that would be available through this type of defense. Once this is in place it is the type of thing that will stay in place. Commissioner Houpt – Question - why since we have coverage with employees, why would the employer want to pay for this double coverage benefit. It is almost as if we are paying a watchdog to make sure the attorney we hire does an adequate job in representing those employees. Don – In some cases you would read it that way, in other cases he knows there are actually separate interests for the officer visa vi the County interest – they are different. The officer would need to have his or her own representation. This has occurred so infrequently that I think I have brought almost all of these types of cases to the Board, so on an individual basis, if you reflect back in history you will remember a few of these in the history of the County. Ed – They do occur on the County administrative side as well. Don agreed. Lou – The issue to me and my command staff are we not only being sued in our official capacity but as an individual, so I might want an individual attorney to guide me through that as well, not as a watchdog but just looking out for my personal interest since I could be looking at exposure civilly and personally. I think it's \$84.00 a year for employees, and a great benefit that we can provide to them to know that if there are ridiculously accused that they are protected although the BOCC has been gracious and agreed to pay for those. The Board does not have to and who knows the make-up of the Board in the future may or may not want to do that so they are all protected and rather than run out and hire this firm at \$350.00 an hour we have this in place for them. It is a reasonable cost and for the rest of this year it would be \$4,200.00 if we have this in our professional services and if not in 2010. This was presented to all of the law enforcement agencies as you can see by the cover letter and each of them have been working with their respective city attorneys and various people with this process as well. The firm's interest is the bigger the pool the better. This is unique and something Lou has never seen before; it is an inexpensive level of protection that we need for our folks out there in today's litigious society. Chairman Martin has no issue with it; Lou needs to look at his budget to see if it is available and go for it. Ed – I have asked for this type of coverage for my staff and myself.

Chairman Martin – We have always said we could cover up to a certain amount, which Don has gone through and we've always covered you – when it comes to that point where we can't cover you for whatever reasons, you need to have some other option. Lou will look at his budget for the \$4,200.00 and then budget it in next years' budget for \$10,000.00. Commissioner Houpt – This is something to watch and see how it works. I am still concerned about the language. Don – It is one of those things where the cost is certainly not exorbitant if you want to try it for the remainder of this year and then look at next year with the caveat that if it creates problems then the Board will reconsider that appropriation. Commissioner Samson – I think is good for the employees but wants to study it more and has some question to ask Don. Don asked if the Board wants to defer a decision until August. Chairman Martin – I've been in law enforcement; I think it is a good deal for law enforcement personnel and sitting here as budget manager, I think it would be good for us in the long run overall to have this kind of insurance policy. At least a contract is in place for us to have this coverage. Lou – Is this a matter of the Board's decision or is this a matter if I have this in my budget this is my prerogative to do – it isn't a compensation thing. Don – Your budget was based on certain items included and paid for, so to the extent of additional items are going to be added, it would be a supplement which then will cost you a change, but if it is within his professional services contract, etc and not identified then the sheriff needs to identify that in your budget. Commissioner Houpt asked a question about this insurance, is there a timeframe for doing this. Lou was looking at some numbers and according to the date on the memo, it has been waiting around for the other chiefs to work it over; but, I was shooting to pick this up in August and if it were in my budget – the \$4,200.00 for the remaining year I would prefer to move forward. Then we can put it in and talk about in the 2010 budget process. Chairman Martin – This is up to Lou if he has it in his professional services budget; if it is outside that scope, then it has to come back for a supplement. He suggested Lou research this and make sure you have identified that type of items. You have two maybes and I am behind you. Just run this through Lisa. Lou said he would work with Commissioner Samson.

REQUEST BUDGET SUPPLEMENT FOR WAGE BUDGET

Lou Vallario submitted the in-depth financial report for the wage budget in the amount of \$301,559.00 to increase the pay structure of his requests. He attached a memo-explaining employee line by line; and found out what was not budgeted that perhaps should have been budgeted. What went well, what did not go well, and including the vacant positions that we still have available. If we fill them all today, we would be looking at a budget supplemental for the salary line items of \$310,559.00. He attached a brief memo that explains some of the issues; there are some questions regarding percentages and par forms that the Board wanted to discuss in executive session. Don said, Lou those related to specific individuals. Chairman Martin – So what you are willing to do is not fill the nine positions due to this supplemental change and make sure your budget makes it through the end of the year. Lou – No, I do want to fill those nine positions, they are critical positions; deputy related positions both in the jail and on the road and we have talked about the manpower needed in the jail is a fixed number that we have never been able to achieve. Patrol positions provide the services that the community expects us to provide. I agree that this is something we discussed and would try and not have to do in this year, but again, after working with finance and going through all the personnel individually and who was getting paid for FTL and who wasn't and what was in the budget and what we did not and some other variations on other thing. We all concluded that this would be lower than the figure given because we are not in the position to fill the nine vacancies at this moment and time. Commissioner Houpt – Why wasn't the bilingual pay and the field officer training pay included in your budget? Lou did not know. Lisa explained that in the past, it was not part of the calculations they used for the budget for the majors. Going forward it is definitely is something that we will calculate. Lou's department was treated the same as other departments were we took the wages at a certain time and then added the percentage that was authorized by

the BOCC. For 2009 at 5% so they went through and that was how his wage budget was calculated. The sheriff's department is unique in that certain individuals based on skills get these additional payments and that should be part of the budget process. This is the amount for the 6-months going forward. Commissioner Houpt – Don't we have the bi-lingual pay in other departments? Ed – Yes, we do but I think Lou's organization uses that more than other departments. Commissioner Houpt asked how this is treated in other departments, is that budgeted for. Ed – It is not specifically, no. Lou – But in our case obviously for every employee that gets an additional hour's pay that's \$2,480.00 a year and we have 13 people so that is close to \$30,000.00 for that incentive. For whatever reason it never crossed the lines in the budget process. Commissioner Houpt – What Lisa is saying from now on in every department that will be something that is within the budget and planned. Lou commented that this was something that has not been discussed, presented, and talked about, FTO and firearms pays and other things we have in the sheriff's office. I just cannot tell you why it never crossed from being anyone being aware and knowing that occurs and actually getting it into the budget. It is hard to get everybody moved from 2080 hours instead of 2184; we kept falling behind in the budget and could not understand why and we realized that at 12-hour shifts it was 2184 hours. This is something that presented itself this year and the best I can tell you it will be corrected and we will make sure that between us working together, it will be a line item in future budgets. Commissioner Houpt asked, so did you have money for this in the past.

Ed – It was embedded in the 4.1% percentage increase the Board authorized. Lou – Plus the number of vacancies we have had, it was almost unintentionally absorbed in there and when we ended the year 2008 with 20-plus vacancies these costs were absorbed in the existing personnel and really never presented an issue. Now that we are narrowing to a few vacancies and, bringing in the starting pay at a higher level, it is catching up to us. Lisa – Staff worked with Cathy to prepare this and we feel comfortable that the numbers are reasonable and that this will be adequate to get the sheriff's department to the end of the year with no further budget supplements. Lou guaranteed the Commissioners there would not be another request for a supplement. Lisa added her staff is reviewing all par forms for compliance so if the sheriff's department submits a par form that is not in line with what was budgeted for that position, we would not be approving it. That is your assurance that if the position here is not filled and the sheriff's office has excess budget they could not take that excess and give someone a raise that was against policy and budget. Commissioner Houpt made a motion that we approve the salary and benefit supplemental for 2009 as presented by the sheriff in an amount not to exceed \$301,559.00. Commissioner Samson seconded the motion. Discussion – How often do people come in for supplements with these kinds of numbers? In years past, has the sheriff's department done this? Give me some direction, as I am curious about the history of this. Commissioner Houpt – Great questions and did we not change the structure of vacancies; this money will not go to Lou's department unless somebody is hired, but this way he can hire one of these vacancies without doing a budget supplement. Ed – Trying to think of a situation where there has been a large request. I think the last personnel increase goes back to former sheriff, Tom Dalessandri. Commissioner Houpt – I got the sense from Lisa that this approach was done so there would not be budget supplements. However, these are still staff positions that were in his budget. Chairman Martin – It goes back to my same questions, Lou can you live without the 9-spots and then it would be \$38,000.00 supplement. If you are going to fill those spots, there is the possibility of a cost of \$301,559.00. This gives Lou an attempt to fill those slots. This is a carryover to the next year and it will increase his overall base line salaries. This gives Lou the ability to hire the nine people with the \$301,559.00; if he does not, there is still a saving back to the County. These are allocated staff positions. Commissioner Houpt – My question to both of you, because that sheds light for me, the \$244,000.00 would not have been necessary under the established budget because that was covering the 9-positions that we adopted this year. Lou – Obviously, they were, we did budget for 146 staff and that is what at the time a year ago during the budget process was projected. What I cannot answer is necessarily where the deficit comes from some of those FTO payments, bi-lingual pay and he will go back to the last statement made, we made a decision that we were after a regional salary survey and raised our starting deputy wages from \$18.77 an hour to \$21.60. This was about \$250,000.00 which through a lot of discussion and a great deal of pencil work, Lisa, Catherine and I worked internally and felt that because of the budget and number of vacancies, etc. that we would be able to do that without having to come in for a supplement. Commissioner Houpt inquired of Lisa and Lou, next year this would be worked out in advance before the Commissioners approve a budget and then because that budget is handled in a certain way and more money is spent than was allocated, we backfill. We will break the County's budget if we start doing this with every department in this County. I want to make sure that we have everything covered before we agree to do this. Lisa – When the BOCC approved elimination of the contingencies in the early part of the year; that put us in place to fine tune the budget. To me that is part of that fine-tuning. These things were not covered in the past in budget calculations and now are they out on the table. We go through this next cycle because the budget for 2010 especially for wages will be very precisely defined. I would not support a budget supplement next year. Commissioner Samson – These nine vacancies were budgeted in the 2009 budget. What factors and why do we have a \$301,559.00 increase? Help me to understand what happened that we are doing this and what do we call this if it not a supplement. Lisa – This is a budget supplement. Specifically to help the new person understand why this was budgeted and now we do not have the money that was supposed to be in the budget to take care of it is this - The sheriff's office during budget cycle last year and what the calculation were. They were the same as other departments in that we took the current employees and their wages including all the vacancies; then we added 5%, which was approved by the BOCC and that was the budget for 2009. Lou did a restructuring process in the first six months of the year where he switched around some positions, changed some things, and did some par requests, which were not outside the policy but it was outside of what was budgeted for his department. We had discussed some of these before the Board in the past. Those in combination with the salary survey changes, the lack of the bi-lingual pay, the FTO pay and firearms pay, all those things went together which would make the sheriff go over budget at the end of the year. We decided to look at what it would take to have him be within our budget by the end of the year. Instead of looking in the past, we looked at what his position is now and what was planned for the remaining 6-months which is to fill these remaining positions and used that as the calculation to put this budget supplement together. Lou – If you look at these numbers regarding the bi-lingual pay, the FTO, and the firearms - these are for 6-months. If you double those, we are at \$56,000.00 worth of these items and for whatever reason they never made it into the budget. Because of past practices or whatever, with the position budgeting rather than the contingency done in the past, we have a better understanding exactly per employee how much it would cost. Commissioner Samson supports Lou's department and does not want to micro-manage. We have to be very careful when we build a budget and you need to appreciate where I am coming from. It does bother

me when I look at this and I say we need over \$300,000 in a supplement. If Lisa as the finance director is going to make the commitment that she will work with you and accounting is going to take care of this so we do not have this problem again, then I can support it. Commissioner Houpt had concerns too and that is why she asked the questions. Lou – I appreciate those concerns and have the same, this is my seventh budget; I have never come in over budget at the end of the year – we are making a lot of headway in our budget in other areas to make sure that we do not come in over 100% at the end of 2009. We are frugal and yes, it takes money to run the sheriff's department and provide the citizens the service they expect but I have never walked in here and asked for what I want, it's always been what we need to get the job done. I have established a very good track record with this Board and now with Mike this year. We do maintain and manage our budget conservatively and do not haphazardly throw money around. In favor: Houpt – aye Martin– aye Samson – aye Martin - aye

DISCUSS ANNEX FLOOR PLAN OPTIONS

Lou Vallario discussed the floor plan to show the public what they are investing in this building. There are four investigators with space to add six more in that facility before it becomes an issue of growth needs. The evidence area has the ability to expand on that exterior wall if we have to. There is a training room and a community room to hold meetings. The meeting room holds 60 with tables and 100 plus without the tables. We hope the community will take advantage of this space. One of the things that the Board approved originally when we began designing this building was a separate garage type - storage facility for the officer's response team. I would store some of the unique things; so we came up with an option to take the chunk of space and put in a two-bay garage as an interim until we could build a separate garage bay. This is a viable option, there are some things I have discussed this with AHRT as to some hazardous items we store that the Board may want to discuss but originally when we started working with the County's architect on this project, a separate bay facility was always intended to be inclusive of the project. When the architect was working on it and given a budget of \$3.5 million we had to shoehorn this project into that and did so successfully, but we had to remove the separate area what now has become the SWAT option out of that to make that work based on the pricing. We know the project came in at \$2.7 and we have extra money to look at that so I am throwing out and entertain a discussion or some clarification and if needed, discuss it specifically as to what that function this facility will be used for. All I am looking for is retrofitting this building now before it is even built to the best concept for the extra money to proceed to do the originally plan. Chairman Martin – That was originally a stand-alone building - \$297,000.00. Commissioner Houpt – We do need to have this more detailed.

Lou – Given the extra \$150,000, is it something we want or should look at? Chairman Martin asked Randy about the timelines on final drawing and approvals and what change order that would require. Randy – We are looking at tomorrow to have the Board finalize the floor plan. We want the floor plan concept done so they can complete the design, details and mechanical stuff. Lou – It will probably be August before we break ground. Lou wanted to make sure we do the right thing and the Board understands the other options and why. Chairman Martin – We will look at this in Executive Session and go ahead and make a final determination. Don – As it regards to the sheriff we need to have an Executive Session discussion concerning individualized wage related issues unless the specific employees request a public session, it needs to be held in Executive Session under the Open Meetings Act. Chairman Martin informed Lou they would let him know the direction.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. High Lonesome Ranch Treasurer Deposit Agreement (TDA): The BOCC is requested to sign a TDA through which the High Lonesome Ranch provides a \$10,000 financial security to guarantee re-vegetation around the proposed dog kennel and duplex – Fred Jarman
- f. Acknowledgement of Satisfaction and Direction to Treasurer: Request for the BOCC to approve the release to ETC Canyon Pipeline, LLC of \$4,730 being held as a re-vegetation security for the Porcupine Loop Pipeline – John Niewoehner
- g. Authorize the Chairman to sign an Amended Final Plat for Aspen Glen, Filing 2, Lot IS8. On June 26, 2009, the Director of Building and Planning issued a Determination of approval to amend the building envelope. Applicants are Richard C. Orison Revocable Trust and Janet Sue Orison Revocable Trust. – Kathy Eastley

Commissioner Houpt made a motion to approve the consent agenda items a – g. Commissioner Samson seconded the motion.

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

ASSESSOR

ABATEMENT FOR KEVIN HILGEFORD – ABATEMENT NO. 09-064 – SCHEDULE #R005334 - LISA WARDER

Chairman Martin swore in the speakers. Lisa Warder presented the abatement for Kevin Hilgefurd, No. 09-064, Schedule #R005334 in the amount of \$1,202.32, explaining this was due to incorrect assessment as the land was valued incorrectly for 2007 and corrected in 2008. Commissioner Houpt to approve the abatement for Kevin Hilgefurd, No. 09-064, Schedule #R005334 in the amount of \$1,202.32 as presented by the Assessor's office. Commissioner Samson seconded the motion.

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

MI CASITA – ABATEMENT NO. 09-043 – SCHEDULE #P005073 – LISA WARDER

Lisa Warder presented the abatement for Mi Casita, No. 09-043, Schedule #P005073 in the amount of \$1910.25 explaining the taxes assessed were incorrect due to a new taxpayer/business owner error in 2008 that was discovered while doing a physical inspection on the property. Commissioner Samson moved to approve the abatement to Mi Casita, No. 09-043, Schedule #P005073 in the amount of \$1910.25 for 2008. Commissioner Houpt seconded the motion.

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

UPDATE ON HIGHWAY 6 AND RIVER FRONTAGE ROAD ACCESS CONTROL PLAN – DAVE SPRAGUE

Dan Roussin with CDOT, Betsy Suerth with Town of Silt and Dave Sprague with PBSJ presented a power point regarding an update on Highway 6 and the River Frontage Road access control plan for the Town of Silt. This would entail IGA's with Garfield County, CDOT and the Town of Silt. The plan has several key points to consider in adopting the plan:

- 1) The plan represents a long-range vision for roadways;
- 2) There are currently no planned state federal projects identified funding for improvements to US 6 or the River Frontage Road that would change existing accesses; and
- 3) Implementation would occur over time based on traffic and/or safety needs, available funding and that would be a part of the redevelopment process. They will be making recommendations. The study area contains 108 individual intersections, driveways, field access, roads, etc. All access location allows full movement with no turning restrictions. The access points: 19% are public streets and 80% are private driveways. The study area does not have any traffic signals but does have one roundabout at 9th Street and Hwy 6. US Hwy 6 characteristics: West of 1st Street and East of 9th Street is classified as a regional highway and is designed to accommodate high speeds and moderate to high traffic volumes. Service to through traffic movements has priority over providing direct access to properties. The preferred spacing between traffic signals is ½ mile. Between 1st Street and 9th Street, the area is classified as urban arterial and designed to accommodate moderate speeds and moderate to high traffic volumes. It allows direct access to properties. The River Frontage Road characteristics: The entire length within the study area is classified as a Frontage Road and is designed to accommodate short distance trips at low to high travel speeds. The primary purpose of the road is to provide safe and reasonable access to adjacent properties. The spacing between signals at full movement intersections must allow for safe operations, adequate capacity, and proper access design. The Town of Silt, PBSJ and CDOT will be developing the access control plan.

The goals for this access control plan include:

- Appropriate level of accesses to properties adjacent to the roadways; safe circulation routes for all forms of transportation from transit, vehicles, pedestrians and bicycles;
- Circulation routes that are consistent with the Town of Silt's goals for future development and provide for efficient movement of vehicles.

The access control plan on Hwy 6 and the River Frontage Road is an important resource for the local communities and significant increases in future traffic volumes. Without an access management plan the residents, property owners, and businesses in Silt could experience a greater number of accidents involving vehicles and/or pedestrian's bicycles, traffic congestion, loss of visual appeal along the roadway, difficult driving experience due to driveway clutter, as well as customers/visitors conducting their business in another community with a better driving experience. With the access control plan it will provide appropriate level of accesses to adjacent properties, improve traffic flow and reduce or delay congestion; improve safety for all modes of transportation; and reduce driveway clutter/maintain visual appeal of roadways. This would be done by optimizing the number and location of access points and identifying the type of allowed traffic movements and traffic control at each access point.

Betsy gave some examples of access control methods being considered:

- 1) Only right turns allowed;
- 2) Median prevents left turns and straight movements, which must be completed at another intersection.

Steps involved adopting an access control plan:

- 1) Study, propose, accept final access control plan (ACP) configuration with public input/involvement;
- 2) Prepare IGA's between the Town of Silt, Garfield County and CDOT;
- 3) Adopt the access control plan through signing of the IGA's;
- 4) Present this to the Colorado Transportation Commission and obtain approval from CDOT Chief Engineer; and
- 5) Continued coordination between CDOT, the Town, and Garfield County to ensure proper implementation of the plan.

There are key points to remember about implementing the adopted plan. The plan represents a long-range vision for roadways; there is currently no planned state/federal projects identified funding for improvements to US 6 or the River Frontage Road that would change existing accesses. The implementation will occur over time based on traffic and/or safety needs, available funding and as part of the redevelopment process. There will be public involvement from the website: [www.http://www.dot.state.co.us/us6silt/index.cfm](http://www.dot.state.co.us/us6silt/index.cfm); newsletter mailings, public meetings and workshops, and the first Open House would be held Thursday, July 23, 2009 at the Silt Fire Station. Commissioner Samson asked how many miles this access control plan includes. Betsy Suerth said a total of eight miles.

Commissioner Samson asked if a future stop light was envisioned at the Coal Ridge High School. Betsy Suerth said that at this point there is not, however, LoVa is working on this as a regional issue. Commissioner Houpt –There is a growing concern for CDOT for bicycles and it is important to have a realistic vision in place if we are going to see this volume. Dave Sprague said this is projected on Hwy 6 and the Town added the frontage road as well.

Commissioner Samson raised another question concerning 16th Street at the Co-Op. Is this commercial? Question: If we do not look at an access control plan now, what could happen in the future? Dave Sprague – For business owners they do not want to see clutter and they do not want to allow driveways every 15-foot. Chairman Martin – Regarding the railroad across from Sunshine Gardens; is there any coordination because this is a school bus route as well. Dan Roussin said he had not personally had any contract with the railroad. There are irrigation ditch issues there as well as utilities and the pedestrian issues at Davis Point. They will look at the access; it will be a challenge. Betsy Suerth stated there would be alternative infrastructure improvements or restrictions at certain accesses within the County as well as within in the Town. Further for Interstate 70, a second interchange perhaps and a local access, which we are now looking at as part of our Comprehensive Plan. We hope in the future to coordinate efforts with any kind of funding opportunities that we might have with CDOT, DOLA etc.; commercial access is proposed. Chairman Martin commented that he plans to attend the public meeting on Wednesday.

UPDATE AIRPORT INDUSTRIAL PARK DEVELOPMENT COOPERATIVE OPPORTUNITIES WITH CITY OF RIFLE, COUNTY AND ALP – BOB HOWARD, ERIC RASMUSSEN AND YANCY NICHOL

Peter Olsson and Brian Condie along with Bob Howard, Eric Rasmussen and Yancy Nichol presented the update on the Airport Industrial Park Development Cooperative with the City of Rifle, Garfield County and Airport Land Partners. Carolyn gave an introduction by talking about the documents the BOCC is already familiar with and then on the basis of that to what Bob's team will give you the Board can let us know if more discussion is needed.

Commissioner Houpt clarified if this was informational or, do decisions need to be made today. Carolyn stated Bob would like you to make some decisions today but suspect there will be more questions. We need Mark and Brian. Brian would also like the Board to make some decisions that are covered in this as well. Carolyn stated some of these have come before the Board before and discussions held. John the engineer wants to be present and perhaps Fred. The four documents are the old pre-annexation agreement that also involved the City of Rifle and Jim Neu is here as it involves them as well. The pre-annexation agreement dealt with what we call the boot property, it dealt

with water and sewer on and off the airport, it dealt with the annexation of Airport Land Properties (ALP) and it dealt with the fire station. A lot of that is already completed and eventually Jim Neu and I will be getting documents to the Board that will get rid of that old pre-annexation agreement. The three documents in draft states, the first is a draft Airport area road IGA and Don DeFord and Jim Neu are working on it. I believe Bob Howard and his team has seen it as well. The Board has seen it but you have given direction to the legal staff and that will be coming back. The second one is a draft water and sewer IGA, which is sitting on my desk that Jim Neu and Jeff Nelson and Ryan and the contractor, Nolte that Brian had do the initial design on the loop water system has at the stage now. The Board has let a contract for the final construction and engineering to Vision Land Consultants. And lastly, Mark, Peter and Brian are most interested in right now is that the airport wants to move some dirt off the north side of ALP's property – land that is currently in ALP's deed with the County but not part of the land that ALP is wanting to annex into the City. We have developed temporary construction agreements to remove construction materials. In your packet, the Board does not have all the documents, what you have are photos about the land and roads that we are going to talk to you today. Bob Howard's team, the ALP, engineer and land use planners are here and what they have to present to the Board involves the four documents I have talked about plus. They are looking for direction from this Board as they go forward with their plans as well as the airport is looking for decisions. Bob Howard said he has been working on this project with the County and the City of Rifle for the last 10-years. Eric Rasmussen is the senior planner, and has been working with me for over 10-years on this project. Yancy Nichols is our engineer and heads up Sopris Engineering. A little background – as everything that Carolyn talked about came up we started to see a lot of moving parts on this and Carolyn, Ed Green and I had some conversations and I suggested there may be the opportunity now to have an overall agreement that wraps up all of our outstanding issues. Some of which involves our cooperation with the reconstruction of the airport; some of which we ask the Board's cooperation as our project is developed. Background: We have between Bob and predecessor going back to 1973 when our predecessors gave the County the acreage to build the airport. Since then we have also entered into a number of agreements with the County including providing 46-acres for the Road and Bridge Facility, which is the site where the sheriff sub-station is to be built; I am pleased with the architectural design. In addition, we provided the land in 1999 for the joint agency fire station and most recently, we gave the Colorado Mountain College 14-acres where they built a 34,000 square foot building. And, then very most recently in pursuant to a transaction that goes back 4 - 5 years in which we initially were going to deed the County 30-acres for airport expansion and ultimately that was changed and we immediately gave your 27-acres that allows for implementation of the current master plan. Our history is that in 1981, our predecessors received a preliminary plat approval and zoning for what was then called the Mamm Creek Industrial Park. The overall PUD called for 1500 housing units and commercial and that was during the run-up of the oil shale bust. Right after that was approved in 1981 Black Monday occurred when Exxon pulled out and our predecessors went to sleep. As you know, the County went into somewhat of a recession or a depression. ALP acquired the property in 1997, saw the opportunity initially and looked at it the existing PUD. We decided it was too much in terms of residential and refined a proposal and submitted it to the City of Rifle for a light industrial business park. That was approved earlier this year. We have an approved zoning and annexation plat that is being held and not recorded until we iron out a few issues pursuant to that plan. There are six new zone districts that includes everything from airport to industrial to industrial/commercial and some governmental uses. We have design standards with the idea that this business park is going to be we think in atheistic, far superior than anything else in the County. The two items we are presently in the middle of is a master infrastructure development plan, which the City asked for looking at the overall backbone infrastructure that is needed for the 600-acre parcel. Together with that master infrastructure plan we're developing what we call a master platting, which will divide the property into about fifteen master parcels, which will then be sold, marketed to other developers who will do their individual developments within those parcels – all subject to CC&R and design guidelines that we imposed. Today, Carolyn ran through four or five items and my thought was that a lot of those could be wrapped up into two separate categories: One being those items related to airport construction, which is the realignment of the road and is to start soon. There are a number of issues associated with that and appear in the copy of the letter the Board has and then the rest of the items could be wrapped up in what we call an IGA but it is really a tri-party agreement similar to the kind of tri-party agreement we entered into in 1999. I am not sure how much detail on individual issues we wanted to go into today. The airport reconstruction involves four major items:

- 1) The excavation on ALP's property that benefits the airport that the master plan needs;
- 2) This has to do with utilities and the reconstructed airport road;
- 3) A grading construction easement associated with that road and
- 4) We seen an opportunity for some County and private cooperation for some regional storm-water retention. We think that is probably the most important item the Board wanted to hear about.

Yancy stated; Storm water retention. We anticipate the Dry Creek Basin is what we are talking about that runs through. The map shows the area that drains Dry Creek, which is about 13-square miles. The County's consultant has done an analysis of this because the airport improvements require realigning Dry Creek in some portions. We have analyzed the same type of flows within a few percentages. We are trying to create a master plan for this through the City of Rifle's process. Briefly, why we're thinking of the regional concept is this is not for ALP's property, it is Garfield County Road and Bridge has about 46-acres this would benefit and the Regional Airport about 435 acres; the GoGen another 44-acres and then the CMC parcel that's developed could take part of this regional plan of over 13-acres. Then, ALP's property of 625 acres and another property about 11 square miles that could be served by this regional storm water facility. This is the master plan we have been putting together for the Rifle process that was submitted for the annexation process with a storm water regional plan and it has two concepts:

- 1) Standard management storm water management seen throughout Western Colorado as most developments are not large enough that you just handle the project phase by phase and do little surface detention ponds or underground and just deal with pre and post development on an individual basis.
- 2) Then we had a concept of taking Dry Creek and proposing a regional storm water facility down close to the airport at that time in this master plan.

In the process talking to Rifle, they support this concept because it is much better quality and manageable storm water treatment – we do not get to do it very much in Western Colorado. As engineers, we like this plan and suggest this approach. On the handouts, we show the Dry Creek Improvements as part of the airport realignment. We looked to see what kind of modification would have to be done as improvements to be a regional storm water facility. In

that process, we have been reviewing Garfield County realignment, utilities, etc, and right now, there is no retention proposed for the airport. There are some storm water improvements that would drain directly to Dry Creek. We understand at some point the FAA, through their process at the airport, needs to handle a difference between pre and post development for a 100-year flood taking that into account and looking at ALP's project and master plan, we felt there was an opportunity to take two basins with minimum dirt work and improvements where we could handle the whole Dry Creek Basin as a regional storm water facility. This would solve long-term needs for the Garfield County Airport and all the parcels formerly listed. It could be a much more cost effective way. It is easier to manage and works better. Some of the benefits are multiple properties, reduced land requirements because it would be done in much deeper controls, reduces the overall cost, allows to maintain cost sharing which will be more cost effective, increases the overall efficiencies and applies flexibility in the dirt operation for the Garfield contractor. We have been working with the consultant for the County doing the airport; it is a major dirt project and if there needs to be some flexibility, this will allow creating extra dirt. If not you could balance these detention ponds or actually create dirt and that is just another benefit that this would bring to the table. Some of the requirements we would have to do are to centralize the maintenance, have a cost recovery program and probably mitigate some of the adverse airport impacts. Some of those items we are aware of is this; we are trying to keep the water to a minimum so it doesn't try to enhance wetlands or planning that would bring wildlife near the airport, which is not desirable. Our initial design shows we would not retain any water during a 25-year to a 100-year flood more than six hours as it would be flushed through. Try to keep the native vegetation and maintain the program, monitor and adjust it; we would have to have some easements between the County, City of Rifle and the development of the parcels.

Commissioner Houpt asked how large would this pond be. Yancy – Our preliminary analysis show that for the PUD, which is not just ALP's property but everything would be between 20 and 25-acre feet. We felt the airport for a 100-year flood would be somewhere between 8 and 1- acre feet and then depending on how far you would want to expand it then you're talking anywhere from about 30 to 40- acre feet. Commissioner Houpt asked how large. Chairman Martin – 65,000 gallons per acre-feet. Commissioner Houpt – I am talking about land. Yancy – That could be designed. We just took a two-stage regional facility and I think that came to about 22-acre feet. We did it very gradual with 3 to 1 slopes and depths and that covered about 8-acres for the entire regional storm water facility. This includes draining and shaping it – it would not be water per-se in that entire area. Again, in our preliminary level, we have not sized what that should target for the whole basin. We just looked at the airport and the PUD. Commissioner Houpt – It would be difficult moving forward without knowing how much land was going to be impacted. Carolyn – It is safe to say the airport does not need a regional detention pond, this is another level of planning and the advocates are suggesting to you that it would be a good idea and for the City, but this would be a good idea for the entire region. Brian – Everything is upstream. Commissioner Houpt – How much land would this take up and if we would have used it for another purpose. Carolyn – No. Brian – There is nothing else that we could use that land for, I don't know if the consultant looked at it as suitable for the slopes that we have to leave for our safety area and we need to double check that – the land is available and down below our firm land; we have no plans for it. Carolyn – The water will naturally run into it. Ed – The biggest concern we had was the close proximity of the future taxiway but because as Carolyn said, this is a very intermittent situation and that vegetation would continue to be a part of that but not attract water fowl. Chairman Martin – That would be the biggest concern is to not create a marsh and wetland to attract the waterfowl, migrating birds, etc. Brian was not sure about the maintenance. Carolyn – The biggest issue from a legal perspective or liability is maintenance. After they finish talking to you about the facts, maybe we could comment on that issue. Yancy – We looked at the area appropriate for this and depending on how large we make this regional facility, our concept was it is a decision to be made right of way because what we may lose is a major opportunity with construction. If you build Dry Park as proposed right now and do not plan this, it will be a very costly and another impact in that airport area that does not make sense to me. It would more cost-effective for ALP to do typical individual ones on our parcel, but we wanted to get some direction from the Board to see how this would fit into that construction plan and get more detail and sign off on that. The acreage we have, I do not think we would expand that, the only thing is we might expand it up Dry Creek into ALP's property if we had to go to a large detention facility. Bob Howard – This obviates the need for on-site detention on the airport itself.

Chairman Martin - If you go up Dry Creek you will need some kind of permit.

Bob – I do not believe because – it is not determined to be jurisdictional. Chairman Martin – Under the new law, it changed. Carolyn – For the listening public, the individual detention that Yancy is talking about, the Board saw earlier this morning on the plans for sheriff's annex. That is happening now so they are going to have to build the detention facility on the sheriff's part of the boot property. What would happen to that in the future if his concept occurs? Yancy – You even have it on the existing County facilities, the school has it on theirs and it is proposed for the sheriff's annex. As time goes forward and you see a better use for that land where that detention is, you could put a parking lot, a building and eliminate that and it would still be in the storm water within the regulations and the state and gives you more flexibility in the use of that land. Chairman Martin – You would still have the transportation problem in reference to that water. Your ditch lines are still open. Yancy – Absolutely and we would have to look at the master plan as part of our goal is how we route all those parcels down to this facility and maximize. This also gives the County airport more control having these individual detention ponds around you. Around the community, you will see they have cattails of water in it because it has not been maintained very well so you could have wildlife enhancing pieces in this area if they silt in and have enough water to do – this would keep it all in one area. Bob – Regarding maintenance, we have committed to fund that maintenance on at least a pro-rata basis on beneficial users. Rifle, and what we would do is to fund it through our property owners association but the intent would be to make it revenue neutral to the County. Carolyn – Don suggested this morning that the other way to handle this is to create a special district. Jim, would the City of Rifle rather see a special district. Jim Neu – The size and scope of the property owners association on the Rifle airport property will probably function as well as special district for this purpose. It could go either way but I think funding would happen similarly. Bob – A true maintenance set-up would include all the 11-square miles further up the basin. In talking to Yancy he believes that the maintenance requirements are pretty deminimus for something like this and that is one of the reasons we are willing to step in and let our property owner association be responsible. Don – One of the reasons I suggested a special district to Carolyn was is it includes a significant property outside the PUD and homeowners association. Jim Neu agreed depending on the scope of this special district that might be the way to go. Carolyn – It also puts the liability off onto another entity. Commissioner Houpt – There are many areas being encompassed. Brian – A question for Mark – what is the timeline for realigning Dry Creek?

Mark was not sure of the schedule and discussion is planned for Wednesday the 15th. From what they are telling us, this area would be graded next year only because they cannot realign the sanitary sewer until it is out of the way and the existing Dry Creek is realigned. It would most likely be next year. Carolyn asked Jim Neu if he could get all the documents completed for the special district by next year. Jim Neu – Close. Carolyn asked Bob Howard if today we would asking the Commissioner, not for actual approval but are you interested, or should we keep going with our individual detention plans. Bob Howard – Every engineer we have talked to believes it is a far more superior solution than on-site individual detention ponds. It seems obvious to him to do this but would like some indication from the Board. Commissioner Houpt likes the idea. Fred – It makes a lot of sense to look at it in a larger scope. The only thing, the individual parcels as they develop over time in the industrial park and make sure that engineering ties into this – if you can't deliver the product, you miss the point. Chairman Martin – That was his thought as well. Bob Howard once more addressed the issue of the master plan with the City of Rifle and assuming we get some positive reaction to this suggestion, we would incorporate that into master infrastructure plan. Chairman Martin– The ownership of the water transportation system, ditches, etc. belongs to the property owner, or is it going to part of the special district question. Another issue as we have had this in Battlement Mesa. We need to know who own this even though there is a maintenance, who controls these? Yancy – That is what we will start planning and the approach is to have that special district to the City. Bob –As part of the master plan, we can impose the easement project wide. Carolyn asked City Attorney Jim Neu if the City wants to own all of this. The City might be happier with a special district. Jim – That has not been discussed. Yancy – The cost sharing on a regional effort benefits everyone and would be a cost savings for the County. Carolyn – Later on we will be talking about detention at the west end of the realigned airport and we have had to purchase more property in order to have the detention pond. In addition, there is an in-field area where a lot of runoff water has to go before it ever has to hit a detention pond. The airport does not need this – the question is do the Commissioner want to support the entire area going in this direction Brian – The FAA would not have a problem with a detention pond. Peter – The big concern the FAA would have is the length of the detention pond. I would concur this land is not usable for the airport purposes. Don – Question for the FAA position, if we had to grant a permanent easement on the FAA participating in the purchase for this type of detention facility. Peter does not expect the FAA would care because it does not interfere with the airport operations. Commissioner Houpt asked for explanation on what we could expect in water extension. Yancy – Typically, the way the rain falls it starts filling up the basin and starts discharging at the same time and when a 25 or 100-year flood it would start filling up faster than it can discharge, it will fill up. If you get a 1000-year flood then it pops over and when the storm quits it would be discharging at a historical break which is about 1000 CSF so if you have 40-acre feet and the discharge is 1,000 CSF it only takes 3 - 4 hours to discharge that volume. What it does, downstream from here it that Dry Creek only sees the historical flow prior to any development at the airport, ALP's project or any other project. Therefore, what you see is the water stage up to the top, spill over or not and then discharge down under 6 hours. Peter –It effectively stretches the peak flow of the storm over a long period rather than getting one big bulk of water all at once washing things out, it is a smaller amount over a longer period. Commissioner Houpt – There will not be any no on-going water retention. Bob – The water we are using is detention versus retention. Peter Muller with PRT consulting - Your question was whether or not this would enable some cost savings to construction and really not since we are planning on moving this dirt anyway, we would move it in a slightly different way. It could be that this project could generate more excavation and reduce the whole cost but we see that as much of an opportunity to serve any if at all. We have not negotiated contracts in a price range and there is a small potential for savings but will not likely pan out. Bob asked does it obviate the need for detention. Peter, yes it could a little bit. Although as Carolyn pointed out we can get some of the detention through infield detention between the taxiways and runways but we are not responsible for that part of the design. That is being handled by CH2MHill and to his knowledge they have not analyzed that yet but off the cuff there may be some need for additional detention beyond that which this could reduce. Commissioner Samson – Let's go forward. Carolyn – Do you want the County Attorney's office to start looking into the Special District idea? Chairman Martin – No, we want the City to do that aspect. Jim – Since Rifle is going to annex everything anyway. We would need to look at the need of it; we are going to annex the entire Dry Creek basin and we would look at a 50-year build out. Bob Howard – To get the Commissioner's support and commitment, we will ensure it is revenue neutral in terms of maintenance to the County, whether it is a special district or a property owners association. Jim – Now there is some direction and we can analyze it further with Yancy to get a better idea of what this involves. Commissioner Houpt – FAA at what point? Peter - We can start talking to the FAA right away and make sure they do not have concerns. Brian – This has to do with the west end and he would leave it to Mark. Bob - The last component is the IGA that deals with issues separate from the detention suff. We have spent a lot of time with staff talking about all of these and he does not know how many details the Commissioners want to hear now about these issues. It does involve a number of issues from our ability to connect to a couple of your existing utility lies at a no cost to the County. It also relates to a rather important item occurring presently with your engineering department of us giving the County an easement for the loop water system. Those are the menu of things that we have had discussions with the staff and we are pretty far along in documenting what these mean. My sense is thus far that staff supports our position on most of these things. Carolyn stated the Board knows nothing about a private road upgrade to the driveway into the boot parcel. Bob – The idea there is the current road leading to the back of the Road and Bridge parcel, which is the boot parcel, it is an obvious circulation tying into one of our roads. We would ask that totally at ALP's expense if we upgraded that to our PUD Rifle standards, could that then become a private right-or-way. Chairman Martin – From the County road to the Road and Bridge Shop and then loop it to the Hunter Mesa Road? Bob – Rifle would assume maintenance of that road as well. Brian – The airport is on the north and Road and Bridge is on the south. Carolyn does not think that all staff is in agreement with this proposal. The Commissioners may want to hear from the engineers as well as from Ed. Chairman Martin clarified this would be also be the sand storage facility of Road and Bridge and then to the west. Don raised this issue when Carolyn and Don discussed it because I know in the past the Road & Bridge Department has been insistent that they wanted this road to remain non-public although there is public access to get to their facility. They want the final say when that road had to be closed or access of it closed; in instances that remain as a private driveway even though for security. Therefore, they did not want free public access to their facility. Carolyn has not discussed this with the Sheriff or Dale about the Community Corrections Facility. Chairman Martin – The only time it would interfere is when they make a right hand turn to go west if you are headed south to go out to Hunter Mesa Road. Ed – The issue is incompatible traffic on this road and it could present problems. We have a lot of heavy haul traffic on that road and it could present

issues. That is the biggest reason Marvin wanted to keep it separate. Commissioner Houpt – We have heavy haul routes all through the County. Ed – We have already had one accident where there was traffic from Road & Bridge and a pedestrian. Chairman Martin suggested we continue the discussion to see if we can go either way. Eric Rasmussen - The looming issue for both for us at the land park and the County is that if all traffic was forced to that intersection over time; you have access issues into the airport. We are attempting to do and this does not show an alternative route out to the west. This poses an alternate to the east and I suppose traffic conditions being what they area, some version will need to be built at some point, so your issues of how you access and control private access to your facilities will come up anyway. Bob – In terms of fundamental planning principles, it makes sense as a circular route Don - If this area is going to be annexed to the City, that type of access is one the City will have to address as well. Jim Neu – They are trying to alleviate some of those issues by bring this at the County process. All access issues will be addressed and the City wants to get a heads-up on this piece. The City has not been presented with this issue. Carolyn reminded Bob that the other issues are important; Don and Jim have been working on the IGA for road maintenance assuming annexation of the roads within ALP property to the City that shows which road we are talking about. Bob is hoping that certain things will happen. Bob – The big picture is that since development is not going to occur for a while and the County is the main user, the County at least passively through staff, supports the idea that until such time development to the roads occur, those roads will remain under County maintenance jurisdiction. Don and Jim have written a draft of an IGA that recognizes that, but really does not obligate the County to much other than reverting it to a gravel road. As a practical matter as development occurs, Rifle will assume those maintenance obligations, but some of the items relate to the unlikely event that we may need to do something to a road ourselves or we may need a driveway permit during the period between now and when our final annexation occurs. All these items do is grant us the authority to for instance process a driveway permit even prior to formal annexation by the City of Rifle if for instance we got a new company that was coming in and created some jobs. Almost in 50% of these items up there, it is very unlikely but we are trying to have some belt and suspenders planning in the event that we have the opportunity to land a developer or user up there prior to formal annexation by the City of Rifle and have some flexibility to get some things done. Jim Neu clarified it has been formally annexed but the City is holding the annexation map and recording because with the runway realignment and the airport road realignment, we are creating various kinds of jurisdictional issues; but, by holding off we are able to fix it all at the same time. There is no other public process necessary. The other reason for the delay is to figure out these road maintenance issues. Don – A couple of comments, Jim has sent a draft agreement some time ago between the County and the City relating to the County maintaining the roads post-annexation. Don spoke to the Board about that and in response to the Board's direction, I have drafted but not sent to Jim language that would absolve the County from any legal duty to maintain the roads once annexed to the City. First, the way Jim drafted the agreement and the few changes Don made to it are designed to relate to the relationship between the County and the City. I would recommend you have it between the County and the City and other issues would have to be dealt with perhaps by a three-party agreement. Concerning the other issues Bob brought up, they do present some difficulty because the proposal that Jim and Don have been talking about does not anticipate any development in the PUD pre-annexation. I am reluctant to recommend to the County that you become involved in development or improvement of those roads after they have been annexed to the City in the anticipation of development that the City has not approved or participated in. Therefore, while I am willing to talk about that, I need to indicate to all parties that it is probably not going to get to a position where I will recommend this. Bob thinks it is less ominous than Don thinks and Bob wants to work with Don on this. Don would like the Board not to take an official action until we work further on that issue. Commissioner Houpt asked what roads the City was anticipating annexing. Bob – Everything within our PUD. Jim – That is all in the annexation map and the City's concern is we are taking on a lot of acreage and development and County uses, so as soon as anything occurs in the PUD, the City takes over the roads. Rifle is not trying to put any obligations on the County and the County can make decisions as to the roads. Bob asked to go back to the boot parcel – two other minor issues – the County has your private water and sewer coming up your private road presently; and, we would like to be able to tap into that coming from the west. In addition, on the front parcel, which Ed knows from numerous discussions, Bob is concerned about what happens on that front parcel because that is a prime piece and it reflects on our project. Ed said in our 5-year plan two things occur in that prime piece, a new jail and a new administrative facility. Bob wants to be included in the loop and provide some free planning advice about the configuration of what that parcel might look like - just offering some constructive suggestions concerning circulation on that parcel - sighting of buildings and parking. Commissioner Houpt – Understands the location of the property and would be willing to work with Bob. Larry McCown wanted to choose where this 45-acre parcel would be – he wanted it and the County got it. Bob would like to have opportunity to have input. **Security issue** – Ed said this relates to the Road & Bridge because there is a lot of storage and they will probably need to add additional fencing and security for sanding equipment and a gravel facility. Bob – It is industrial anyway so it would not matter. As a circulation matter, it is very beneficial to us. Ed – We need to seal this off. Don – This is my concern. We have intentionally not dedicated this as a public road. It is a public entity driveway; we can close it off for the public. Bob – If these security issues could be solved, is there is anything else that the Board is disinclined not to like the idea. Chairman Martin – Just the elk herd moving freely amongst the sage out there; this is a discussion we need to have with Road and Bridge and legal staff. Ed – The biggest issue is safety. Bob – It may be a solution to this problem, we could bring the road to the south. Jim – It would be required to have curbs, possibly sidewalks, and city standards. Brian – On the north side, we would have issues as that is where we wanted to run our water loop for the airport. Bob – This gets back to our master list: the two remaining items have to do with

- The airport water system looping system – this is bringing a water line across ALP's property to connect with the City water line and Jeff Nelson is working with Yancy to come up with an optimum routing plan and Bob is making sure the County gets the easement, it is a matter of where.
- Final issue, when Bob deeded the 27-acres and that applies to the improvement of the road coming up from Mamm Creek. A quick history, 5-years ago Bob agreed to give the County 30-acres. The understanding was that the County was going to improve that eastern approach; and, the original idea was that Bob would give 10-acres when the road across the top was improved which was done. Bob would give another 10-acres when the road coming from the west, which is about to be done and the final 10-acres would be deeded to the County when that eastern road was completed. Well, when the Airport Master Plan was approved it became clear that to get the master plan approved and get the FAA on board, the County

needed 30-acres on the west. Rather than try to structure that in a way that would give the County 10, 10 and 10 again, because you needed it immediately for your FAA application, Bob agreed to give the County the 30-acres without having leverage tied to get the County to complete that eastern approach. When Bob deeded those acres last year, Carolyn and Bob came up with some language that said you would put it into your 5-year capital improvements budget.

Carolyn – It is in there but we also had to add the language about year-to-year appropriations. Bob – In the next iteration in the agreement, I would like to see the same language that the County recognizes that this is on your plate and subject to actual appropriation. Ed – We want to do that too because that road is steep and narrow and not conducive to heavy hauling. Chairman Martin– It is identified in our plan. Bob believes Jeff and Randy have drawings that decrease the grade by looping it earlier. Just recognize that it is still out there because our traffic studies and planning counts on that occurring sometime in the future. The Commissioners agreed it was a priority. Carolyn - The BOCC does not have a letter from you, all they have is the attachments to the draft. Bob and Carolyn will continue working on it.

EXSESSION – LITIGATION

Carolyn stated that Peter is here to talk about the Levinson condemnation – he has to meet with Mr. Levinson at the Airport at 3:00 p.m. and we were hoping to have his negotiation authority worked out in Executive Session before he goes. Chairman Martin – What other things to do we need to do in Executive Session other than to transfer that authority to Peter to negotiate? Carolyn – We need to know what you are willing to approve. Carolyn asked to do the Levinson discussion with Brian, Peter and Dale in Executive Session because this is contract negotiation and legal advice. Commissioner Houpt so moved. Commissioner Samson seconded. Motion carried. Commissioner Houpt moved to come out of executive session. Commissioner Samson seconded. Motion carried

Action taken: None

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

PROPERTY IN SWEETWATER

Jim Stevens from Sweetwater addressed the Commissioner regarding a 35-acre parcel at a 7800-foot elevation with 4.5 acres separated by the County Road and a creek. Jim has talked to Kathy Easley who said he would have to go through a full-blown subdivision application process. His question was if it was possible to make a split on his property without going through a full-blown subdivision process. Is there anything that he can do? The creek has a bunch of pine trees and separates it from his property. Commissioner Houpt responded we need to follow the regulations we have in place. Commissioner Samson – The road does not break up his property. It is Newman Creek and is a stream that runs year round. Jim asked about how long does a process of this nature takes to split off 4.5 acres. The County Code does provide for a joint review process of public hearings at both at the Planning Commission and the Board of County Commissioners. Commissioner Houpt suggested it could take between 90 and 120 days requiring notice requirements. It also depends on the complexness of the application. Kathy Eastley said there have been several parcels split off the parent parcel. Jim Stevens owned 400 + acres and split off his 35 acres. Kathy – If he can demonstrate, he could qualify for an exemption if the split was prior to 1975. The road or the creek does not split the property. Jim - John Gannon had the property and 140-acres were sold after 1973. Kathy said Jim would need to do a grantee/grantor search in the recording office. Four (4) parcels are allowed. Jim can go over to the recording office and get help with a grantee/grantor search. Jim Stevens – The original property had 10-acres his folks had before 1972; his brother lives on another 35-acre parcel. Commissioner Houpt commented to Jim that it would benefit him to do the search; that would narrow it down as to whether this would require a full-blown process or if it was a grandfather process.

CONSIDER AN AMENDMENT TO THE DEADLINE TO EXTEND THE LETTER OF CREDIT FOR VALLEY VIEW COMMONS SUBDIVISION IN BATTLEMENT MESA PUD. APPLICANT IS DARTER, LLC – JOHN NIEWOEHNER AND DEBORAH QUINN

Jim Niewoehner was at a meeting last month where Grace Homes was approved for their preliminary plan to build homes and a letter of credit could be returned. The Planning Commission approved a one-year extension. This expires in September. David Smith representing Darter, LLC attended. Jim presented the following exhibits: Exhibit A – Resolution 2009-36; Exhibit B – Staff Report for request to extend 1-year expiration, dated May 11, 2009; Exhibit B – Letter from David Smith of Garfield and Hecht, P.C., dated July 8, 2009; Exhibit D – Garfield County Land Use Resolution of 2008, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; and Exhibit F – Staff Memorandum.

Chairman Martin entered exhibits A – F in to the record. David stated on Monday, May 19, 2008 the Board of County Commissioners approved the Preliminary Plan Application for the Valley View Commons Subdivision. This approval with conditions entailed subdividing the 7.9-acre property in Battlement Mesa into 4-lots to accommodate 56 residential multi-family dwelling units and the potential for self-storage units. On May 11, 2009, the Board approved a one-year extension for the applicant to file the final plat. However, on June 1, 2009, the Board amended the Preliminary Plan extension to require that the applicant extend the letter of credit before July 15, 2009. Staff has recently been informed the applicant would not be able to extend the letter of credit by the July 15, 2009 deadline. The applicant is requesting an extension to obtain the necessary letter of credit extension. Staff recommends a deadline no later than August 12, 2009 to allow staff time to bring this matter to the Board on August 17, 2009 should the letter of credit not be extended by this date. The current letter of credit expires on September 4, 2009. Commissioner Samson moved that we approve the amendment to extend the deadline until August 12, 2009. Commissioner Houpt seconded the motion.

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

CONTINUED HEARING - CONSIDER A SPECIAL USE PERMIT FOR EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF A NATURAL RESOURCE FOR GRAVEL EXTRACTION ON A PROPERTY LOCATED SOUTH OF PARACHUTE AT THE SOUTHWEST CORNER OF HIGHWAY 6 AND COUNTY ROAD 300. APPLICANTS ARE SPECIALTY RESTAURANTS CORPORATION AND STOCKTON RESTAURANT CORPORATION AS PROPERTY OWNERS AND RTZ INDUSTRIAL LLC AS OPERATOR. THIS HEARING WAS CONTINUED FROM JUNE 1, 2009 – KATHY EASTLEY

Kathy Eastley, Cassie Coleman, Tim Thulson of Balcomb and Green, attorney for the applicant and Tony Zancanella of Zancanella and Associates were present. Deb Quinn reviewed the public notifications with Tim Thulson and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers. Kathy submitted the list of 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 as amended; Exhibit E – Application; Exhibit F – Staff Memorandum; Exhibit G – Staff Presentation; Exhibit H – Memo dated February 3, 2009 from Jake Mall, Garfield County, Road and Bridge; Exhibit I – Memo dated February 23, 2009 from Steve Anthony, Garfield County Vegetation; Exhibit J – Email dated March 9, 2009 from Jim Rada, Environmental Health; Exhibit L – Letter, dated February 23, 2009 from Dan Roussin – R# Permit Manager, CDOT; Exhibit M – Letter, dated February 18, 2009 from JF Romatzke, Division of Wildlife; Exhibit N – Letter, dated March 4, 2009 from Freda L. Webb; Exhibit O – Mining Plan, Sheet No. 6.4.4. prepared by Zancanella and Associates, Inc. and Exhibit P – Reclamation Plan, Sheet 6.4.5. - prepared by Zancanella and Associates, Inc. Chairman Martin entered the exhibits A – P into the record.

REQUEST: The Applicant requests approval of a Special Use Permit for “Extraction, Processing, Storage, and Material Handling of Natural Resources” for extraction of sand and gravel on a property located on the southwest corner of Highway 6 and County Road 300. The application also requests allowance for crushing and screening of the gravel, storage areas and material handling of the resource.

LOCATION AND SITE DESCRIPTION: Located south of Highway 6 at the intersection of County Road 300, the property is immediately west of the existing Una Gravel Pit, the Strong PUD and the Orchard Compressor Station. Frac-Tech and Travelers Highlands are located to the north of the site in keeping with the industrial nature of activities on the north side of the Colorado River. The area that is the focus of this application is the 130.588-acre lease area, which will encompass both the mining area and the ancillary facilities required by the extraction activity. The lease area is a gently sloping triangular-shaped tract that abuts CR 300 at its eastern edge.

The Union Pacific RR and Highway 6 bound the site on the north and by the Colorado River on the south.

ZONING & ADJACENT USES: The subject site is zoned ARRD which allows for extraction, processing, storage and material handling of natural resources as a Special Use. The character of the immediate area is industrial in nature, with many of the properties located north of the Colorado River subject to Special Use Permits. Travelers Highlands is a commercially zoned subdivision that has uses, which are generally in support of the Oil and Gas Industry. To the east of Travelers Highlands is the Frac-Tech facility zoned Resource Lands. The pending Strong PUD will allow for contractor storage on the site, however a Special Use Permit currently allows for contractor storage on a portion of that property. The crossroads area around County Road 300 is predominantly used for industrial activities in support of the Oil and Gas Industry due to the proximity of wells and pipelines that occur south and east of the Una Bridge and Colorado River. The proposed extraction site is currently being utilized as the temporary staging area related to the Colbran Pipeline – a use that was permitted via review of a Pipeline Development Permit. Oil & Gas Wells (red triangles)/ Pipelines in vicinity of application (blue lines)

PROJECT DESCRIPTION: This site was previously approved for a Special Use Permit for extraction activities in 1981 via Resolution No. 81-227 (a copy of which is located in Tab C of the submittal documentation) under the name of the proposed operator, L.G. Everist. The project acquired necessary approvals from the County (SUP) and the State (DRMS issued a 112c permit in 1982) however; no extraction activity has occurred on the site pursuant to those approvals. Any permit issued pursuant to the current request will supersede the approvals granted under Resolution 81-227 which will no longer be in effect. The “subject lot” applicable to this request is a 1,200-acre parcel of land that extends from County Road 300 west into Mesa County. For purposes of this application, the function of the “subject lot” is simply for legal notification requirements for adjacent property owners within 200’ of the 1,200-acre boundary as shown. The current proposal for surface extraction states that a 40.7-acre mining area will yield approximately 150,000 tons per year of sand and gravel resource. The plan includes an assignment of three phases, which will limit the area of disturbance at any one time, as well as allow reclamation to occur as the mine progresses through the phases of the project. Equipment necessary to accomplish this activity includes excavators, front-end loaders, strippers and off-road haul vehicles. This equipment will extract and then transport the material to the crushing and screening area where it would be subsequently weighed, sold and transported to market. The proposed facilities area will be located in the northeastern portion of the site and is proposed to contain the scale, office trailer, water and sanitation facilities and trash receptacles. The crushing and screening operations will be located as identified within Phase III until the extraction activity encroaches that phase when it will be relocated to an adjacent area in Phase II. Proposed hours of operation are from 7 am to 8 pm Monday through Saturday from March through November. Winter hours are proposed are from 7 am to 6 pm Monday through Saturday. No regular nighttime activities are anticipated; however allowance for occasional equipment repair and maintenance after hours is requested. Repair and maintenance activities will occur outdoors and no additional screening is proposed. Traffic generation is anticipated at **62 trips per day** and; further described as being 52 trucks trips, 6 employee vehicle trips and 4 service vehicle trips per day. Due to an increase of 20% or greater, a State Highway Access Permit from CDOT for the intersection of CR 300 at Highway 6 will be required. Past practice has been for the Board of County Commissioners to designate their authority to the Applicant to obtain the necessary permit. County Road and Bridge will require a driveway permit for access to the site.

The anticipated haul route to deliver material to market is the state highway system. The application contains minimal information and virtually no discussion regarding the trip analysis of trucks traveling south on County Road 300, the impact of which has not been adequately analyzed. Physical characteristics of the site include the Colorado River floodplain area and jurisdictional wetlands; however, both of these sensitive areas are avoided, as they are located outside of the mine boundary (40.7 acres). The lease area of 130.588 acres includes activities related to the extraction activity such as stockpiles, detention/retention structures, as well as the facility area, however there is a delineated buffer to protect the river corridor and the wetlands.

Landscaping & Screening

Though the immediate vicinity of this proposal contains industrial uses there are residential properties located on the south side of the Colorado River, which may experience impacts if this proposal is approved. Stockpile berms are proposed to be located to minimize both the visual and noise impact of the operation with cross-section detail provided.

Phasing Plan

The Applicant proposes a phasing plan, which limits the area of site disturbance at one time and further requiring reclamation to commence upon completion of each phase of activity.

Mining Plan (Exhibit O)

The Applicant has included a traffic study prepared by Felsburg, Holt and Ullevig in August of 2007. Response from both CDOT and County Road and Bridge concluded that the data was insufficient due to changes in the area traffic since 2007 – and in fact, the traffic in the area has changed since submittal of this application. CDOT also commented that the background traffic numbers in this study were substantially different from information received from other applications in this vicinity. All of the comments indicated that an update to this information is required and will be necessary in order to obtain any permits required by this use. Staff has included a recommended condition of approval for the requirement, if necessary, of a State Highway Access Permit and a Driveway Permit from Road & Bridge prior to issuance of the Special Use Permit.

This intersection has been reviewed previously during other applications in this area and discussion occurred regarding the necessity of improvements at the intersection of CR 300 and State Highway 6. As with similar applications, Staff recommends a condition that the Applicant obtain a State Highway Access Permit due to the fact that the traffic generated from the use is anticipated to exceed the CDOT 20% threshold. CDOT will review the traffic update information and make a determination of permit / improvement requirements necessary due to this proposal.

The Applicant has provided information regarding the driveway improvements including an adequate width to assure a safe turning radius both into and out of the site. This access is planned to be paved thereby mitigating the dragging of mud onto the County Road by trucks leaving this site.

Road and Bridge included comments regarding the current use of the shoulders along the west side of CR 300 as a stopping area for trucks. This has caused the shoulders to erode and has negatively impacted the ditches along the roadway. It is unknown if this traffic is related to the Una Gravel Pit or if it is related to the Oil and Gas Industry, however Road and Bridge would like to work with the Applicant to alleviate and correct this damage.

Standard issues identified by R&B include the requirement for oversize/overweight permits for vehicles, as well as notice that road repairs / improvements of CR 300 may require participation of the Applicant.

STAFF DISCUSSION

A. Road impacts to CR 300 and the intersection with Highway 6 have recently been discussed, particularly the condition of the intersection given the amount of traffic utilizing the area. This issue becomes more evident as development in the area has occurred and applications have been submitted for additional projects. It has reached the point where intersection improvements are now required. The Applicant will be required to obtain a State Highway Access Permit (SHAP) prior to commencing this use should it be approved. The issuing of the permit may result in improvements being required at the intersection and the Applicant has stated that they are willing to pay their fair share for those improvements. A condition is recommended regarding obtaining a SHAP, however prior to applying for that permit the Applicant must update the existing traffic numbers, which both CDOT and Road & Bridge have said are out-of-date.

Further discussion is required regarding the proposed haul route, as stated in the application the State Highway system will be the primary route. However, there is potential use of the County Road system to the south of the project area. If CR 300 is used as a haul route, to the south of the UNA Bridge, there may be safety issues and adverse impact to air quality standards due to the hauling of sand and gravel. Staff has recommended, and Planning Commission concurred, a condition requiring covered truckloads to mitigate this issue.

B. Compatibility and cumulative impacts are issues that are raised throughout the Gravel Regulations. Certainly, the compatibility issue has been met given the industrial nature of the Highway 6 / CR 300 vicinity – it is important to note that much of this activity is related to the abundant natural resources found both along the Colorado River and in the western portion of Garfield County. Though rich in natural resources, there is also a significant population that resides to the south of the Colorado River and they have been impacted by the effects of extraction activities related to both gravel and Oil & Gas.

The Colorado Geologic Survey resource map clearly shows this site as a Category 1 with High Potential for resource. This category is typical of the alluvial river valley where significant gravel deposits lie, and since extraction can only occur where there is resource it is not unusual to see gravel pits along river corridors. Cumulative impacts are sure to result to air quality, water quality and traffic when there are numerous operating pits within close proximity to each other and negative impacts may occur to nearby residences as well. Staff has reviewed the information supplied by the Applicant regarding demonstration that cumulative impacts can and will be mitigated, however the Board of County Commissioners must make a finding that sufficient separation exists between these two gravel pits so that cumulative impacts will be minimized.

PLANNING COMMISSION RECOMMENDATION * denotes highlighted comments.

The Planning Commission reviewed this application at a Public Hearing held on March 25, 2009 at which time a unanimous vote recommends that the Board of County Commissioners APPROVE the request with the following conditions:

1. All material representations made by the Applicant and their representatives in the application or during the public hearing must be adhered to as conditions of approval unless otherwise stated by these conditions.
2. *This approval shall expire if the Special Use Permit has not been issued within one year of the date of approval of the application. The Special Use Permit shall expire fifteen (15) years from the date of issuance. If mining operations have not ceased and reclamation of the site has not been completed to the satisfaction of Garfield County and the DRMS, the Applicant may request an extension of the permit be granted by the Board of County Commissioners.
3. The operation of this activity must comply with all local, state and federal requirements.
4. Hours of Operation related to mining activity shall be limited to 7 a.m. to 8 p.m. Monday through Saturday with crushing, digging, and heavy hauling allowed from 7:00 a.m. to 6 p.m. allowing for administrative and maintenance activities to take place until 8:00 p.m.
5. The site is required to comply with the recommendations contained in the Noise Assessment Report prepared by EDI, Inc. as follows:
 - a. Noise control methods such as barriers or berms using overburden or stockpiles may mitigate the noise emissions from stationary equipment;
 - b. All equipment operated by the Applicant will be fitted with noise control devices such as mufflers, intake silencers, baffles and screens that are equal to or better than manufacturer's original configurations.

- c. Customer's haul trucks shall not exceed the noise limits listed in CRS 25-12-107. The Applicant or the Applicant's pit operator may monitor the noise emissions of the Customer's haul trucks and prohibit their access to the pit until they comply with the noise emission limits.
- d. All of the Applicant's mobile equipment used at the pit shall be fitted with the "White Noise" Backup Alarms that have been installed and adjusted to meet the requirements set forth by the U.S. Department of Labor, Mine Safety and Health Administration (MSHA).
6. *Prior to issuance of the Special Use Permit copies of the following permits, or sufficient demonstration thereof, must be submitted to the Building and Planning Department and said permits must be consistent with the approvals granted herein:
 - a. Well Permits consistent with the Court Decree of Case No. 07CW88 (including application for variance approval to the Board of Examiners for Water Well Contracts) and satisfactory to allow for construction and on-going maintenance of ponds associated with reclamation of the site;
 - b. Division of Reclamation and Mine Safety 112 Permit and reclamation plan;
 - c. State Highway Access Permit;
 - d. Garfield County Road & Bridge driveway permit;
 - e. The general mining Air Pollution Emission Notice (APEN);
 - f. The dust mitigation plan Air Pollution Emission Notice (APEN);
 - g. The crushing and screening equipment (individual permits) Air Pollution Emission Notice (APEN);
 - h. If necessary, an Air Emission Permit related to mining operations that produce greater than 70,000 tons per year;
 - i. Process Water and Storm water Discharge Permits;
 - j. Construction De-watering Permit.

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 and Mine Safety 303-866-3567
 Colorado Department of Transportation 970-248-7000
7. Prior to issuance of the Special Use Permit the Applicant shall submit affidavits from water, wastewater and waste disposal companies for service compliant with the approvals granted herein.
8. A Floodplain Permit is required prior to issuance of the Special Use Permit.
9. All operational activities including, but not limited to, office space, employee parking, fuel storage, sanitation facilities and equipment storage shall be limited in location to that area which is identified on the site plan as the Facilities Area.
10. Pursuant to the recommendation of the Colorado Division of Wildlife, on-site refuse containers must be bear-proof.
11. The site must adhere to the recommendation of their wildlife biologist as follows:
 - a. *Lighting – excessive or night-time lighting is not recommended in order to allow big game use of the area;*
 - b. *Roads – Minimize fencing along the roads and remove old, non-functional fences to facilitate movement and retaining walls should be minimized;*
 - c. *Fences – specifications and requirement for snow fencing or silt fencing;*
 - d. *Landscaping and Re-vegetation – Since the area is used as winter range and critical winter range, the reclamation of the site will need to occur using native plant species and vegetation profiles. Re-vegetation should occur as soon as possible with planting in the spring recommended due to big game having left the area.*
 - e. *Dogs – Dogs should be under leash control.*
12. In any mining phase, the mined slope length will be backfilled at a minimum of 3H:1V prior to topsoiling and seeding.
13. The amount of mined slope allowed to be present that is not backfilled at any given time is 1000 feet.
14. The amount of backfilled slope that is not topsoiled is limited to 400 feet. Topsoiling is required on all surface areas down to 5.0' below expected water level.
15. Seeding and mulching according to the approved plan will occur on all topsoiled areas each spring (March 15-April 15) or fall (September 15 to November 15) no matter how small the area is.
16. The mining operations shall be allowed to progress so long as the prior phase has been reclaimed within 6 months after commencement of the new phase of mining operation. If the reclamation has not commenced in six months, or if reclamation has not been completed within 18 months, all mining operations on the property shall stop until the reclamation / re-vegetation has occurred to the satisfaction of the County. Completion, including but not limited to topsoiling, seeding, mulching, sapling planting, and water filling the lake(s) shall be determined by the provisions contained within the reclamation plan approved by the Board of County Commissioners.
17. The operator will submit an annual report to the County Building and Planning Department 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.
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. The County will be invited to any bond release inspection of the State Division of Reclamation and Mine Safety. The County inspector will have the opportunity to demonstrate that any item of the permit has not been complied with and that the bond should not be released.
 21. 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.
 22. The reclamation approved by Garfield County in the Special Use Permit shall be resubmitted to the DRMS to become the only reclamation plan (tasks / timetable) use by both the County and DRMS. Additionally, a bond shall need to be calculated to cover this plan and secured with DRMS to cover its implementation.
 23. 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. This weed management plan shall be submitted to the County Vegetation Manager for approval prior to the issuance of the Special Use Permit.
 24. Prior to issuance of the Special Use Permit the Applicant shall submit evidence of insurance for a minimum of \$1,000,000 to cover any damages to public and private property, and Garfield County shall be named as an additional insured.
 25. A Berming, Screening and Buffering Plan shall be submitted to Building and Planning prior to the Board of County Commissioner public hearing on this application. This information is currently contained in various areas within the submittal documentation however staff requests one document, entitled as above, containing the related information.
 26. *The existing Special Use Permit for gravel extraction activities on the site shall be revoked upon issuance of the Special Use Permit for this application.

The above condition should be re-written to the following:

26. The Resolution and Special Use Permit issued for the RTZ Gravel Pit shall supersede and replace in its entirety Resolution No. 81-227 which will in effect no longer be valid.

Commissioner Houpt complimented Kathy on her report saying this was an excellent job. She asked if there was any discussion on making the haul route the highway instead of allowing traffic south on County Road 300. Kathy – Their traffic study does indicate a majority of the trucks coming out of the site will utilize the state highway, but there is also some numbers that are proposed to go south of the intersection. Chairman Martin– Let’s put it in context; the energy companies rebuilt County Road 300 and paved it to make it a haul route on the south side of the Colorado River and at the present time they are improving the intersection of UNA Bridge and County Road 300. Commissioner Houpt –This activity is very close to the state highway and we talk about mitigation. Chairman Martin– If the material was to go south to a pad, you would make them go through Battlement Mesa and come down County Road 300 instead of crossing UNA Bridge. Commissioner Houpt – No, there is language you could use but if you are taking it out of the area then I would think it would go out via the state highway. Chairman Martin – It would have to otherwise it would be over Spring Creek or Wallace Creek as those are the only roads down there. Kathy – I do not think they are taking it anywhere other than being used for well pad activity or other oil and gas related activity to the south of UNA Bridge. That is where the numbers came in on what might be involved in that direction. There was never any anticipation that the material would go into or through Battlement Mesa. Commissioner Houpt –Another question about the current condition of County Road 300 - how does that becomes this applicant’s responsibility if they have not been using it. Kathy –It is not necessarily this applicant’s responsibility to make the corrections; however, the construction of the access into the site, the replacement of the culvert and paving of that entrance will allow them to make some corrections to the existing road. Commissioner Houpt – As long as that is connected, it is what we always require. Kathy – Road and Bridge staff has requested that the applicant meet out there to see what could be done while the gravel operation is in the process of getting started. There is no condition of approval for them to make these corrections but there is a possibility of making improvements through the other developments. Commissioner Houpt – I do not see lighting conditions being minimum and directed downward. Kathy –It is in their wildlife conditions, which is incorporated into the condition. Commissioner Houpt – Although it is not stated as a specific condition, it is anticipated as a condition of approval. Kathy – If you approve this, the Resolution will itemize each of these inquiries. Tim Thulson said we are in agreement with all conditions of approval as modified by the Planning Commission. We are amenable to all of them. He would add, when they were coming up with the project this is about the same time the Code was rewritten. We were looking at properties in the County and have other relationships with Specialty Corporation. Their primary business is restaurants all throughout the nation and their sites include businesses, residential development or residential properties in Western Colorado. But we were looking at this site, that we thought it satisfies the rules and policies that you people were looking at. Number one, it is approximate to the marketability and by its very nature minimizes the impact to the county road. At least until recently it was in the heart of the oil and gas development. that ties into the second interesting fact about this site, remembering the discussion with the Towns and their worry about using up all the ready mix quality gravel. This is not ready mix gravel as it has shale in it and does not work for cement, but it is very good for road construction and pads. The other policy we tried to incorporate in here in the gravel regulation adoption was boy, it is a shape that we went into Aspen Glen, Teller Springs and put all these houses on great gravel deposits; and, now we will never be able to go in and take those resources out. This is contemplating future residential development as far as the post-reclamation plan. Why I think it is most appropriate, this was in fact permitted as a gravel pit before. It was the DMG, that permit expired, and we came up with a new plan. With that, we have the traffic issues sitting out there like the 800-pound gorilla on the couch, but we have to get to the 20% impact and satisfy CDOT for an access permit. Rather than take that on right now, as that may take a while to solve the issue; and, we are willing to get the CDOT permit for our 20% impact. With that said, I would urge approval of the process and mitigate the impacts; it is a good location for a gravel pit. We are buffered on the north by the railroad and I-70 and on the south by the Colorado River and residential development that may go in on a portion of when we are done. Commissioner Houpt – You brought up the access permit and she is not sure the question she will ask is for Tim or Kathy; but, the term fair share was included in the report; who determines what the fair share is – do they put their own district like Travelers did? I am wondering, an access permit is required for this and others in the audience who also have to obtain an access permit, so does everyone just work together.

Dan Roussin should be asked this per Chairman Martin. Tim – First, the simplest solution is for us to come in, pay for the whole thing, and try to get cost reimbursement on the back end. I don't think we're in a financial position to do that; we can look into the district and agreements with other property owners on how this gets accomplished; we can review this again with the County on what they can offer – a million ways to go. If it is too expensive, then the pit just does not come in. Commissioner Houpt – So your first step is getting the access permit. Tim – We are working towards that and we have a cost estimate that High County engineering did for the County.

Chairman Martin– Yes, that is correct and Dan Roussin was at that meeting and gave a presentation. Then you have to look at the percentage share of that intersection for CDOT, the industry and Garfield County; two gravel pits and a bunch of other folks using that intersection. Then putting on top of that what the special district for Travelers' Highlands did because they have to do one-half of the intersection as well, which eliminates one-half of the cost to the south side. We still have not talked about the railroad itself and the interference of those trucks going across the tracks and how many interruptions. That also drives the permit and a licensing easement that you would have to look at as well. We have not talked about the license easement on the railroad if we have that many vehicles crossing the railroad track. That's part of the access plan. That is a crossing permit. The industry is putting up millions right now on the rebuilding County Road 300 and UNA Bridge, etc. and they will contribute to this issue. I think we need to work with Dan Roussin, bring everyone into this discussion, and get this intersection taken care of both for the industries as well as the residents and CDOT. Commissioner Houpt – We, meaning you think the County needs to take the lead on this intersection. Chairman Martin– Yes, I do. I have asked the County to do that several times. Commissioner Houpt – Well after we have given the response to an application who has a pending application. Chairman Martin – I have disagreed with the decision for about 9-years. I have tried to get that access issue taken care of. Commissioner Houpt – However, we also have a Countywide issue with the role the County is going to play with access permits – we have many intersections that we need to keep in mind and figure out how we are going to approach them. I don't think we are anywhere near a solution on where we are going on that issue. We had Travelers. Chairman Martin– The reason I bring that up is because we designated County Road 300 is a haul route and when we designate to that status, it is heighten in reference to the safety of access. Commissioner Houpt – I do not see this resolving the countywide discussion that we need to have. Chairman Martin– Well, it does to a degree that it is a heightened use; it is a required use that those heavy haulers have to use that road – they cannot use other accesses. We have designated it by weight and by adoption of heavy weight haul routes - that is where it has to be and so at that point, that emphasis is greater than if it happens to be a County road with weight restrictions of 65,000 to 80,000 pounds. Commissioner Houpt – We had Travelers' put a district together to take care of the situation on their side of the highway. Chairman Martin– Except Travelers was a private access not a public access; that is the difference that we have in this – Travelers' Highlands was a private access and a private attempt to get access from the highway department for a private development that was not approved by this Board – it was filed as a subdivision in the 1960's. It is very different in what we have currently on a public access. Commissioner Houpt – But it is not very different from intersection issues we have across this County. Moreover, I do not see that as even a question of what we are going to do; we need to agenda that item that allows us to make a determination on how we are going to address intersections across this County. Chairman Martin– Unfortunately we have a special use permit that requires a permit right now with CDOT. It is an issue we need to deal with on this particular issue instead of having a global discussion in reference to access routes for the County. This is the one we need to be dealing with and again I also think it doesn't deal with the intersection with the railroad which we still haven't seen any input from any railroad or any information for the railroad. Kathy has never seen a response from them. Chairman Martin – That is a huge issue and it is not addressed in this one. Dan Roussin was asked to come forward. Commissioner Samson – In reference to the letter you wrote, I have spoken with the County about the improvements and it appears the County is investigating the possibility of improving this. CDOT is willing with the County on the access project intersection but CDOT does not recommend this project move forward until all the safety improvements are in place on County Road 300 and US 6. Can you elaborate on that? Dan Roussin – Sure, we probably need to go back about 5 to 8 years; we have actually had 4 or 5 different traffic studies at this intersection by 3 or 4 different traffic groups – traffic engineers taking a look at this intersection. FHU, which represents this gravel pit operation looked at it; Drexel Boral looked at it for the Strong's subdivision; Kimberly Horn did Travelers' Highland; and LSC did one for Frac Tech, which is next door. So we have a lot of data out there; one what's going on or how much traffic there really is and that is where we typically only take one quick look at it; but in this case we have quite a bit of data there. In regards to CDOT, we have been aware of this issue for a long period– at least 4 or 5 years from my point of view. Chairman Martin– The reason I said it goes back further is because CDOT was in this room asking for a temporary permit and asphalt batch plant etc for the Grand Junction pit so they could access I-70 and go across Hwy 6 & 24 directed at I-70; we approved it and that was more than four years ago. Dan – About 2003 – 2004. I think our project was an overlay of I-70 and we used Travelers' Highland access to get to the interstate. In regards to what CDOT can do right now, I have talked to the traffic engineer Pete Merites. At this point we have no funding for any kind of improvements to this intersection at all; so what we are willing to do is provide administrative support and try to get the permits out as quickly as possible and provide any kind of technical support with the issues here – that's what my boss has given the authority to help. In terms of financial help, we have no resources for this project currently. Chairman Martin– The County needs to take the lead and do something or say no to all developments. Dan – I do want to say it is such a difficult issue and the fair share issue is a tough thing to do. In my perspective and what I deal with the Count, the County is the best able one to handle those issues and make those tough decisions versus a private entity have the discussion. Commissioner Houpt – The problem with that is before my time, you did remind the County of that as an agency and we still said no, we are going to improve these intersections and it is the responsibility of the applicant and CDOT. Therefore, we have all people we said no to in the past. Chairman Martin– We have been dealing with this access issue since 1996. Kathy – There was some discussion about this coming back before the Board. Chairman Martin – That was a countywide discussion in reference to the approach to all intersections. Commissioner Houpt – So, now without changing anything with the way we do business for talking about changing it for one intersection I have a real concern. Kathy – The County is responsible for a certain amount of traffic that goes on here. The existing traffic on the road right now, we cannot put the burden on any of the applicants that have come through here to make up for the problems that have occurred in the past. That is where the difficulty is coming in with this particular intersection. If we could say, RTZ is going to cause all the problems at the intersection it would be simple to say they need to take care of the issue – but they are not. There is an existing issue that the County is responsible. Commissioner

Haupt – I feel like we are getting different signals from staff; Don was asked to help. Don – In a general perspective, the issue you are talking about for this intersection is a lot different than for other intersections throughout the County on state highways. That is the perspective the County is responsible for traffic that pre-dates any development proposal. The decision pre-dated my tenure when the County decided it would not participate in the improvement of intersections at state highways. There is a long and extensive backlog of traffic at these intersections and this has not been addressed. While you cannot shift the whole burden to any specific developer at this intersection, that is true of virtually every intersection with the state highway in the County. In listening to the presentation and she am not aware of what some of the other approvals may involve in regard to this applicant, but what I did hear the applicant say is they are willing to apply for and obtain a permit. If that is the case and it gets to the first issue of what needs to be done at the intersection and leaves open how that would be paid for. Maybe that step needs to be taken at this intersection. First let's find out what has to be done to make a functional intersection then bring it back to the County and everyone else using the intersection to see who can afford to do what or who should do what. Moreover, if it requires changes to this Resolution or other resolutions than address those once you have the facts in front of you and if there are necessary amendments to existing approvals. Chairman Martin– His thinking seems to follow the same path. That is what we asked staff to do and asked the administration, Dan and his group. We have that information, the design and what needs to be done. What we have is a dilemma in reference to the access permits starting again – we have two access permits going out to do the same thing and we have already got it done. What I am saying is we continue to shift the blame – it is a catch 22. The County needs to take the lead and levy of percentage on this application as well as any other application and as well as the willingness for the industry which are sitting in the wings waiting to participate and get the project started. Don – Well, from the history of this and other applications, what you need to do; in the conditions of approval. If you have conditions of approval right now that are not consistent with that approach – it needs to be addressed. That will entail the County making a decision that you will accept responsibility by the County for some, if not all, of the pre-existing conditions of this intersection. That is a significant financial commitment not only for this intersection but if you intend now to follow that as a policy that is what Fred was going to address – that is a huge financial commitment if you are going to follow the same practice throughout the County which you are discussing toward this intersection.

Commissioner Haupt – That is why throughout the discussions ever since the Strong application was approved, we have said that we need to deal with this on a countywide basis so we understand how we can move forward. We do not have that answer. Chairman Martin – I have to take it back to the map we adopted and Don DeFord has presented it every year for HUTF funds the designation of heavy and haul County roads accessing 6 & 24 and I-70 and we accept that. In taking that approach that it is our number one priority because it is our requirement that they meet the permits, standards, etc and we designate they can only use those for these purposes. At that point, we do not have that overall huge countywide permit, it is on the designated haul routes that we start and we need to be doing that. Don – Agrees that it cuts down the number of intersections; however, it still leaves a significant number where the County has not addressed pre-existing issues on haul routes. Chairman Martin – I agrees but why continue to have the deferred maintenance and deferred approach and again go back to CDOT who does not have any money and will not have anything for 35-years. Therefore, we are going to wring our hands for 35-years and follow the same process. What it amounts to is this, back in the 1930's when CDOT did not exist, who took care of all of the roads including the state roads within their borders – the County. The County Commissioners were called road bosses and made their decisions based upon their districts. They made the financial commitments at that time to make it happen. Now that CDOT is here, CDOT gives recommendations, etc – now they are out of money but we still have the same issues. We have to make some decisions in reference to these haul routes and the roads that we use every day. Commissioner Haupt – I absolutely agree with that, we need to make a decision but we do not need to make piece meal decisions; we need to make a policy decision that helps guide us in these decisions. What is in place right now, if we were to write it in as a condition, the applicant needs to obtain an access permit but who will pay for the construction of this intersection. We would have a real equitable problem. We have the same policy in place that we have had with these other applications. I am not saying that I agree with what we have done, but with the backlog we have built over the last years, we need to figure out how to tackle this now and we cannot figure that out with one application in front of us. We have to figure out how we can be partners in these situations; I think we have a meeting scheduled and need to look at this in a more global manner. Chairman Martin – Let's go ahead and finish the testimony. Tim said he did not anything further at this time.

Public Testimony: Eric McCafferty – Relative to the traffic issues and the notion for a state highway access permit, John you are very good at just stating the last 10-years, and things have happened that the County has done with the increased traffic at this location. Making this road a major haul route without having an access permit seems to put the cart before the horse. Therefore, I would certainly support the County taking the lead in this position and insisting that something be done. I bring up the notion of the severance tax – that is exactly what severance tax is supposed to be used for is these types of infrastructural improvements because the infrastructure has to be done regularly. Finally, in this notion of a global response to all infrastructural needs, that is a wonderful thing but you have to start somewhere. This would be an excellent place to start. Commissioner Haupt – But would you say that good planning is based around creating a policy. Eric - Good planning is based on planning but unfortunately, there has not been a lot of planning and what has happened here is relative to the infrastructural needs. The Comprehensive Plan does not address this; hopefully it will, as it is re-written. It does not occur in the Comp plan and it does not acknowledge all the mineral extractions happening down here. In the notion of planning, I would say it is horribly, terrible planning to not address this at this point. This is a very important intersection and it handles an enormous amount of traffic; it handled a lot more traffic 6 or 8 months ago. That is going to increase again and so from the planning perspective to keep pushing this out into the future or making it a condition of approval on an application that may or may not make that application economically feasible is poor planning. George Strong – As you know we have a condition of an access permit on this road and disagrees with Tresni on this piece meal thing, I think it is just the opposite. You have some working partners here; you have four that we can name right now, the applicant, us, Traveler's Highlands, Williams and several other entities. Now is the perfect time to do it. The County needs to take the lead, make a joint effort out of it, and get it done while we have the economic feasibility and everything else to get it done. You people have to take the lead on it - we cannot independently form a support for four applications out there, plan and the County gets all of it. We need to work together with the County and get the intersection done. Commissioner Samson – A question for Mr. Strong – I appreciate what you just said George. Have you had extensive conversations with the four big partners and they are willing to go forward. George –

Traveler's Highlands already has their money assigned, check and everything because they are a private subdivision so they were able to create a tax deal; I am sure these people have a huge investment already and as upon extraction of gravel you will have another expense in revenue. We are held to it so I can answer for this partner, the energy companies have already spent a lot of money and they are willing to do more. As long with future developments including EnCana who is planning to do some land work in this area. I am sure there are more compressor stations, site pads, contractor's yards, everything else that is going to be used out there, and this keeps following all of us. You can correct your problem with future use but you cannot make us necessarily pay for all of that use. We are willing to do our share – it is a County Road. We enter a County road and have full access, driveway permits to the County road so I have access – it is the issue of the more generated use and we must solve the problem.

Commissioner Samson – Another question for Dan, CDOT does not recommend this project moves forward until all the needed safety improvements are in place at County Road 300 and US 6. Let's forego that for a second; I am not against this gravel pit, it is a great place to have it. My question is do you not want the County to approve this SUP until they get everything done with you first; or would you rather the County take the lead, go forward and let these people do it and then they will have to work with you to get the access permit. Dan – That is a great question. Currently the intersection is not to any standard that is out there. Currently, it needs all the improvements without the applicant coming in. So, adding more traffic to a situation has the potential of making it even far worse than today. In regards to this application; if we can work out something. If CDOT sees that the intersection gets built, that there is funding in place and it moves forward then I think CDOT would be willing to work with the County to allow this project going; but at this point we haven't seen anything out there. Yes, the County needs to take the lead and the reason why is you have four entities with four different timelines, different priorities, different financial situations and it is hard to get all those priorities together to get somebody to fix the intersection and work together. As a project manager, it is just too difficult for one single entity to get all the entities together to get that one project intersection done. That is being as blunt as possible about it. I work with private development all the time and have been doing it for nine years and just getting two people to work together is practically impossible, getting four or even more entities involved is too tough and really what you want is one project manager to lead the project and make the decisions that need to happen. Commissioner Houpt asked the projected price of this project. Chairman Martin - \$1.8 million. That has included one-half of that to the north side simple because of the special district. The special district has to pay for the north side of the intersection. Commissioner Houpt – Why? Chairman Martin – Because that was a requirement in reference to... Commissioner Houpt – It already has been a requirement. Chairman Martin – You asked how much was going to be paid for which is 50% of the cost of the intersection is already collected by the special district, which is a requirement of the Board to do. They had to form a special district. Working with the special district who is required to make the improvements that Dan has already issued a permit and also a notice to proceed with their money in place; we have the other half of the intersection and that is why we need to take the lead, put everyone together, do a proportional cost to everyone else and get the intersection done. Now, we have to have another approach, we set a policy in reference to the rest of the County and the intersection of state highways that is a global approach. We will look at the policies and what changes are needed. We cannot rely on "that's the way we did it in the past" – we have new challenges and we need to make decisions to move forward and do the right things now instead of falling back on "that's the way we used to do it."

Commissioner Houpt – The applicant across the state highway permits that we would manage and pay; we would not let them apply for building permits until they went through that process. I am not saying I agree with the policy that is on the books but I do not agree with bending policy instead of creating new policy. Bending policy for one application does not make sense to me. It makes more sense to me to move forward quickly on this so that we can figure out how we can participate with all the various intersections throughout this County. Bending the policy that is already on the books and actually change our role with respect to intersections onto state highways is a very large question and very expensive. This one intersection is a cost of \$1.8 and more. How many intersections do we have throughout this County? Chairman Martin – There were 128 between New Castle and Silt. Therefore, you can go ahead and look at how many; however, you will find on that particular intersection between DeBeque to Parachute that you probably have half a dozen. In addition, that happens to be 20-miles versus 4-miles. When you talk about these intersections you need to put it in perspective on what we have done in that section; and, that is why we designated it as a haul route is because of the low number of other intersections and crossing points. That is why we selected those particular spots. That is the other part of the equation that you are forgetting when you get closer to municipalities; yes, you have a greater number of crossings – that is because they are needed because of the congestion and movement of our general traffic. Commissioner Houpt – However, where we are going with this is potentially changing the way we address intersections on state highways. Chairman Martin – And I say, thank goodness – it is about time. Commissioner Houpt – I want to know how we will be able to afford the cost. Chairman Martin – We'll afford it the same as we are now. If you can address it you can, if not they will have to wait and come up innovative ways to pay for it. Otherwise, at least you have a policy in place saying that we have to address it, this is what we have to do, and this is what your fair share is going to cost. The same way you do in an impact fee in reference to your transportation and building cost and your development costs up Four Mile and Carbondale and Missouri Heights, etc. That is the same principle - their fair share. This is the same issue, it just happens to be an industry impact fee in a different vein. They are willing to pay and willing to go ahead and use the haul route and follow the rules and regulations. Commissioner Houpt – I am delighted to hear that you are ready to talk about a transportation policy and impact fees and the changing role of the County. That is very important and I appreciate it. Chairman Martin – If it does not work and we end up paying 80% of the cost; no matter if you have it in place or not. You will still be paying for it out of taxpayer's dollars. Again, we receive funds from road tax and we receive from mining tax, etc from payroll tax from everything else in reference to this – we will re-coop our money in a long period. We also have the partners that have to put up their proportionate share. That's what is important and I think that George Strong is right, you have all these partners willing to play, all we have to do is say, the game is on. Back to this application, we have to make a decision are we going to approve it as is with the recommendations or are we going to go ahead and deny it; or change the recommendation. Tim made one point of clarification to address the issue that Mike has addressed; the approval we get today does not allow us to turn one spade of dirt. We have to get a permit issued. And, what we want to do, and I understand the larger issue you are discussing. We certainly do not want to be caught up at this stage because the approval process does have value as far as moving the project along. But, we cannot run trucks out of there, we cannot grade until we get the permit issued and right now that is conditioned on getting an access permit. Commissioner Houpt – There is really nothing

in here that ties the County to that. Kathy – The condition is the same condition that we apply to other developments and there is a requirement to obtain a state highway access permit due to the traffic generation. Commissioner Samson – That leaves the ball in their court. Chairman Martin – It is a catch 22 again. This is the time to address that issue. Commissioner Samson – With the four parties? I move that we close the public hearing. Commissioner Houpt second. Motion carried. Commissioner Samson moved that we approve the special use permit for extraction, processing and storage and material handling with natural resource for gravel extraction on a property located south of Parachute at the southwest corner of Highway 6 and County Road 300 - applicants being Specialty Restaurants Corp of Stockton Restaurant Corporation with the 26 conditions given to us by the Planning Commission.

Chairman Martin – Condition No. 26 has been re-written, which version do you want to use. Commissioner Houpt - It is the second one that Kathy Eastley mentioned. Second. Chairman Martin – You leave the only condition which is to receive an access permit from the State of Colorado. That is the only requirement that you have for access; they do not have a proportional share of costs if it is constructed or anything else. Commissioner Houpt – They have said, in their report, they would pay a proportionate share of costs. Commissioner Samson – I believe we have a commitment from them that they are going to do that. Walt Brown asked a question. Chairman Martin – We have closed the public hearing and they cannot answer you. Commissioner Houpt – It is in the record. Commissioner Samson – Mr. Strong said it on the record – I take them at their word. Chairman Martin – It also leaves open the question in reference to lead and the County is not part of the applications or part of the process – that would be a separate issue is what you are saying. Commissioner Houpt – And I anticipate we will take care of that quickly. It is on the books. Chairman Martin – I do not see this project going forward or any other project going forward. I think you are in the same boat that you were in when you go forward. Nothing is going to happen and everybody is going to sit and look at each other; and, we are going to say well, it is their fault. We have the excellent opportunity right now to put in this Resolution of approval the ability to take the lead and work with the applicant. We can include the other parties in this applicant in reference to the access permit as requested and supported by CDOT and we are going to turn our back on that if we do it the way this condition reads. Commissioner Houpt – We are not turning our backs on this. Chairman Martin – Yes we are. Commissioner Houpt – We’ve had 45 minutes of discussion about the County’s need to go through this policy and update it and make appropriate changes but you cannot change a policy in an application. Chairman Martin– Let me put it this way. Changing the policy after you have put this in place does not change this application. The applicant has to come back and ask for a condition, a recommendation change to go through the process again. Therefore, they have to put it in their permit. Why not address it now and allow that to go forward and give them the opportunity to do their fair share. If they do not do their fair share then their special use permit is not issued. Commissioner Houpt – This does not say anything that would disallow us. Chairman Martin - Your rules and recommendations do when you do a recommendation of approval with those conditions that are written, that is the way it is. That is what George is up against, you have to come back; and, he has to do an amendment process with his application unless you address it now in these recommendations. Commissioner Houpt – We have an amendment process now. Chairman Martin – Yes, which takes how long and takes how much expense, etc, etc. Why not address it in the right manner, and do it now. Commissioner Samson – Let’s back up. Don – I had one question for Kathy right now because we are in the hiatus between the new and old Code. This application is under the old Code I understand but if an amendment would be requested that would be handled under the new Code. Kathy – That is correct. There would not be a requirement for a state highway access permit, if their traffic were less than 20%. Then it is my understanding you would not have to come back and revise the condition. If it is now required then that satisfies the condition. Chairman Martin– That is true but there is another issue and that happens to be the proportionate cost and also the ability for the County to take the lead and get this thing done. That is not in here, it puts the burden on them, and we are left out of it. I do not think that is right for this County to continue to do that – it is not getting anything done. Don – Let me follow up - under the new Code is an amendment to a ... Kathy – It would be an amendment to a major impact review – a public hearing process. Don – Okay, in that case you are looking at a 90-day process. If the Board changes its policy however that might be, I gather this would not be the only application that would be affected by that. Commissioner Houpt – No, I am sure it would not be. Commissioner Samson – The way it is written here in number 6c. Don asked to make a suggestion. On the condition that the applicant seeks a permit; you could avoid the amendment process for this application if you put language in there that provided the applicant is required to get the permit unless prior to obtaining that permit the County Commissioners change their current policy to the effect that the County would be the applicant for the access permit with a state highway and County road. Chairman Martin – Specifically County Road 300 and State Highway 6. Commissioner Houpt – No it would not be a specific one. Chairman Martin – On this application it would. Commissioner Houpt – It would be a change in policy. Don – You really do not have to say County Road 300, you would have The reason I say that is if you change your policy, there is nothing from preventing the County from just being the applicant. Once you have made that application, then that would trigger the second part of that condition the way I worded it. If you do not change your policy and the County never submits an application, then the applicant would have to go ahead and do that themselves. Commissioner Samson – Are you okay with that? Chairman Martin – Oh yeah, at least it is an attempt to get off a catch 22 and otherwise we would just be chasing our tail. Commissioner Samson asked to reopen the public hearing. Chairman Martin – You can withdraw your motion and the second and ask to open the public session. Commissioner Samson – I withdraw my motion. Chairman Martin – Now we need a motion to open the public hearing. Commissioner Samson – So moved. Commissioner Houpt second. Motion carried. Walt Brown, representing George Strong - contrary to Don I was around when they made that decision on the roads but that isn’t important, my question was if you do this change the lead, you’ve already designated Mr. Strong to go to Roussin. I question that an administrative adjustment to that is about two weeks to go through the process that you just described, a complete amendment with the application, what do you do with that if you guys do take the lead. Commissioner Houpt – You would still have to do that. Walt Brown – That is impossible because only one person would have to go to the state. We are designated so if you people decide to go forward, which we are hoping you would have done; we are locked into our condition and sitting there with a shovel, trusting and we cannot do anything with it. Don – I know and I was thinking about that actually. There are not many – you have an application in front of you now in which you can still adopt conditions that allow some flexibility. Walt Brown – It is a good way out for Tim and his group, but where do we go? Chairman Martin – Not in this application - I think we need to Walt Brown – Where were you at the time? Kathy – I don’t think that anyone else can apply for a state highway access permit; if George Strong never moves forward does that mean that nobody can ever get a state highway access permit for that road – no. Don – No, I am

not very intimately familiar with the Strong application; but the way I understand it, their condition requires that Mr. Strong be the applicant the way it is worded right now. If the County goes ahead and were to elect to do the application or someone else, let's say it was the RTZ Specialty Restaurants did it, they could not comply with that application if it is written that way. However, they would come in and show the Board simply that the substantive elements of it had been met and that condition should be removed. It would be an amendment process. I think however that it is going to take far more than 90-days to get an intersection engineered and built and if the County were to take the lead in that, there would be time to get it though. Commissioner Houpt – It is going to take us a while to get this accomplished too. If we change policy because the staff still needs to come back to us with...

Don – If you elect to go the way I suggested though, we have two applications in front of you now. In all fairness to the Board, you need to make a decision on what you are going to do quickly here. If the Board is going to elect to change a policy that has been in place for decades, then these folks have to wait for many months and you have affected their projects without taking the action upfront. What I am saying is if you follow the language that I was suggesting as a possible amendment, inherent in that is you are going to move forward right away to make a decision on policy and then they know where they stand. Commissioner Houpt – As soon as staff is ready for us – we have been asking for that meeting. Chairman Martin–There is an amendment that George can come through and have it requested that it is not obtainable simply because of the action the Board has taken. Therefore, it needs to be removed for Strong. It may be a lengthy process; it is a public hearing process as well. It will cost George more money and more time. He may or may not have his property taken care of or whatever but that is going to be the cost of doing business that we drive. Commissioner Houpt – But it is less than if he had to pay for the entire intersection. Walt – I just want to get this down straight because I think to have to go through the amendment process would be, when you already have it complete, if you do take the lead you do it. You do not actually build the intersection you only get the permit. There is a difference. I think you've already got 90% of the scope of the intersection worked out but for Mr. Strong and a couple of others coming up – you don't want them to rock too long and then they don't show up in front of you and people aren't here and you can't tax them. Chairman Martin– Tim is in the business to make money; Dan is going to collect some money even though it goes into the general fund on this project. The State of Colorado will receive the mining royalties etc. Everybody is going to make money if the project goes forward. Yes, there is impact positive and negative. Commissioner Houpt – Don you confused me on your last statement. How I read your language is that the Board of County Commissioners will schedule an agenda item to deal with this policy and staff will prepare those materials, but we would be looking at the entire County. Don – Right, I am not just looking at this intersection, but it still is inherent if you are going to move forward on these issues within the County. Chairman Martin – We need to move forward. Commissioner Samson so moved to close the public hearing. Commissioner Houpt second. Motion carried. Commissioner Samson – I would move that we approve with my original motion plus Don's amendment for 6c. Commissioner Houpt second. Kathy Eastley – I need to understand that condition. Would it be that the applicant is to obtain a state highway access permit unless the BOCC changes their policy and if not it would be the applicant's responsibility for the state highway access permit. Don – Correct. Chairman Martin – Which follows the highway access code that allows the County to request the County to do that, there's a provision that can be forward to the application by motion by the Board of County Commissioners – so we will take the responsibility on ourselves. In favor: Houpt – aye Martin – aye Samson - aye Commissioner Samson – Now I want to make a direction to staff, Ed Green and Fred Jarman, to schedule this as soon as possible. So next Monday we will decide a date. Don asked if this should be scheduled as an agenda item. Chairman Martin – Yes, for discussion and direction.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don listed the items for executive session as follows: code information Rocky Mountain Hotshots, Cozza, Bilson and Ralston; County Road 317 and code violations, the sheriff – the individual personnel items we need to discuss; provide update and receive direction on land acquisition issues regarding the Midland Center, the 7th Street acquisition and updates from possible acquisition of Valley View Hospital property; 2 County roads and existing potential litigation or potential litigation on County Road 306 and County Road 165; the FBO at the airport for an update; and the COGCC issues, negotiation with prospective business moving into GARCO. Chairman Martin added, in addition, the sheriff's annex and contract negotiation with the sheriff. A motion was made by Commissioner Samson to go into an executive session. Commissioner Houpt seconded.

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

A motion was made by Commissioner Houpt to come out of executive session. Commissioner Samson seconded.

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

Action Taken: Code enforcement issues:

Rocky Mountain Hot Shots

Don requested authority from the Board to undertake both injunctive action and a fine related action against that property owner. Commissioner Samson so moved. Commissioner Houpt seconded.

In favor: Houpt– aye Samson – aye Opposed - Martin.

Cozza

Don requested similar authority from the Board to undertake both injunctive action and a request for imposition of fines. Commissioner Houpt so moved. Commissioner Samson second.

In favor: Houpt – aye Samson – aye Opposed - Martin.

Bilson

Don – This is a building code related issue, failure to obtain proper permits; we are asking to pursue civil remedies but not injunctive relief. Commissioner Houpt so moved. Commissioner Samson second.

In favor: Houpt – aye Samson – aye Opposed - Martin.

Ralston Property

Don similar to Bilson – it's failure to obtain necessary building permits or certificates of occupancy and we're asking that you authorize the legal department to pursue civil remedies in the nature of fines but not injunctive relief for that property owner. Commissioner Houpt so moved. Commissioner Samson second.

In favor: Houpt – aye Samson – aye Opposed - Martin.

Don would like the Board to consider public action of the view of property acquisition related issues:

7th Street Property

The County made a proposal for property located on 7th Street in the City of Glenwood Springs. We received a counter offer that was more than twice the amount we offered for purchase. The Board has until tomorrow to respond to it. Commissioner Houpt moved that we authorize a letter to be sent with the signature from the Chairman on behalf of the Board of County Commissioners indicating that we not accepting their counter proposal. Commissioner Samson second. In favor: Houpt – aye Samson – aye Martin - aye

Work with the City of property acquisition

Don stated we have received correspondence from the City indicating the City has an interest in being involved in future County property acquisition issues in a number of ways. If you wish to formerly respond to the mayor of the City of Glenwood Springs, you should indicate who and how to do that. Commissioner Houpt made a motion that we send a letter to the mayor of Glenwood Springs from the Board of County Commissioners and authority for the Chair to sign on our behalf indicating that we are very interested in working with the City on future partnerships. Commissioner Samson second. In favor: Houpt – aye Martin- aye Samson – aye

County Roads – This did not require public action, Don said only correspondence on those issues on County Roads. ***Oil and Gas Commission Meetings Issues have been addressed earlier today.***

Sheriff Annex

Don stated we need approval of the floor plan, via the storage bay for the addition – eliminate that and go with the original floor plan without the extra \$180,000.00 addition. Commissioner Houpt so moved. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin– aye

Potential for business offer

Carolyn - Ed needs authority to write a letter to a potential business considering locating in Garfield County to offer an incentive for a reduction in personal property tax. Commissioner Samson so moved. Commissioner Houpt second. Commissioner Houpt – As I understand, that is not just customary in this County but in other locations. We will have other locations competing with us. Commissioner Houpt – Second.

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

Model Traffic Code

One other piece of information, Don wanted to share with the Board publically. Chairman Martin mentioned during the hearing today certain provisions in the Land Use Model Traffic Code that may apply to this situation at hand. The Board is interested in knowing where we are with that. Cassie is working on this issue and we anticipate we will have the Code to you probably by, for reading, at the first meeting of August or at latest the second meeting in August. There is a reading and then there is a public hearing in which you would consider adoption. Chairman Martin - All for the sake of parking tickets on private property for handicapped citizens.

Procurement Code special meeting on Friday.

Executive Session

Commissioner Samson requested to go back into an Executive Session to discuss negotiations. Commissioner Houpt – Second. In favor: Houpt – aye Martin- aye Samson – aye

Commissioner Samson moved to come out of Executive Session. Commissioner Houpt – Second.

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

Action taken:

Parachute – Rifle – DOLA application

Direction – Commissioner Houpt made a motion that we support the Parachute and Rifle DOLA applications as well as Moffat and Rio Blanco Counties and they agenda the discussion for next Monday’s meeting to talk about financial support for the Parachute and Rifle projects so that this could be incorporated into their grant application. Commissioner Samson second. Chairman Martin – Rifle and Parachute may not be able to assemble and have a position or a representative, but perhaps the mayors or city managers could come for this meeting for some kind of representation. In favor: Houpt – aye Samson – aye Martin - aye

Programming of New County Facilities

Don asked if the Board wanted to give direction to staff to agenda a discussion next week on programming of new county facilities. Don said based on your discussion; we certainly need elected officials and a representative. Chairman Martin – Perhaps just discuss this and put into motion the ability to invite everyone. That we just agree upon to program a County facility no matter what it is. Then we can send out the invites to everyone, start the programming and see the priorities; also who to invite and what direction. Commissioner Houpt so moved. Commissioner Samson second. Commissioner Houpt – Since the other elected officials have been at the table on this discussion; advise them we will be having this discussion and then the option of coming. Chairman Martin – To invite the other folks that may be affected from probation to judicial to the district attorney to a few others, IT and see what we can come up with. If we just agree we need to program a building and then we will send it out and do a workshop to make sure we know what we are going to be working.

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

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

JULY 20, 2009

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 20, 2009 with Chairman John Chairman Martin and Commissioners Commissioner Houpt and Mike Commissioner Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

COUNTY MANAGER UPDATE: ED GREEN
SUPPORT FOR THE STATE FAIR

Ed said he has one item that was not on the agenda that he reminds the Board that they received an e-mail asking for our annual donation for \$100.00 for the Junior Livestock sale at the CCI for the State Fair. Commissioner Houpt asked if we wanted to give more than \$100.00 this year as we have had problems at the state level keeping counties that do not have fairs engaged in this and she thinks they were able to buy a rabbit last year. I thought that maybe we could contribute a little more. After discussion, Commissioner Houpt made a motion to support the State Fair for \$250.00 and the funds will be sent to CCI. Commissioner Samson seconded.

In favor: Houpt – aye Samson – aye Martin - aye.

DISCUSSION AND DIRECTION REGARDING THE 10,825 PROJECT – DAVE MERRITT

Dave Merritt ran through the agenda for the Colorado River District. The district meeting will be tomorrow and Wednesday morning. Tuesday morning we spent the morning in executive session with the general council report; we meet quarterly and there are of many updates that Peter Fleming needs to do on what is going on. 1) An update with the wild and scenic process. The Board is well aware of the alternatives to water as a nation on the upper Colorado from Kremmling on down to Glenwood. Now there is another few pieces being looked at on the lower Colorado in the Grand Junction area and we are looking for alternatives to a federal designation for wild and scenic on these BLM lands and Forest Service lands that would preserve Colorado's flexible leads and preserve the environmental benefits of those lands. It has been very contentiously going on for about three years now. With almost every party you could think of is at the table on this from the state, feds, a number of environmental organization, water users on both sides and they are trying to coming up with some sort of a compromise.

Commissioner Houpt – What kind of flexibility is wanted that would not be allowed with that designation right now? Dave – If it were designated it could impact upstream development both in Colorado on the west slope and Trans basin diversions and operation of existing public facilities. We have the Colorado Big Thompson project, which is Granby and Green Mountain Reservoirs. Any changes in operations would have to be reviewed.

Commissioner Houpt – So as those projects continue to grow, how do we make sure the wild and scenic values are protected. Dave – Those are the issues being assessed; how you put in place flow at the state level. Flow constraints and minimum flow targets to try to identify what are the key values you are trying to protect and how do you do that without additional federal and local support.

Commissioner Houpt – And will we be able to successfully do that locally since we have this constant debate between Western Slope and Front Range. Dave – Yes, we do this constant debate with the Western Slope and Front Range. The other issue to keep in mind is that on a broad prospective 70% of the water that arises in Western Colorado has to flow downstream to downstream compact states. It is an issue of timing and location. All of the existing Trans basin diversions are upstream from Glenwood Springs and the majority is upstream from Kremmling. The only ones that are not upstream from Kremmling are the Home State Project, Independence Pass and the Friar Project. Those are key areas they are trying to hammer out agreements among all the parties. Denver and northern areas are particular at the table because they have two major permit issues that are pending – one the Moffat Firming Project and Winding Gate permit. It is keeping them very much at the table on this. Commissioner Houpt wants to make sure our wild and scenic values are protected on the Western Slope and hope the River District is on line with this. Dave said very much so, we got into this when I was still a staff of the district along with Taylor Haas. Taylor left the district the same time I did a year and a half ago and is now heading up the Colorado River Project Nature Conservation and it is what I refer to as the Colorado – the uppity Yuma. The Nature Conservancy looking at the entire Colorado River system and keeping their project with TMC. The district is very much involved. I also have from Dan Birch a response to date on this and wanted to talk about where we should be going with this. (Dave handed the letter to the Board.) The issue regarding the 10,825 acre-feet to augment flows in the 15-Mile Reach; this number was arrived at about 20-years ago and at that point there was about 21,650 acre feet in the Ruedi Reservoir under Round II sales and was uncommitted. The U.S. Fish and Wildlife Service put a hold on that amount of water and used it for fish recovery purposes. Ruedi Reservoir is a federal facility built as part of the Frying Pan/Arkansas Project and it was the second of the so-called Basin of Origin Protection projects. The first one being Green Mountain Reservoir for the Colorado Big Thompson project and then Ruedi Reservoir for the Frying Pan/Arkansas Project. The Conservancy District statute says that the Water Conservancy District, which diverts water from the natural basis of the Colorado River out of that “shall provide measure such as the future cost and basin users who did not increase now, if the future supply diminished. This often had been referred to as compensatory storage but in a broader sense, we look at a basin of origin mitigation because there were a number of measures put in place in both the Frying Pan/Arkansas and CBT; they are beyond just storage issues; administration of stream bypasses well before there was any stream flow program. The big thing in the future was storage for Western Colorado. Ruedi provided that and that water was to be marketed even as early as when it was authorized in the 1960's and constructed, it was viewed that the principal use of the Logan Wash on industry. That has not happened yet. Some of it has been marketed for Exxon until the River District contracted for a larger amount – Exxon has the largest contract for 6,000 acre-feet from Round 1 water sales. There was also set aside within Ruedi Reservoir, originally there was 5,000 acre-feet set aside for endangered fish on an every year basis; 5,000 acre-feet then are the 4 out of 5 years on an operational basis for recovery program; and then this 21,650. In the 1990's there was a lot of concern in the Roaring Fork and Frying Pan basins about the large amount of water being used out of Ruedi just for recovery program purposes. There was a commitment made and a moral obligation of the water users both of the Front Range and West Slope water users to take half of the burden off Ruedi Reservoir and have 10,025-acre feet provided by the water users. They came up in 1998 in an interim agreement, which for the Front Range water users. Denver would make that water available until 2010 from the Wabash Reservoir and would be reimbursed for the power loss by their various entities. Then the River District would provide 15,412 half of that also from Wolford Mountain Reservoir out of the marketing pool all subject to 2010, with a commitment that by the end of this year we would identify an alternative for 10,825 for the water user's component. There are still 10,825-acre feet being released from Ruedi as a federal obligation, which can be completed in 2011. In 1998 there was also signed in agreement a MOU, which took about four-years to go through environmental permitting between the federal wildlife service and CDCBC to release and protect that waste until 2011. Supposedly, at that time other measures would be in place, which water would no longer be needed. Two of the big measures when you go to Grand Junction on an occasional basis you may see: 1) There is a fish ladder that was put in at the Roller Dam in DeBeque Canyon and; 2) You can see on the north side of the river about a mile downstream from the Roller Dam a very large fish screen that is able to keep any fish that get into the Grand Valley Highline Canal diversion and return to the river about a mile downstream. 3) Then, a couple of years ago the fish ladder was completed at the old Pike Stubbs Ditch right there where I-70 crosses over the river. That was a big

project about an \$11 million dollar project. The Recovery Program has increased the range of the fish above DeBeque Canyon by those measures but there is still this commitment and for the past 3-4-years, a process has been going on to identify where this water users water will come from. You can build a new storage; how are you going to pay for it; these kinds of things. We have gone through quite a bit of studies. Kerry Sundin was managing that project and it was a joint project with the River District, northern Denver, southeast, Ute water entities, some of the larger entities in the West Slope were involved in this, none of the smaller entities were involved at all - the Eagle River entities and Vail Resorts. What has happened now is a proposed alternative, which even though there is no construction involved; it needs to go through NEPA with the Bureau of Reclamation. The alternative is there would be a 5,412 released from Ruedi Reservoir with the ultimate intent that was this 5,412 that's released on a permanent basis would replace the current 10825 federal obligation, which is due to terminate in 2012. Then there is also going to be 5,412 released from Granby Reservoir. This is a very big deal to Grand County. It will put 25 cfs in the river, which does not seem like an awful lot down here but when you have releases from Granby Reservoir anywhere from 40 to 75 cfs, 50 cfs is a lot. The Front Range obligation would be met by this 5,412 coming from Granby Reservoir and being scheduled on down. If the water were not needed down the 15-mile Reach at the time released from Granby it would be exchanged back into Green Mountain Reservoir and then released later because that amount of water changed back into Grand Mountain Reservoir, you would not even know it. The issue we are coming down with is, number one the EIS itself is expected to cost \$500 to \$600,000.00 dollars and is not in the EIS just the EA really run by reclamation. We hope it can be kept to that amount and then ultimately it is going to be, and the River District is hoping to get this water from Ruedi on a non-reimbursable basis. We are working with congressional representatives to try to get that as fish and wildlife service water, non-reimbursable. If it has to be paid for, it will be expensive. It will be \$8 million dollars for a one-time purchase costs. Commissioner Houpt – Don't you think there is a good argument for it to be non-reimbursable. Dave Merritt - I think there is more than a good argument frankly, the bureau sees it being pushed back and they want the project repaid; it was authorized out of construction in 1969 – that means by the statutes that were in place at time – it was supposed to be repaid by 2019, which is a lot closer than what it was when I came to work of the Colorado River District. What the district has done has sent out letters seeking financial support from water user entities and most of the funding being requested is from municipalities who really are the smallest piece of the use in Western Colorado. The municipality entities were asked for a fair bit. We have received back some responses, many non-responses to date – the only hell-no we received back was from Palisade. It is a personal thing with Palisade – it is over the Recovery Program, the fish ladder, and not putting a Kayak course at the fish ladder. Chair Martin – They were okay with saving the fish they had paid to get rid of but because the Kayakers did not get to play in the river with the new water feature. Dave – The new water feature, if you saw it going in, you know you do not want to go over it in a Kayak. It is the enormous vertical concrete cylinders. Commissioner Houpt was assuming the rationale behind this list was because these are the cup of water suppliers. Dave – The district has been involved in the Recovery Program since the late 1980's and really started in the early 1980's with the initial studies. The first initial payment was referred as the Windy Gap Solution in which there was a one-time charge of \$10.00 per acre-foot of consumptive use assessed against new projects. This is the first time the River District has ever asked municipality users or any water entities to pay for participation in the project. Commissioner Houpt asked has the River District made the decision to ask the water providers as opposed to counties, fish and wildlife. Then the argument is going to be made that it should be non-reimbursable because of the value it brings to the river too. Dave – Personally, I objected to asking just the public water entities – it is a boarder benefit if you look at the amount of water that is consumed by all the municipalities within Western Colorado. It is about 10 to 15% of the water that is consumed. The majority is consumed by agriculture. We all benefit from keeping agricultural in production. Commissioner Houpt – I am not usually one to argue why we should have been put on this list but you might talk to the Board about expanding. I would expand to state and federal agencies too because then I think you can make a stronger case for not having to reimburse for this water. Dave – I think we have a better chance of getting \$5,000.00 from the Town of Silt than we do from the City government right now. Chairman Martin – Yes, because they are still under extreme hardships. Commissioner Houpt – Then the argument can be made that they were recognized as a partner. Dave – We have a programmatic biological opinion (PBO) on the Colorado River, which provides Endangered Species Act compliance to over 1 million acre-feet of existing and 120,000 acre-feet of new water depletions above the 15-Mile Research, including those of Garfield County's water system. (The 15-Mile Reach refers to the 15 river miles of the Colorado River upstream of the confluence with the Gunnison River. This critical river reach is the focus of much of the Recovery Program's efforts to recover the four endangered species of the Colorado River. All four listed species inhabit this reach of the river. There are roughly 40 west slope major water users above the 15-Mile Reach that would benefit directly from the protections offered by the PBO. Our depletions total roughly 500,000 acre-feet. The other half of the depletions stem from the various trans-mountain diversions that serve the Front Range. One of the requirements of the PBO is for west slope and east slope water provides to dedicate a permanent water supply in the amount of 10,825 acre-feet to augment flows in the 15-Mile Reach. Water users have identified a preferred alternative of providing one-half from Ruedi Reservoir and one-half from Granby Reservoir. There are a number of items that need to be addressed in order to implement the preferred alternative. To begin, since the preferred alternative utilizes federal storage facilities, we will need federal action and that action triggers the need for National Environmental Policy Act (NEPA) compliance, which in turn will require either an environmental assessment or an environmental impact statement. NEPA may cost as much or more than \$500,000.00 and it is incumbent on West Slope water users to pay for one-half cost. Today, Dave said he was here to solicit a contribution for "X" number of dollars for a portion of the west slope's share of the NEPA-related expenses. A pledge of support would be adequate. The cost of purchasing a contract for 5,412.5 acre-feet of water from Ruedi at the end of 2012 is projected to be roughly \$8 million. As this is just the West Slope's half of the 10,825 obligation, this amount would be entirely the west slope's obligation. The River District is exploring congressional legislation declaring the permanent dedication of the 5412 to the fish as non-reimbursable (at no cost). There are no guarantees when dealing with the federal government. Dave said this is the first time we have ever asked water entities to participate and pay. None of the other news with PBO has been involved with public water. Chairman Martin – With those water bodies, the Yampah and Gunnison, there is no controversy either in this particular project. In fact, there was a big meeting in Yampah about this particular issue and the diversion that is going to take place on the Yampah, which then affects other diversions. It is not an easy issue but I think you have taken the right position and I support you on that. Dave – We want to spread the impact. Commissioner Houpt – It does not look like you will be able to collect very much but I also think it is

very important to send the message that the folks who benefit goes beyond water providers. Chairman Martin – One technical question is in reference to the release out of Ruedi, was the actual physical ability to get it through Basalt and their bridges and towns and everything else – remember when we had the releases before it caused quite a hardship for the town and everyone else along that river. Is it going to that with the increase of flow? Dave – Actually at the time of year this is released we are not even close to that – the issue in the flow constraints we are working on for these releases in late August through October 15th timeframe. We are looking at flow constraints around 250 to 300 cfs. The flow constraint there is not the fishery; it is the fishermen and the fish ability. We are not even close to being concerned with the capacity of the bridges. Commissioner Samson – Where is the Blue Stone Water Conservancy? Dave – It is actually the Roan and DeBeque Creeks – it is relatively an inactive water district and for a long time, there was joint management district between Blue Stone and the River District. I am a Garfield County appointee to the DeBeque District, Mesa County and Garfield County director on that. That was established in 1981 and we had a long-term lease with water rights with Chevron and they were to build a small project down there; they have built disconnected pieces of the project. There is river intake that is on the Colorado River that is large enough to pump 50 cfs on the river sitting there. It is concrete and you can see it. There are no pumps or anything else in it and then part way up there is a section of pipe that was piped to and would discharge back to Roan Creek above the city and reservoir ditch. Further on up is a diversion structure that would divert water from the Roan Creek over to Logan Wash Reservoir. A joint management district and Dave is the Garfield County appointee. That was established in 1981 and had a long-term release with Chevron and they were to build a big project down there. He explained; Divert Roan to the Logan Wash Reservoir. Three continuous pieces were built and they signed the long-term lease right after the oil shale bust and then paid for 25-years. Then 2-years ago when things were starting to boom again, terminated the lease. The Conservation District has representatives both from Mesa and Garfield counties that are appointed by the County District court judges. Commissioner Samson – On the front page of your handout, I am curious as to why certain entities are highlighted? You have the Town of Breckenridge, City of Aspen and Winter Park Water and Sanitation District. Dave was not sure why Dan Birch highlighted those and has not discussed it with him. I am not sure because two of the three have not participated at all yet. The majority of participation you can see had been from and would expect to get contribution and involvement from the Conservancy District because they have been in Middle Park and they are well aware of this, West Divide, Basalt – those entities have been involved. They have a general charge for developing and protecting water resources. Chairman Martin – The only common thread is they are all in the ski industry. Dave – Where we have contributions from today have been the ski entity – Breckenridge itself is also a single subsidiary of Vail Resorts. Parachute is the one small town we have received a contribution. I was pleasantly surprised with Parachute. Chairman Martin – Do you need any other direction - we are behind you.

2008-AUDITED FINANCIAL STATEMENT AND MANAGEMENT LETTER – PAUL BACKES

Paul Backes, Lisa Dawson and Cathleen VanRoekel were present. He walked through the process the audit firm goes through when they do an audit. Finance went forward with an additional step – cappers. Paul Backes submitted the Independent Auditor's Report and a letter stating the audit that ended December 31, 2008. The report was very positive reporting there were no difficulties in performing the audit, no material misstatements were identified during the audit and there were no disagreements that arose during the course of the audit. Management Representations: As is required in an audit engagement, the firm has requested certain representations from management that are included in the management representation letter – certain matters related to opportunities for improvement of internal controls and day-to-day operations, which are presented for your consideration.

- Sheriff's Department – A fundamental part of a good internal control system is that no single individual will have access to both an asset and its related reconciliation. Management interviews indicated that the Sheriff's Office has several areas whereby controls could be greatly enhanced by changes in duties. This results in a much higher risk of misappropriations of assets and a higher likelihood that errors could be made and not corrected in a timely manner. This risk could be mitigated through a proper segregation of duties and a change in method of processing transactions. The Sheriff's department should improve its cash handling and internal control procedures by considering the following changes:
 - The inmate balance reflected on the KEEF system does not reconcile to the cash balance. Although the Sheriff's Office was working on completing this task, it was not completed by the time audit fieldwork was performed. These amounts noted on KEEF should be reconciled on a monthly basis and any differences should be identified and researched. Differences should be reviewed to ensure they clear in a timely manner. An individual should perform reconciliation with no access to inmate account balances.
 - Cash Receipts: The County's New World Systems has a cash-receipting module of New World Systems. This will allow cash receipts to be posted directly to the proper revenue accounts based on the nature of the receipts. The "deposit" should be prepared in a manner which distinguishes between cash received/deposited and CC receipts which will post separately to the bank account.

Paul went through the report stating these were very prudent fund balances. The financial results will show Garfield County is very prudent in how they handle the finances. Commissioner Houpt – We did plan in case we were impacted when the boom and slow-down in the oil and gas industry did occur. Now we need ample reserves for the slow-down and drop in sales tax revenues. Paul – Yes, Garfield County did have a good revenue growth during the boom and the main factor was you held onto it. When revenues are declining, then Garfield County has it to prevent and mitigate the impacts. Paul gets concerns when fund balances are low. Garfield County is a good model to save for a rainy day. Chairman Martin – We try to stay at a comfort level of 50% or better. It is a big temptation to spend it. Commissioner Houpt – We are anticipating it will not be as high in a few years. Paul – You do have revenue balances at a reasonable level. Commissioner Houpt – When you are dealing with a public governmental agency it is important to have a healthy fund balance. Garfield County is better than some but not as good as others. Paul – The County's fund balances are at good levels and the reporting was great. *Useful life of buildings:* According to Paul, these were reasonable with the estimates and in fact, he did not have any difficulties. All departments seem to work quite well and the finance office gave us the resources we needed. *Corrected and uncorrected statements:* – We did not have to make any adjustments with financial statements. *Disagreements with management:* Management representations - for your information he asked management to sign a letter that no one had stole any money or lied. This is part of the internal control. *Inmate fund:* Paul said this has been a problem for 3-years. This

is an internal control. Chairman Martin – In the first line of the letter, the Sheriff is willing to work with you and take it as a very constructive manner. Commissioner Houpt thanked the staff for this year’s document expressing it was very well done. It is a wonderful tool for everyone to have in their files. Paul – The goal is to have finance run smoothly; it is doing just that and it is appreciated from an auditor’s perspective. Commissioner Houpt – This is also an important document for the public to have access to and appreciates the feedback.

CONSIDERATION/APPROVAL OF 2009 IGA FOR MOSQUITO CONTROL – STEVE ANTHONY

Steve Anthony presented the IGA for mosquito control for 2009 for the approval of the Board. Steve stated the City of Glenwood Springs, Town of Carbondale, City of Rifle, Town of Silt, Town of New Castle, and the Town of Parachute were participating parties to the agreement. This is the same agreement but the dollar amount changed. Commissioner Houpt – Rifle puts in a great deal to assist with this program. Steve – Rifle and Parachute have the most mosquito issues. Commissioner Houpt made a motion to approve the IGA for Mosquito Control and authorize the Chair to sign. Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson - aye
XCEL ENERGY RELOCATION AGREEMENT, GARFIELD COUNTY REGIONAL AIRPORT – MARK KUBESA

The design and estimate to relocate both the Natural Gas line and the overhead electric distribution line (25E) presently located to the existing CR 319 alignment is as follows:

- *Electric* – Xcel Energy will install 1955 linear feet of underground electric conductors from their substation property to the east end of the proposed Airport Road construction. The electric line will be installed when the proposed roadway is at “sub-grade” condition. The new underground line will then transition back to an overhead circuit at the far-east end of the new road alignment. The electric line will be installed in a common utility trench with the new gas line. The cost of this is \$61,700.00.
- *Natural Gas* – Xcel Energy will install a new natural gas line in the proposed County Road 319 alignment. Once this line is installed and activated, the existing line presently located in CR 346 and CR 319 will be abandoned. The new line will be installed 2-feet south of the proposed edge of the asphalt. The cost of this work is \$34,895.00.

The above estimates are contingent on all trench and backfill provided by your contractor. Xcel will require a 24” wide by 48” deep trench. A one-foot vertical separation between the electric and gas line is required. A map outlining the projects was submitted and highlighted. Carolyn – This is the second half of the project.

Commissioner Samson noted it would take 240-days for the project is to be completed.

Mark – This would get you to October 1, 2010. It could be sooner. Commissioner Houpt made a motion to approve the Xcel Energy relocation agreement as presented. Commissioner Samson seconded the motion.

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

APPROVAL FOR CONTRACT AWARD FOR THE CONSTRUCTION OF CELL 6 AT THE LANDFILL – MARVIN STEPHENS

Marvin Stephens, Kraig Kuberry and contract manager Kent Long submitted a summary and necessary Board action regarding the “Construction of Cell 6 at the West Garfield County Landfill.” An RFP was posted and advertised for the construction for the 117,000 cubic yard “cell” at the Landfill. Fourteen proposals were received and evaluated. Marvin stated if the Board so chooses to continue with this project, the period of performance will commence upon execution of a firm, fixed price contract and would end on October 31, 2009. The firm, fixed price contract amount is for \$202,000.00. Today, a discussion was held in regard to approve or disapprove of the recommended award. The evaluation team that evaluated the project proposals consisted of Kent Long, Todd Urban, Kraig Kuberry, Marvin Stephens and Randy Withee. The major criteria for the selection were based on performance and price. The review committee recommended the Board approve the award to Con-Sy, Inc. in the amount for \$202,000.00 for the construction of Cell 6 at the West Garfield Landfill to be completed by October 31, 2009. Commissioner Houpt remarked when she saw the bids the bidding range was all over the place. Kraig – The last bid for the last cell construction came in at over \$1 million and this time it came in under \$600,000.00. This one, to be built, is shallow. Commissioner Samson made a motion to award the contract to Con-Sy, Inc in the amount of \$202,000.00 for the construction of Cell 6 at the West Garfield Landfill to be completed by October 31, 2009. Commissioner Houpt seconded the motion.

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

COUNTY ROAD 332 SIGN CHANGE REQUEST – MARVIN STEPHENS

Marvin Stephens submitted a request for a sign change on County Road 332 explaining it is located where you cross the ditch and since Wal Mart came in, there is more traffic. There have been many near misses and there is currently a yield sign placed at this location, however due to the increase in traffic we need a stop sign changed from a yield sign before someone is seriously injured. Commissioner Houpt so moved. Commissioner Samson seconded the motion.

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

LETTER OF SUPPORT FOR CMC EDUCATION GRANT – KRISAN CROW

Krisan Crow presented. FIPSE (Fund for Improvement of Postsecondary Education), a cooperative agreement in response to problems of national significance to meet the unique needs of Community College students and adult learners to prepare them for high-grown occupations to meet employer needs. This proposal offers \$300,000.00 to \$750,000.00 funding over three years. The Gateway Employer Project seeks to address the continuing needs for workforce training and education while providing proactive local leadership in recruiting and/or development new employers able to hire the graduates for our workforce training programs. Today, Krisan is requesting a letter of support from the Board of County Commissioners. She is the new Director and oversees the Gateway Program. These are innovate models with the proposal due in 1-week and requested the Board’s support. Krisan stated that she would visit this afternoon with the City of Rifle, from 3p.m. – 5p.m. regarding green business; they plan to start small and try to figure out the type of training required. These are in the field of energy including energy audits, green villages, recycling products, solar, wind, and solar shed as well as green modular home construction. She is expecting those with whom she meets with this afternoon will give her some assistance. It is a wonderful way to start collaborating with local business and help relocate workers as well as assist those who need training. Alice Laird will be at the meeting. Krisan is impressed with how the County is active in partnering. The letter of support would be saying that the Commissioners believe this is a great opportunity and to add some comments and suggestions. The letter is due on July 29, 2009. Commissioner Samson moved to draft a letter for the IPSE grant for the CMC Education Grant and gave Krisan direction to work with Mr. Green in drafting the letter in order to send it to the appropriate entities Commissioner Houpt seconded the motion.

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

COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE
UPDATE ON CONTRACT NEGOTIATIONS AND FAA

Carolyn needs to provide updates for 306 Prince Creek; Beaver Creek and 3 items for public discussion: North Bank and interpretation for one of the Code requirements. Carolyn will need Marvin as well in the session. Commissioner Houpt made a motion to go into an executive session to discuss the item presented by the Deputy County Attorney and County Manager. Commissioner Samson seconded the motion-In favor: Houpt – aye– Martin -aye Samson - aye Commissioner Houpt made a motion to come out of Executive Session. Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson - aye

Ralston

Carolyn Dahlgren stated the County Attorney’s office is asking the Board to reverse the authority to start a lawsuit on the property owned by Ralston. Commissioner Houpt so moved. Commissioner Samson seconded. In favor: Houpt – aye Martin – aye Samson - aye

Young and Boast

Carolyn stated she is seeking authority to start a lawsuit including seeking an injunction on property owned by Young and Boast at 4798 County Road 320. Commissioner Samson so moved. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye Samson - aye

Zoning Code Enforcement Officer

Carolyn - A question for the Board on whether or not you wanted to take public action to relay the authority of your Zoning Code Enforcement Officer under Article 12 to take enforcement action without coming to you on each item. Commissioner Houpt said that this is just direction and no action was needed.

Beaver Creek County Road 317

Carolyn - regarding Beaver Creek County Road 317, we are wanted to know if it is okay with you as long as the road construction agreement is signed. In addition, the only thing to do is to schedule permits in front of you on August 3rd, if the Board is okay for Larime Energy and Canyon Pipeline to continue work on County Road 317. They have started construction without a grading permit and without administrative permit. Commissioner Samson – I think we will be fine. Carolyn said we need a formal motion not to enforce. Commissioner Samson – So moved. Commissioner Houpt second but I do have to say they need to come forward and fix that situation or there will be action. Chairman Martin – This has been going on for better than a year, the discussions and negotiations and it comes down to the final documents being signed. We are in good shape there. In favor: Houpt – aye Martin – aye Samson - aye

CLARIFICATION AND DIRECTION TO STAFF ON BOCC REPRESENTATIVE, BLM CO-OPERATING AGENCY, POWER LINES

Carolyn submitted a verbatim transcript of the Minutes of July 6th naming the staff contacts as Fred Jarman and Commissioner John Martin. These are the names of the ones the Board moved, seconded, and approved at the last meeting. Commissioner Houpt said she reviewed the minutes and the intent was to have Fred Jarman or someone he delegated to participate. We had talked about the long-term planners being the key contact. The intent was that Fred or his designee and Commissioner Martin be the representative from the Board of County. Commissioner Martin stated he could share his former participation on this issue with Fred. Carolyn – However, the Board planned to say what the motion said. Commissioner Houpt – Correct, Fred has the right to designate.

CONSENT AGENDA:

- a. Approve Bills
- b. Inter-Fund Transfers
- c. Changes to Prior Warrant List
- d. Authorize the Chairman to sign the Land Use Change Permit for a Kennel. Applicant is #10 Enterprises, LLC – Fred Jarman
- e. Authorize the Chairman to sign the Resolution of Approval for Amendments to the Text of the Unified Land Use Resolution of 2008 – Fred Jarman
- f. Authorize the Chairman to sign the Final Plat Amendment for Panorama Reserve Subdivision, Second Amendment Subdivision Improvements Agreement, and Amended Treasure’s Deposit Agreement. Applicant is Cort Lewis – Fred Jarman
- g. Authorize the Chairman to sign the Exemption Plat for the Janusz Exemption located in the E ½ of NE ¼ of Section 27, Township 6th South, Range 89 West of the 6th P.M. and more commonly known as 3642 Highway 82. Applicants are Christopher and Astrid Janusz. – Kathy Eastley
- h. Authorize the Chairman to sign a Resolution for a Special Use Permit for Extraction, Processing, Storage and Material Handling of a Natural Resource for the RTZ Gravel Pit located in the SE ¼ of the SE ¼ Section 28 and Section 33, Township 7 South, Range 96 West of the 6th P.M. Applicants are Specialty Restaurant Corporation and Stockton Restaurant Corporation as owners, and RTZ Industrial LLC as operator. – Kathy Eastley
- i. Authorize the Chairman to sign the amended Resolution of Approval for the extension of the Preliminary Plan for Valley View Commons Subdivision. Applicant is Darter, LLC – David Pesnichak
- j. Authorize the Chairman to sign the Resolution & Land Use Change permit for a Sand & Gravel Extraction Operation known as the Furr Pit located in Sec 11, T 8S, R 98W. Applicant is David Furr. – John Niewoehner
- k. Authorize the Chairman to sign the Resolution & Land Use Change Permit for a Sand & Gravel Extraction Operation located on CR 204 approximately 1 mile NW of Roan Creek Community Center in Sec 33, T 6S, R 98W. Applicant is Erwin Knirlberger. – John Niewoehner
- l. Authorize the Chairman to sign a Resolution and Conditional Use Permit to relocate and stabilize a structure (Glover Cabin) for use as a ‘community building’ and repeal Resolution 2006-57 on a site addressed as 7235 CR 300, located in the ARRD zone district. Applicant is Grand Valley Historical Society. – Dusty Dunbar
- m. Liquor license renewal for Rainbow Hospitality Inc. d/b/a Sunlight Mountain Inn – Jean Alberico

Commissioner Houpt so moved to approve the Consent Agenda items a – m. Commissioner Samson seconded the motion. In favor: Houpt – aye Martin - aye Samson - aye

HUMAN SERVICES COMMISSION:

DISABILITY – DIANA MARTINEZ

Rescheduled – No report. Diana Martinez was delayed at the Denver Airport.

BOARD OF HUMAN SERVICES:**APPROVAL OF EBT/EFT DISBURSEMENTS FOR JUNE 2009**

Lynn Renick submitted the EBT disbursements for June 2009 for a total amount of \$720,227.78 and requested Board approval. Commissioner Hought so moved. Commissioner Samson seconded the motion.

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

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACT AGREEMENT

Lynn requested consideration and approval of the Out-of Home Purchase for Service Agreement for SFY19, agreement #723-B for State ID#Y82682 at Excelsior Youth Centers for a not-to-exceed amount of \$65,973.75. Commissioner Hought so moved. Commissioner Samson seconded the motion.

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

CONSIDERATION AND APPROVAL OF THE SFY10 MEMORANDUM OF UNDERSTANDING WITH THE COLORADO DEPARTMENT OF HUMAN SERVICES FOR THE COLORADO WORKS AND CHILD CARE ASSISTANCE PROGRAMS

Lynn Renick and Diane Watkins were present. The Department is requesting approval of the Colorado Department of Human Services' Memorandum of Understanding for provisions of services in the Colorado Works and Child Care Assistance Program. Lynn stated the Colorado Works Program is funded by federal Temporary Assistance for Needy Families (TANF) funds. The term of the agreement is this MOU is from July 1, 2009 through June 30, 2010. There are no significant changes to the document from last year. Commissioner Hought made a motion to approve the MOU with the Colorado Department of Human Services for the Colorado Works and Child Care Assistance Programs. Commissioner Samson seconded the motion. In favor: Hought – aye– Martin - aye Samson - aye

CONSIDERATION AND APPROVAL OF THE COMMUNITY SERVICES BLOCK GRANT AGREEMENT WITH COLORADO DEPARTMENT OF LOCAL AFFAIRS FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING

Lynn Renick and Diane Watkins were present. The Department has received the contract with DOLA in the not-to-exceed amount of \$70,849.00 for services to be provided to eligible residents at or below 200% federal poverty guidelines in order to assist with job search and readiness activities. These funds must be expended by September 2010. A contract with Colorado Mountain College is being prepared to provide services under this grant. Commissioner Hought so moved. Commissioner Samson seconded the motion.

In favor: Hought – aye Samson – aye Opposed: Martin – I support the effort but think we should find a way to support this within the County and not burden our children and grandchildren with stimulus money. It is a matter of principle. Carolyn asked who she should contact regarding this subcontract with CMC. Lynn stated Diane Watkins.

CONSIDERATION AND APPROVAL OF THE SFY10 AREA AGENCY ON AGING NOTICE OF GRANT AWARD FOR CAREGIVER AND SENIOR SERVICES/EQUIPMENT

Lynn Renick and Diane Watkins were present. The Department is requesting approval of the renewal agreement with the Area Agency on Aging of Northwest Colorado to provide Caregiver and Senior Equipment /Services for a 5-county area, including Garfield, Eagle, Moffat and Routt in the not-to exceed amount of \$102,484.00. This represents a decrease from last year. Commissioner Samson so moved. Commissioner Hought seconded the motion.

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

CONSIDERATION AND APPROVAL OF THE SFY10 AREA AGENCY ON AGING NOTICE OF GRANT AWARD FOR SENIOR CONGREGATE NUTRITION SERVICES

Lynn Renick and Diane Watkins were present. The Department is requesting approval of the Notice of Grant Award in the amount of \$140,070.00 for the provision of congregate nutrition services in Garfield County. This is an increase of approximately \$13,900.00. Commissioner Samson so moved. Commissioner Hought seconded the motion. In favor: Hought – aye Samson – aye Opposed: Martin – aye My opposition is due to this being the American Recovery Act and we are burdening our children and grandchildren with financial debt.

CONSIDERATION AND APPROVAL OF CONTRACT WITH VALLEY VIEW HOSPITAL FOR MEAL PREPARATION AT SENIOR MEAL SITES

Lynn Renick and Diane Watkins were present. The Department is requesting consideration and approval of the contract with Valley View Hospital for the preparation of the congregate meals to seniors at the Lucy Huntley Senior Center (Colorado Mountain College), Sunnyside and the Carbondale Senior Housing site. The contract reflects no increase per meal cost. (\$4.00 for CMC and Carbondale and \$4.25 for Sunnyside). The contract is effective July 1, 2009 through June 30, 2010 in the not-to-exceed amount of \$42,000.00. Commissioner Samson so moved. Commissioner Hought seconded the motion. In favor: Hought – aye– Martin - aye Samson - aye

CONSIDERATION AND APPROVAL OF INTERGOVERNMENTAL AGREEMENT WITH CITY OF RIFLE FOR MEAL PREPARATION AT SENIOR MEAL SITES

Lynn Renick and Diane Watkins were present. The Department is requesting consideration and approval of an IGA with the City of Rifle for the preparation of meals to seniors at the following sites: Rifle Senior Center, Parachute Senior Center, Silt Fire Department and New Castle Senior Housing. The meals are prepared at the Rifle Senior Center facility and the Traveler transports meals to the Parachute, Silt and New Castle locations. The contract reflects no increase in per meal cost of \$4.00. The contract is effective July 1, 2009 through June 30, 2010 in the not-to-exceed amount of \$65,000.00. Commissioner Samson so moved and stated it is great that there is no addition to the meal cost. Commissioner Hought seconded the motion. In favor: Hought – aye Martin - aye Samson - aye

PROGRAM UPDATES

- Attached is a letter from the Colorado Department of Human Services Division of Child Welfare confirming that the Department is receiving a grant in the amount for \$10,600 for digital pen technology in order to increase efficiency of the case documentation process.
- Attached is a letter from Colorado Department of Human Services' Promotion Responsible Fatherhood Program providing notification that the Department has been awarded a grant in the amount for \$35,000 for its Fatherhood Program beginning October 1, 2009 through September 30, 2010.
- August is the opening of this year's Heart Gallery event in Garfield County. The exhibit tours the state with portraits and information about adoption. It will be located at Valley View Hospital, with a kick-off

barbeque planned at Sopris Park on the fourth of August, to raise awareness and assist with recruitment and education, as well as show our appreciation to adoptive families.

- State budget reduction discussions continue with the Colorado Department of Human Services. Although the preliminary allocation letter has been received, additional cuts to some of the allocations are expected. It is anticipated that counties may have some definitive numbers by the end of July.
- The Department received notification per State purchase order for \$16,425.54 to continue licensing activities in Garfield and Pitkin Counties for childcare homes in SFY10.
- The State's Division of Child Care is contracting with a non-profit, Qualistar, to develop four regional childcare resource and referral 'hubs' across the state (to begin January 2010), instead of local resource and referral programs. In this area, Kids First currently provides these services. The entire Western Slope will make up one 'hub'. More information is being requested regarding this plan; however, there are concerns about the potential for decreased local access to services for residents seeking childcare providers that best meets their needs.
- Lynn Renick has been appointed by the Governor to serve on the Child Support Commission (per statute 14-10-115(16)). The charge of this State Commission will include review of the current child support guidelines, potential review of the minimum order amount and impact of the new federal medical support regulations.

Commissioner Houpt gave congratulations to Lynn on her appointment by the Governor to this Child Support Commission.

BOARD OF HEALTH:

UPDATE ON EPA CARE GRANT, UPCOMING COMMUNITY ENVIRONMENTAL HEALTH ASSESSMENT – JIM RADA

Chuck Stout, Diana Smith, Jim Rada and Mary Meisner presented. Mary Meisner and Jim Rada presented a memorandum reporting that they are ready to move forward with a series of strategies to further progress with our Level I Care (Community Action for a Renewed Environment) grant from the Environmental Protection Agency (EPA). The strategy includes a series of mechanisms to engage a wide range of the general public, and another strategy will engage a representative portion (50 – 75 individuals) of our diverse community in a structured three-step process. Taken together, we are confident that these efforts will result in a resident-driven, consensus-based process that will identify the most significant health issues facing Garfield County and put them in priority order. Additionally, we have entered into a partnership with the Colorado School of Public Health, Center for Public Health Practice, to implement one phase of this work. Jim continued to give an outline of the community facilitation process. It will involve several methods for reaching and engaging Garfield County residents:

- Individual contract in all County communities (Battlement Mesa, Carbondale, Glenwood Springs, New Castle, Parachute, Rifle and Silt);
- Public meetings in all County communities;
- Individual meetings with key members of identified stakeholder organization such as elected officials, industry groups and environmental organizations;
- Public information via media outlets, websites, newsletter, email, etc.;
- A consensus-building activity with a representative portion of the Garfield County community comprised of 50 to 75 individuals.

Jim continued providing an elaboration of the outline in written form, Care contracts displayed in a graphic illustration, and a draft letter to residents as key informants. The letter will go out to individuals under the Garfield County Commissioners explaining the process and consultants. Our "facilitation consultant" form is Royce Arbor, Inc. The consultants working on this project are Diana Royce Smith, founder of the firm who has more than 25-years experience and organizations in Colorado and elsewhere, Chuck Stout who served as Public Health Director in Boulder County for 18 years, where led community engagement processes focused on environmental and human health issues. Chuck and Diana are the contractors to facility this contract. Jim gave a summary background stating that in 10-days it will Jim's fourth anniversary. When hired, Jim was charged with the development and initiation of the assessment process. Air quality was in conjunction with the Saccomanno Research Institute on a health assessment with Mesa, Montrose and Delta Counties, oil and gas on hydro studies, EPA on graphics. Jim will provide the Board and other leaders about what we know about Garfield County. The 2008 draft is on data gathered over 4-years; the BOCC have supported a lot of the information on the status of environmental health in Garfield County both short and long-term. In addition, he was charged with relationships with citizens, industry and community leaders to understand and work with them. In 2007, the County received the grant. It was a slow start with the RGI grants and monitoring. The CARE project stated in 2008 last summer with outreach on community and leadership and, how it relates to public health regarding a preliminary perception data; and, soliciting participation in this process. We have between 70-80 people to see us move forward and we will use this to obtain more advanced issues on EIA within the community. There was also a contract with Royce Arbor. Diane and Chuck are here to answer questions. Diane Smith said she has been working with Public Health with a citizen's consistence group on what the concerns are and put those in priority. Then it was broken down into a 3-phase process consisting of public meetings with the Garfield County community. It was designed to give everyone an opportunity to share his or her views. We also did a great deal of public outreach by going around and talking. The third phase was a consensus building to share other's views. We have come closer to understanding some similarities and our counties have come together. We stared with this board and Public Health and we included the Board of County Commissioners and brought forth this information. We also met with towns and administrators in the County. Chuck Stout – We recently hired a retired Public Health Director in Boulder. Commissioner Houpt asked how you would draw in those people who do not live in the incorporated and unincorporated parts of the community. Chuck – 1) Assumptions from Boulder: They have twelve towns and municipalities and work with a large diverse population and we starting meeting with all of the town administrators needing to know what things have worked so far and what has generated public meetings. We need to go where people are attending other groups. Sectors involved with societal occupational status and get a representation from each so we are included all parts of the County. Then we take this back out and meet with more people to provide the feedback. We needed access to background materials that describe the EIA health risks – human impacts and prevention techniques; and, then we will provide this to the County as to who would provide the benefits. We went to Sweetwater, Mac and above New Castle; we looked at

rural schools as 51% are outside the incorporated areas. Jim stated his last request is for a letter drafted expressing the Board of County Commissioner's interest in asking participation. Jim asked to have it signed and sent out to the key components. We are building a significant list. Commissioner Houpt – She would like the entire Board to sign the letter. Jim said this would be carried out over the next 4-5 months and be complete by the end of the year. This effort coincides with others that will be implemented with Public Health per the Reauthorization Act in 2008 that creates the master assessment required under the new law. Mary Meisner – This will help us with information. Jim said this is the opportunity he has with the Center for Public Health and includes them more extensively in partnerships in the state. Commissioner Houpt made a motion to approve the letter presented by the EIA Health and include all of the Commissioner's signatures on the letter of support. Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson – aye Commissioner Houpt made a motion to come out of the Board of Health. Commissioner Samson second. Motion carried.

DISCUSSION OF SUPPORT FOR PROJECTS UNDER SENATE BILL 232 – BOBBY KNIGHT AND JOHN HIER

John Hier and Commissioner Samson had a meeting in Denver with Susan Kirkpatrick and as we know, SB 232 has awarded Garfield County with \$17 million available to help federal mineral leasing. Garfield County has identified a project and is working to get \$10 million dollars in a grant to help with the West Parachute Interchange. Representing the West Parachute Interchange was Mayor Roy McClung and Bob Knight from Parachute. Bob Knight - The overpass was intended to be a full interchange when Exxon closed, now they wish 25 years later that this had been done. About 5 or 6 years ago the Town of Parachute initiated the process to get this interchange constructed, which included the 1601 process through CDOT of which Garfield County did partner with us to help with pay for the study. We have nearly completed the 1601 process including the environmental assessment, engineering, public meetings, processed this through the federal highway administration and received their approval. The only things left it is sign off on the final engineering and it will not be done until we are ready to release for bid. Now we need the money to pay for it. We were disappointed we were left out of the American Recovery Act stimulus money; we felt this would have been an ideal project for that and somehow it was completed overlooked. CDOT owned up to some of that. Commissioner Houpt was also surprised. Bob Knight – We decided to charge forward; our state legislators helped us by amending SB 232 anticipating to put these funds directly toward some of these serious transportation needs. This is one of the most serious needs. During our meeting with Susan Kirkpatrick we discussed how regional support is critical to get the \$10 million grant. This grant is going through the Tier 3 formula. Rio Blanco and Moffat counties have agreed to support the \$10 million dollar grant application provided that Garfield County be on board to provide us with out matching funds. Susan has her heels dug in and we absolutely have to come with a 25% match. My comment to her was that 25% of \$10 million dollars is our total annual budget, which is impossible for us to do by our self, especially considering this interchange is a federal highway under state control outside of the City of limits and outside the Town of Parachute. Dan Roussin from CDOT – This is a different program area and he is in charge of the access permitting area which is a small portion of what you are talking about. Our program engineer Joe Elsen handles the 1601 process; he is fully in charge of this project. Commissioner Houpt – Question for CDOT; why wasn't the interchange part of the Recovery Act program and if it had been that would have been for part of this match. What is the cost of this interchange? Roy McClung – We are also in the process of building a truck route to take heavy truck traffic out of our business district, senior citizen area and our elementary school. Initially we had lumped these two projects together because we do not feel they are exclusive. One without the other is almost a moot point. We know that it is going to be difficult to get funding for the entire project. The total price tag is \$17 million, which includes the bridge over Parachute creek the remaining piece of roadway. By the way, most of the roadway has been constructed by a private developer. It would be about 1,500-feet of roadway and a bridge in the neighborhood of \$3 million dollars. The price tag is right around \$14 million for the actual interchange. We have been in conversations with CDOT to do some value engineering and maybe we do not need all the fancy stuff they had engineered in the begging to bring the price down. We are also getting some help with the fact with the economy as it is now the cost of construction is lower than it was 16-months ago. We feel our bids will be lower than what the cost would have been 16-months ago. We are hopefully that between \$12 and \$14 million dollars will get it constructed but; until we actually release it for bid with the plans, we really do not know what the construction cost will be. We are hoping we do not end up in the same boat as Rifle where they went out and actually received the money from the taxpayers, released this for bid and the lowest bid was almost for what they had bonded. If we end up in a similar situation we will have to really scramble to make ends meet. If CDOT helps with their engineering, if Garfield County can help us out, and if we can get the \$10 million dollars from DOLA then I really believe we can also pressure the energy companies to help chip in some money. It is part of doing business and they need to help us out with the access to and from their fields. Chairman Martin – That is why I think the state legislators became involved; they did have that commitment from the energy companies that they would participate. Roy McClung – If we can receive everyone on board as a regional cooperative unit to have this completed, then it is going to allow everything else in Parachute to take care of itself. Chairman Martin – That project and the award does not take place until April 2010. Roy – The timeline is still under scrutiny; it has been something we have been asking Susan to try and streamline it somewhat. The original memo she put out had a timeline in there we felt were excessively long. With respect to the timeline Senator Penry and Representative Baumgardner, Commissioner Samson and I asked her if we could shorten some of these things so we could have the award sometime around the first of the year. Susan said she would look into it but she has not communicated back to us. Chairman Martin – The reason I say that is because of our budgeting process, if we were to participate we would want to make sure we had it in our budget in 2010 so it would be an expenditure that are budgeting for as a match to assist you. Right now, everyone is tightening the belts and we want to work within the budget process and not take it of supplemental. Roy wants the commitment; we will not be able to effectively move forward if we do not have a commitment from Garfield County to partner with us on this project. Commissioner Houpt asked, what was the amount we talked about that we could move forward with. Commissioner Samson – It was somewhere between \$2 and \$2.5 million. Chairman Martin – That is the 25% match. Commissioner Houpt – We talked about having contributing a portion but not the entire amount. Commissioner Samson – My understanding was that we would do the 25% match. Chairman Martin – We had to have a commitment but if we are able to lower that amount understanding you need to have the full commitment to put into your application and your request for a grant. Commissioner Houpt – What we had talked about was contributing a portion of that 25% but also have the other parties like Parachute have an amount they were going to submit. Commissioner Samson –

We need to know from Parachute, what is your best estimate that the Town of Parachute would be able to bring to the table. Bob Knight – To participate in the program we will have to dip into our reserves and we are down double digits in our revenues. We just dropped 35% in staff so it would have to come out of our reserves and I would guess \$2,500.00 is what the board may support. Chairman Martin – So that again depends upon budgeting and what they are asking us to do is make sure we can make a commitment of full 25% and then a reduction of that if the Town is able to have an MOU with us to go ahead and repay it back. Bob – We will continue striving in working with the energy companies for them to participate. We do have to have some type of document to put to the table. John Hier - City Manager with Rifle along with Council members Jay Miller, Beth Bascom, Mike Broughton and Jonathan Rice were present. John - For sometime the City of Rifle has been trying to develop an energy related industrial park on the former UPTRA site and we have been successful in doing a couple of things including getting the solar ray and the waste treatment plant in place. We have had the goal of developing that 138-acres site for energy related projects, renewal technologies, types of industry that practice conservation and sustainable community practices. Some of the project we have been working on to bring into that site are green fuels production, renewal power including solar and bio-mass, green building fabrication, solar panel and tracking systems, compost and recycling and water reclamation plus any other industrial uses that will create jobs to fall in those categories. We have done a number of things out there already including the two projects I mentioned; we have also completed a biomass study that is near completion. We think we will demonstrate the ability to support some of these projects. It has been our intent and we have been working to develop a plan to develop this site with roads and utilities to it. We have been working on a plan to apply for SB 232 funds in the original application and apply them to the development of this the site. We recently learned about the other parties including our friends and neighbors to the west that need monies for their interchange. Then, we further learned that there are some of the counties that are planning to apply for those same funds. Our city has always supported the Parachute project and we have seen that need for a long time. We are very hopeful that they can be successful. Rifle started talking about an alternative strategy concerning our park and how we might be able to accomplish the same thing in another manner. Our thought process most recently was that perhaps we could submit a grant application through the regular DOLA funding cycle; the third cycle comes up August 1st. Those are different funds than SB 232 and they have different rules and regulations that accompany those. Of course, the application cannot be for \$10 million dollars; they are usually limited to \$1 to \$1.5 million, probably \$2 million tops. Our thought process at this point is - we would like to have Garfield County partner with Rifle in the development of this energy related park. We would like the Board to consider a request to join with us to the tune of \$1.5 million dollars that would go into the development of the basic infrastructure including roadways. John Hier submitted a drawing of the park and how it would be developed. We estimate the cost to be \$3 to \$3.5 million dollars. The water treatment plant is being built and due to be completed in about 4-months. We are talking about building water and sewer lines on the site, roads into the site, excel and decel lanes on US Hwy 6 and everything that is needed including dry utilities etc to support the development as an industrial park. We will request from DOLA about \$1 to 1.5 million with the city match in the form of land and soft cost. The land that we would make available to industry would be worth about \$1 million dollars and we have about \$.5 million soft cost in engineering, etc. Commissioner Houpt – But the land is for Rifle's energy park. Why is the land a contribution? John H. – It would be a contribution in how DOLA looks at a grant application. You can always put up soft costs; land and in-kind cost in those grant application. Commissioner Houpt – Is this the way you are going to do the 25% match on this other grant. John H. – Yes. Commissioner Houpt – What you are saying is you would not then apply for the SB 232 grant. John H. – Yes, we would pass on the SB 232 funds. Chairman Martin – You would go ahead and support the Parachute's request for their interchange. John – Yes. Chairman Martin - Just like everyone in AGNC decided to do, etc. It is not unlike the partnership we had actually done before John Hier with Rifle on the industrial park on the south side of the Colorado River, with that partnership with the County and City developed that industrial park. This was huge with the revenue plus all the different businesses and employment that has taken place. Therefore, you are asking us to partner once more with you on this project. John H- We have had a lot of interest in the site from the types of companies that I mentioned. At present we are working with companies involved in solar, composting and in green building production. We do not have a single one ready to leap and locate on the site, but I believe if we can get the site developed then we will have enough interest to build it out. Commissioner Houpt – Tell me why you see this as a fit for the County to go into partnership with Rifle on this project. John H. – I see it as a benefit for the County in that it is a promotion of economic development in the region. If we can create jobs in the Rifle area, it would benefit all of us. I hope one of your goals is to create job opportunities and the time is such that we have to do this. Chairman Martin – The challenge on this property was deeded over to the City of Rifle. The County had the opportunity and passed it to Rifle simple because, this is the type of plan this piece of property would support where you are not really excavating down below 8-feet and trying to do homes etc. This type of construction would avoid Rifle trying to mitigate the plumb that is underneath it. The surface use and the manner in which you are going about it is very complimentary to the restrictions on that piece of property. John H. – Yes, it does have restrictions but most of the uses we contemplate can locate there and meet the requirements of DOE and the DEPHE. John said he would ask DOLA for \$2 million especially for something like this project, which will foster job creations. The DOLA application will go in August 1 and the project would be 2010. Ed believes the Tier II limit is \$2 million. Chairman Martin believes this warrants more discussion, maybe a workshop and possibly sit down with the City of Rifle. Commissioner Houpt – I do not believe there is time if it's due the first part of August. We need to do this if we are going to go into partnership with Rifle. We also need to talk about how we support both of these local projects. Commissioner Samson has been working on this and we did have a discussion. Chairman Martin – The procedure and allocation of the funds have to go through our budgetary process and this had not been included in the budget. We would need to supply a supplement to the budget if we were going to move forward. We can do it in concept but if we were accepted then we would have to have a supplement to the 2009 budget or budget it for the 2010 for distribution. Commissioner Houpt – If we decide to partner on one or two of these grants, we can make the decision today if Ed has looked at where these funds would come from. Ed said either capital or general funds. Chairman Martin – It may not qualify from capital funds but I believe it would come from our general funds. It is not our capital project. John H. – We would invite you to make a commitment on our project. Commissioner Mike – My thoughts on this was we did not know how much Parachute could contribute in funds for the interchange. Roy – Our total reserves is at \$2 million dollars. The way our reserves are now it would be irresponsible for the Town of Parachute to draw down \$500,000.00. Commissioner Samson – Question for Carolyn and Ed, legally what terminology would we need in a motion to give a commitment to both of

these projects knowing we have not set the budget for 2010. Carolyn – The Board would be conceptually approving these two projects and that they will be considered in your budget hearing for 2010. Commissioner Houpt – DOLA will want a concrete commitment for this and in the past what we have done is identified the money in the budget; we have not held it over to the next year. We have appropriated funds in the current year and then we can adjust that. However, if we are going to make any kind of concrete commitment we need to do it for this year. Carolyn – The other option is to do a budget supplement for this year. Chairman Martin – That would require a budget hearing. Ed – Remember you are about to approve in another part of your budget, \$.75 million dollars over the last several weeks and authorized inclusion into this supplement. This is no different. Chairman Martin – In summary, we need to front the \$2.5 million for Parachute and then go forward and obtain commitments from other partners. Ed said this is a 4-years project and you do not have to come up with all \$2.5 million next year. Bob Knight – If we were to move forward and break ground, the responsibility falls onto our shoulders. Roy felt he needed a dollar amount needed from the energy companies before asking them to contribute. Chairman Martin – You will need \$4 to 4.5 million so this will need to come from partnerships. If we say we are going to support the application then we will make sure the 25% match is there. Then we take that responsibility and that will be an agreement between the County and the Town of Parachute to obtain the remaining amount of the money to make sure that we do not have to pay the full \$2.5 million dollars. Commissioner Houpt – This discussion has been ongoing for some time, Garfield County was going to participate but there was a very long list including CDOT of groups who were going to participate and now I never expected we would be participating at this level. Roy – CDOT is participating with a lot of cost sharing in free engineering work, and they are putting together another grant called the Tiger Grant for a full \$15 million dollars. More discussion was held however;

Commissioner Samson – I have not been privy to all of the discussions in the past, I think we would be very foolish if we do not jump to this – it is a great opportunity for Parachute to obtain \$10 million dollars. In my discussions with DOLA, they look very favorably towards giving a one-time \$10 million dollar grant out of the \$17 million. They look extremely favorable upon the Parachute project. Obviously, we as a County have some responsibility there to help them. We have to dice where it will be and how much but with everything the way it is right now, I believe it would behoove us to partner with them and guarantee \$2.5 million dollars. I do believe the oil and gas industry will come to the table, as it will help them tremendously and the way I see it they must come to the table and bring some big money because they are making the impact. With that being said what I should put in the motion.

Carolyn – If you are talking about next year's budget, then you are conceptually approving this.

Chairman Martin – There is no guarantee that the funds are anywhere.

Commissioner Houpt – Just say that you support it for whatever amount and it is subject to appropriation in 2010.

Commissioner Samson – So moved. Commisisoner Houpt – Second. In addition, a letter of support is needed.

Commissioner Samson – Yes, a letter of support to Parachute but later on we will request specifically that we send a letter of support to DOLA saying we as a County support the Parachute Interchange and County Road 5 from Rio Blanco County and County Road 4 in Moffat County.

Chairman Samson – Then he rephrased the motion – that we send a letter of support to DOLA saying that we as a County support Parachute for applying for the \$10 million dollar grant and that we will guarantee \$2.5 million toward the project subject to appropriation of funds in the 2010 budget process.

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

Chairman Martin – Rifle through John Hier has a request that we do the same type of issue in reference to the energy park and that again is a 2010 project but the application goes in August 1, 2009.

John H. answered Commissioner Houpt by clarifying this would all be accomplished in 2010 project.

Commissioner Houpt – How much are you going to ask in your grant proposal?

John Hier – Probably close to \$1.5 million; if we had applied for the SB232, we would have applied for the full \$3 million or close to it.

Commisioner Houpt asked Ed if we as a County could afford to do these big projects.

Ed – Your end of year fund balance for the general fund is \$12.4 million for this year and for capital fund, it will be about \$8.6 million. Remember we are going to complete the Sheriff's annex and the Human Services Building.

Commissioner Houpt – Ed, you are not going to come back next year and say you cannot afford to build the County building.

Ed – I am not promising that because we do not what the County building will cost.

Commissioner Houpt – If we do this it is \$4 million dollars and I do not want to lose a County building because we are doing these projects.

Carolyn did not think this can come out of your capital improvement because we are not going to own it. Ed – This will come out of your general fund.

Chairman Martin – You have to own the project whether it is a building or road wise or some kind of infrastructure that would become an asset of the County.

Ed – One thing we talked about in the February budget discussion is moving the mills so that we bolster the general fund for next year and for 2011 because that is where our people are paid.

Chairman Martin – We also need to be looking at the cost of the other programs that we will have to pick up in the budget process as it will be very hectic this year simply because of the state's economy and their unfunded mandates as well as the federal obligations the government is putting on us from their programs.

Ed – We are starting to see that here.

Chairman Martin – If we put this as a priority as we have done with Parachute and Rifle then the priority falls on us and we will have to be real lean in other areas because of this commitment to try and keep our fund balances at 50% or greater.

Chairman Martin – This is when we as Commissioners earn our money by making decisions – that is what it is all about.

Ed – We started the year with a total fund balance of \$70 million and we had projected ending the year at \$70 million however there was a precipitous drop in sales tax and that hit us at about \$4 million dollars. Our current projection is around \$66 million however not all of the capital projects will bring in the cost we budgeted, so we may end up somewhere \$66 and \$68 million.

Carolyn – Ed and John, before the Commissioners move to a motion if they are going to do that, I heard you each use a different phrase – I think John said 3rd cycle; I think Ed said 2nd cycle.

Ed – Tier 2.

John Hier – It's Tier 2 and the 3rd cycle.

Commissioner Houpt reminded Roy and John H. that these are big projects and if you come to us for anything else, it will be a number of years before we can do anything.

John H. said he feels now is the time we need to do this in order to bring work back to the area.

Commissioner Houpt – I do not disagree with that statement but what does surprise me with both of these proposals is we are committing to the balance of what DOLA does not provide.

Bob Knight – We are not trying to let the energy companies off the hook at all. They have pounded our streets and we think they need to step up to the table.

Commissioners Samson – I would move that we send a letter of support to DOLA for Rifle's infrastructure enhancement of their energy park and that we support it at the level of \$1.5 million subject to the 2010 appropriation in our budget. Commissioner Houpt – Second. I can after listening to these proposals that this is a lot of money and the list of needs is increasing.

Commissioner Samson – We can all agree on this that we have to step forward and do something with the West Parachute Interchange.

Commissioner Houpt – We have been involved in that discussion for years.

Commissioner Samson – But now it has become push to shove.

Commissioner Houpt – Yes, we have already passed that motion; now with Rifle I think we have to do something about growing a diversified economy throughout the County and I have been supportive of what Rifle has done to move that forward.

In favor: Houpt – aye– Martin – aye Samson – aye

Chairman Martin – Economic funds in reference to the economic development rotating loan fund, government fund, etc are still available and we still have representatives; there are many avenues in reference to funding for what they need to do in this type of industry.

John– Rifle is pursuing those other alternatives as well but this takes us out of the picture on the SB232 funds. That was our only other option, then we would have been competing with our neighbors to the north, and there would have been more applications in there that they could fund.

Commissioner Houpt – Are you all supporting the Rio Blanco and Moffat County projects?

Commissioner Samson – Absolutely – I need to make a motion now that we draft a letter to send to DOLA that states our support for those SB232 funds and that we support the West Parachute Interchange, Rio Blanco County Road 5 and Moffat County Road 4. Commissioner Houpt – Second.

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

CONSIDER AN INTERGOVERNMENTAL AGREEMENT BETWEEN GARFIELD COUNTY, CDOT AND THE CITY OF RIFLE FOR AN ACCESS CONTROL PLAN ENCOMPASSING LIMITED SECTIONS OF US6, SH13 BYPASS AND SH13. – MICHELLE HANSEN

Michelle Hansen, PE from Stolfus Associates, an engineering firm here representing the City of Rifle and the Colorado Department of Transportation. David Pesnichak did participate in this effort. Mike Broughton from the City of Rifle, Shan Yates, Dan Roussin and Lisa Butler from CDOT were also present.

Michele continued saying they partnered about a year ago to develop an access control plan for three segments of highways through the Rifle area. US 6 from the West I-70 Interchange to the State Highway 13 by-pass, the State Highway 13 by-pass itself and State Highway 13 continuing north to the JQS Road (CR 292). With some of these areas adjacent to submitted areas within the County, we came to the County at the beginning of the project and requested some participation. We are very happy to have Dave Pesnichak from Building and Planning participate on our project development team over the last year. The Stolfus Associates Access Control Plan included in the packet of information submitted to the Board was an IGA between Garfield County, CDOT and the City of Rifle including:

- Executive Summary of the Draft City of Rifle US Highway 6L and State Highway 13A Access Study, May 2009;
- Graphical Access Exhibits depicting recommended Access Plan for US 6, SH 13 Bypass, and SH 13;
- Alternative local routes map recommended in conjunction with the Access plan;
- A glossary from the Access Study and a
- Draft IGA for Access Control Plan with Exhibits A – E.

When we came to the County in January at a joint meeting with the City of Rifle Council and to this Board, we had a draft plan with the intention of going out to the public doing some public involvement, and; then moving forward to finalize the plan. We are here today with that plan that finalized and requesting adoption of the plan as well as signature of an IGA with the City and CDOT for this plan. Just a reminder, the plan itself is focused on where access points are located and what level of access each of those points will have. Without an access control plan that is done by the State Highway Access Code so this plan in essence allows us to look at future traffic volumes and make some decisions based on safety and operations for those future conditions. You will have a corridor that is well planned and not just taking developments as they come in individually.

After our meeting, we did hold a public meeting at the Rifle Fire District and invited all of the adjacent property owners via mail as per the State Access Code's requirements. We also put a couple of different ads in the City's water bill, on the City's website and on their community television station. We put a public notice in the Citizen Telegram two-weeks in a row. We had about 30 people attend and most were property owners concerned as to how it will affect them and when it will be implemented. The implementation for this plan will be done in one of three ways. 1) Through private developments so, as developments come in then the access plan would be triggered; 2) Through public project either through the City/County or CDOT. None of these entities has any plans currently for these highways – no funding is available. 3) Is a combination of the other two. We anticipate the majority of this plan would be implemented as development occurs. We did follow up with one-on-one meetings with interested property owners and had a large turnout with about 23 property owners joining us, mostly concerned with implementation and what the plan was saying. There were a few requests from occupations to the plan that we evaluated. Some of those were implemented while others were not based on our evaluation. These concerns were mostly related to safety and operational issues. We did provide a couple of letters to those within the City limits with formal written responses to property owners explaining our decisions made based on those requests.

Michele said there were a handful of changes and we went through those quickly. A power point was given. The changes are:

- The first change is on the by-pass change at Favre Reservoir road - CR 244. We original had some interim conditions to apply as we went forward. Currently it is a full movement intersection; we had talked about bringing it down to a three-quarter movement – right-in right-out and then a closure. We just felt like the implementation process of those interim conditions would be too difficult to handle and the final recommendation is that these access points would be closed. They do have some very specific conditions. Michele included in her power point a larger map showing the plan. In order for this intersection to be closed on the east side we need one of these other connection either from this proposed connection down to 16th Street or this connection we are calling the Gentry connection to be put in place before closing this intersection. On the opposite side, similarly one of these options would need to be put in place to provide alternate access to get to the by-pass before the Favre Reservoir road intersection could be closed - that change was made.
- If we continue along the by-pass up to Railroad Avenue, we previously had this intersection restricted such that northbound left turn movements would be restricted in the future. Upon further discussion with the Rifle Fire District, we determined that was one of their major routes to get to the southwest area by taking that left turn and with the alternate route they would have to take with the proposed change, it would add some additional time to their response. We went ahead and put this back to a full movement intersection. It does have the potential for signalization or some other type of traffic control in the future. This is one of Rifle's tougher intersections. Future study of this intersection; and how it handles the traffic through there will be required as we move forward.
- At Valley Lumber on 24th Street and conversations with Valley Lumber, we learned that they had previously looked at some alternative access to get to 24th Street, which is what we were recommending. We were recommending a right-in right-out with full movement access allowed at 24th Street. There were some utility issues that had been identified previously, which made it difficult for their large vehicles accessing this business to access through 24th Street. With that in mind, we went ahead and identified a three-quarter movement so vehicles will be allowed to turn left into the property and then make right turns from that location. As long as the Valley Lumber business is in use of this property, this will be the condition unless there were some safety issues. If there were many accidents occurring at this location, we did identify some modifications that would need to be made and this would be restricted to a right-in right-out. If this site becomes something other than Valley Lumber, the intention is that this eventually be a right-in right-out just due to the close proximity of 24th Street signal there today.
- Next, Columbine Ford – We had identified a three-quarter movement originally at this location; they requested those be switched, as this is their main access point. Upon evaluation, we saw no problem with that in terms of traffic operations and made that modification.
- Final modification is more related to some of the alternate routes and not specific to the access control plan which will only deal with access point locations and how much access is allowed at that particular location. We did sit down with all three of these property owners – Elliot's, Crone's and Turners to discuss the project. Looking into the future, we were originally concerned as well as we originally just showed the Doak's Lane connection tying in where it does today close to Hwy 13. As these three property owners were looking towards the future, they asked questions about whether it made more sense to be located further away and absolutely, in terms of traffic operations and safety it does. We proceeded to show both options in the plan and recommend that this option to the east be implemented as the ultimate condition with the western being a fine interim condition. All the landowners once they understood the implementation, and the fact that we were not making any major changes, including that the access plan would not be implemented, felt comfortable with what they were seeing.

Discussion continued regarding the map showing the changes.

Chairman Martin noticed a change to propose the Willow Ranch Development – the east and the north; you are taking out that intersection and you have one intersection on the main road and only one-in and one-out instead of two-in and two-outs. Therefore, you have only one intersection for that entire development. When we are looking at land use, we like to have two-in and two-out accesses.

Michele – The recommendation is that this piece would connect back to the development – Coal Mine Avenue and then people would be able to get out either at 30th or 33rd streets.

Chairman Martin – This would work as long as their approval process did not forbid them from joining the subdivisions together. There is a lot of land use that forbids them to have straight though because they are neighborhoods and they can only have their own roads and not adjoining roads to share. If we can overcome that – it would be City of Rifle issue.

Mike Broughton – I think our plan is to have them connected.

Chairman Martin just wanted to make sure these could be connected and later Rifle would not have to overturn them.

Commissioner Houpt – What you need from us today is approval of the Access Study and the IGA.

Michele – Yes, we are really asking for authorization of signature of the IGA. We have been working with Deb Quinn and the City of Rifle's attorney, as well as the Attorney General's office to try to get this wrapped up. There is one item in the IGA that is specific to this project in that we have an access control line on the by-pass, and; we do have an Exhibit in the IGA, which is new for CDOT that is regarding modifications to that access control line that are consistent with the access control plan itself.

Chairman Martin – Another step we have to do is go through the Intermountain ITPR to be recognized so they introduce this to the STIP and recognized by CDOT as a planning tool.

Michele – Typically, how CDOT does this is, we go to the local entities to get approval of the IGA and then ask the local entities to join in going to the planning region to request final approval.

Dan Roussin – It actually goes to the Transportation Commission; we do a presentation and once the Transportation Commission is aware of the project then the chief engineer signs for CDOT on the IGA.

Chairman Martin – It is not introduced into the Transportation Plan itself that ITPR does not have to recognize it.

Dan – No, it does not. We definitely let the Transportation Commission know what we are doing. The key things from CDOT’s point of view are making sure local governments are in agreement with what is being done. Chairman Martin said he brings this up simply because of the priorities, enhancement funds that come about and if the ITPR is not aware of it, it may be overlooked in reference to that agreement and skipped on some fundings, etc. Otherwise, it may be penalized because they forgot to tell the TPR that is it an agreement and a planning tool. Politics are always behind it.

Michele – This IGA does include reference that there are no financial obligations required of any of the three entities. We have talked about the implementation accomplished through redevelopment – it can be done with a public project but there are no financial requirements.

Deb – The attorneys for the City of Rifle and Garfield County have agreed to this draft but as was mentioned, the attorney general’s office still needs to review the language. We are okay with the form of it today and would like to have the Chair authorized to sign it if there is any substitutive change, we will bring it back.

Commissioner Samson moved that we enter into an IGA between the County, CDOT and the City of Rifle for an access control plan within the City limits in sections of US 6, State Highway 13 by-pass and State Highway 13 and authorize the Chair to sign such. Commissioner Houpt – Second.

In favor: Houpt – aye– Martin - aye C Samson – aye

Chairman Martin felt we would be bring this same issue back again with Silt as they have the same concerns.

FEEDBACK REQUESTED REGARDING MEETING IN OTHER PARTS OF THE COUNTY

Commissioner Samson – I would like some feedback from the City of Rifle, would you like the idea of me pushing to have an occasional County meeting in Rifle.

John Hier – We would welcome you.

Commissioner Samson – I know it’s a hassle for our staff but if we could perhaps pick one of our three Monday’s when we meet where it would not be so cumbersome for the staff – legal and planning. How many people does the City Council chamber hold?

Jean Alberico – We cannot record there – we set up the Department of Human Services conference room to be able to record but we cannot record at the City Council Chambers. It would have to be at the DHS conference room.

John Hier – We could record it for you if that would work.

Commissioner Houpt – We would have to look at it.

RENOVATION OF THE OLD CARBONDALE ELEMENTARY SCHOOL INTO THE THIRD STREET CENTER – COLIN LAIRD

Colin Laird representing 3rd Street Center and with me is Kristen Loden, Capital Campaign and the reason we are here today is a quite email exchange with Ed about your Human Service Grants. Ed suggested coming directly to the Board.

Ed – For the Board we traditionally have not provided grants for capital improvements out of the Human Service Grant Program – it is for operating funds.

Colin – We are asking for a campaign grant. I am involved in this project because the Town of Carbondale and the School District swapped some land to get the ownership of the old Carbondale Elementary School. In addition, the town was interested in renovating it and using it for public purposes – particular non-profits. They did not want to take on that entire project by themselves, so the Roaring Fork Community Development Cooperation and SCORE partnered with the town to move this forward. We have since created a separate non-profit organization with the town as a board member on what we are calling the 3rd Street Center. It is actually the Carbondale Non-profit Center aka the 3rd Street Center. A community board oversees the renovation and operation of the building. We are in the development stage, we started construction in February and we are in a brief lull as we get prepared for the second phase. The first phase was driven by trying to place a 50KW PV system on the roof through a purchase agreement with Rockwell Energy, the town and Xcel. That was very cumbersome. As mentioned in the project, the purpose is to put some affordable space in our community, which has been difficult to find affordable space especially for non-profits over the long-term. The town owns this building and land and was leased to the 3rd Street Center for 49 years at a cost of \$1.00 per year for the express purpose of dividing affordable space to non-profits in our region. A number of those non-profits serve Garfield County residents. In talking with them, it became clear that this is an opportunity to work with the County to make this as good a building as we can. We have significant ADA improvements that we have to make to the building moving from a school with toilets for little people to toilets for big people. We need a lot more than the school did just because of the public purposes we are putting in. We want to be real specific with our request to this Board as well as make you aware of the amount of work that has already been put into the building including the Town of Carbondale, the DOLA grant, some of the local and statewide funding that we have been doing. Related to that, some of our funding is in-kind to reach some of our fundraising goals. This Board can do a lot in terms of getting a lot of work for your dollars. You could help get those ADA improvement; we could then leverage some of the funds we are seeking throughout the state. I have more detailed budget of the ADA improvement in the packet, I believe that is on page 6,

Commissioner Houpt – It is \$135,000.

Colin said we would ask you to match what Carbondale has to put in through their DOLA proposal, which is \$100,000. They have put a lot more in staff time and legal fees as well as the feasibility study. There has been a change in services in nutrition wise and transportation. CMC does senior programs and that was not our intent, it was more to talk about Carbondale and like Rifle, we do not have a senior center. We have an affordable housing area but there is no place for seniors to gather and have programming. We want to expand that programming. Senior Matters is a non-profit in Carbondale that is set up to do just that, so they are really excited about being in the center and taking advantage of the opportunities that space provides on a long-term basis.

Colin submitted additional information on the 3rd Street Center including letters of support from Youthzone, Mountain Valley Developmental Services, CORE (Carbondale Community Non-profit Center) and a letter from Jeff Dickinson complete with an architectural rendering of the project.

Commissioner Houpt said this is one of the most exciting partnerships that we have seen in this County. It has been talked about for a number of years. I think we talked about this when I was on the School Board. It is wonderful to see how everything came together. It makes a great deal of sense to have this type of center in the community. I certainly support the funding level that Colin has recommended – I was actually going to suggest that we support the total ADA budget. You said it was an estimate; it looks precise.

Colin – It is precise. We have had some bidding and that is the amount - \$135,000.

Commissioner Houpt – I also see in your report that you are still fundraising. If we could take care of the ADA improvement budget, I think that would help with what you want to complete. I think this is clearly something we need to be involved in – we share the same constituents but this serves even more than just Carbondale.

Chairman Martin – I do not see how there could be ADA compliance – it was a school at one time.

Colin – You raised the right point. We have all these egress issues; two years it was a school and all these people were in it.

Chairman Martin – That is why I think we need improvement in reference to reviewing school buildings and deferred maintenance. Back to the real question, should we go ahead and fund it. I campaigned to make sure that the building was not torn down because that is what the school district wanted to do and sell the land. It is right in the center of town and it can be a great asset. I have always supported it. I am glad to see it is coming together more and more. Senior Matters are very excited, they are part of the senior program and I see them and they talk about it at our senior council.

Commissioner Samson – Where is this money going to come from?

Chairman Martin – General fund.

Ed said it would have to be a supplement.

Commissioner Samson – When is the completion date?

Colin – May 2010.

Commissioner Samson – You have raised a lot of money; you are to be commended. You are asking for \$100,000.

Colin – That was our initial request.

Commissioner Samson – It sounds like someone wants to give you \$135,000 however, Colin is only asking for \$100,000.

Commissioner Houpt – I looked at the ADA budget and if we are going to pay for a portion, we might as well pay for the entire fund. Therefore, I am going to put a motion on the table that we support the 3rd Street Center with a grant of \$135,084 to cover the ADA improvement budget. Commissioner Samson – Second.

Commissioner Houpt – And then a budget supplement will come back to us.

Chairman Martin – What we are doing is painting ourselves into a corner financially with all of the money we are spending even though it is the greatest intent – remember that we have to choose our priorities in our budget process. We are cutting all possible expansions here simply with our obligations.

Commissioner Samson – As we enter into the budget, the thought has occurred to me; we need for next year to take an assessment as a commission to strongly look at our budget, our revenues, our expenditures all of the funds. Then we need to decide x amount of dollars, whatever that is and that is what we will commit in helping various projects throughout the County. Then we need to hold our feet to the fire when people come to us that we do not have budget busters. We definitely need to make that commitment; otherwise, we will have some problems in the future.

Commissioner Houpt suggested we do this in terms of what we do for each community; otherwise, you could spend the entire amount in one community.

Commissioner Samson – You have to look at the situation and where there are the greatest needs in the County. Ask the question does this absolutely have to be – no. Do we absolutely have to have that west interchange in Parachute; you could probably say no but we would miss a golden opportunity.

Commissioner Houpt – You just weigh it in a different way than I would weigh it. I would look at the past 5-years talking about the west Parachute interchange and say that what came to the table today was not what I had anticipated after those discussions. There are many different things to weigh with this and I think if we are going to attach a number to it. We need to figure how we do that in an equitable manner across the County.

Commissioner Samson – There are too many factors there unless you just go on population.

Commissioner Houpt – We should have this discussion as a budget discussion because I think you have raised a good point.

Ed – You can have the discussion for 2010. In 2011, I do not think there will be any money.

Chairman Martin – I do want to clarify that we do have a discretionary fund under the Board of County

Commissioner's budget for those very issues – unanticipated requests. It is there and has been for several years. In 2009, we approved \$1 million.

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

Matt or legal will handle the form of contract and Ed will discuss this and contact Colin Laird.

Colin said he will also let the Board know the date and time of the grand opening of the 3rd Street Center.

GEO PROGRAMS FOR SAVING ENERGY IN PUBLIC BUILDINGS, INCLUDING CONSIDERATION AND AUTHORIZATION FOR CHAIR TO SIGN CEO MOU – ALICE LAIRD

Jim Rada and Alice Laird submitted the Performance Contracting for energy savings in public buildings – the Governor's Energy Office Memorandum of Understanding in connection with the local governments participating in the Garfield New Energy Communities Initiative (CNECI).

Alice Laird – Thanked the Board for all the on-going support and all the staff working with Jim Rada, Lisa Dawson, Bob Prendergast and the entire finance department including a full variety of staff including Ed Green. Alice said everyone has been incredibly helpful and provided an incredible resource in this mission. Today we are here as part of the greening government initiative where through the initiative and the governor's energy office we are working to save energy and money in energy in public buildings. In the packet, Alice included a fact sheet that the governor's energy office has found to be very helpful in performance contracting. It outlines what that can essentially do so governments can finance energy upgrades through the energy savings. It has been found to be highly effective, low risk and it is a tool that the different partner communities involved in GEI are interested in pursuing. The governor's energy office has found that to make performance contracting work especially well and maximum benefits. The contract needs to be carefully put together and the governor's office has a pre-approved list of energy service companies that they recommend you to pull from. To begin this process, GEO requests that participating governments sign a MOU with GEO that outlines the various responsibilities of both parties. It looks like, from my non-legal standpoint pretty non-binding, it is more a statement of commitment to pursue this and outlining responsibilities. Rifle, New Castle, Silt, Carbondale, Glenwood Springs, Parachute have all signed an MOU or are wrapping it up this week. Some of the smaller communities have found that they may be too small to pursue performance contracting on their own – there is not enough energy saving there for an energy service company to want to work with them. The partner communities are interested in a joint approach and hoping their economies meets a scale by joining forces and; maybe joining for the RFP or selecting an energy service company for a

coordinated approach. We would like to find out if the County is willing to sign this MOU and joining with the other communities in this joint approach for selecting an energy service company and moving forward on this step.

Commissioner Houpt – How would this move forward countywide?

Alice – July 30 we are organizing a meeting with the different entities that have signed the MOU and GEO representatives, taking a first step to see if this will work and if there are definite economies on a scale by joining forces. Will it work doing an RFP involving multiple communities? There may be some legal issues but certainly, there is some way to coordinate efforts. The first step is July 30 and we are all meeting to see who signed it, what would that RFP look like, what would communities want, and then GEO would start crafting the RFP.

Carolyn – An RFP to hire an ESCO through all these different projects rather than having an ESCO for the sheriff's annex and us go for the DHS building; an ESCO for Parachute and whatever.

Alice – That is the goal and GEO will help in advising us. They have experts on performance contracting – they will help with advice on which way it makes sense to slice it best. The smaller towns will definitely have a harder time just doing it on their own.

Carolyn – Would come under our general NECI agreement where the County would act as the flow-through for all the money that the different communities are giving to hire this ESCO?

Alice – Yes, you are correct.

Carolyn asked Ed if this is what he wants to do with both of our new buildings.

Ed – Yes.

Commissioner Houpt thinks it makes sense for any building that we own but start with the new ones is the great way to go. This is really for retrofitting existing buildings.

Alice – It is an emphasis on existing buildings but it can help with new building and upgrading them.

Carolyn - Will this meet the special use permit on the DHS and Sheriff Office bidding process?

Ed – No. We met with the consultant Jeff Dickerson and he is pleased with the design and made some suggestions that will go on this performance grant.

Commissioner Houpt made a motion that we approve the facility on our MOU with the Governor's Energy Office and authorize the Chair to sign. Commissioner Samson - Second.

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

DISCUSSION OF THE 5TH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 5TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Theresa Wageman and Lisa Dawson submitted the 5th Supplement and Resolution outlining the details of the request. It was published in the Citizen Telegram on July 16.

The Resolution and supplements were presented in the Board packet. Exhibit A shows the increase or decreasing and allows us to make the changes.

Commissioner Houpt moved to close the public hearing. Commissioner Samson – Second. Motion carried.

Lisa said the next supplement would be in October as we are planning to do these on a quarterly basis.

Commissioner Houpt made a motion to approve the 5th supplement to the 2009 approved budget and 5th amended appropriation of funds. Commissioner Samson seconded the motion.

In favor: Houpt – aye– Martin - aye C Samson - aye

APPROVAL OF A SPECIAL EVENT LIQUOR LICENSE FOR BPOE #2195 – JEAN ALBERICO AND JANET SAMSON

Commissioner Houpt suggested Commissioner Samson recuse himself due to his wife Janet Samson being an employee at the airport. Commissioner Samson recused himself.

Jean Alberico and Janet Samson submitted the application for a Special Events Permit to serve beer and wine during the Air Show on August 14 and August 15 from the hours of 1:00 pm to 11:00 pm on August 14 and from 9:30 am to 7:15 pm on August 15. This will authorize the Elks Club of Rifle (B.P.O.E. 2195) to set up and operate the beer garden in connection with the Air Show.

Jean stated the notice was posted 10-days prior on CR 352. It was clearly visible and on July 9, Jean received the complete application of all requirements including the dates and location. The Elk Club will have their members keep very defined and controlled areas. There is nothing from the Sheriff's office in regard for this and there are no FAA problems; nor are there any objections from to the hangar owners.

Commissioner Houpt made a motion to close the public hearing. Chairman Martin seconded.

Motion carried.

Commissioner Houpt made a motion to approve the selling of alcohol beverages for Elks B.P.O.E. 2195 at the Air Fair on August 14 and 15, 2009. Commissioner Martin seconded the motion.

In favor: Houpt – aye– Martin - aye Samson – recused.

BOARD OF COUNTY COMMISSIONERS SITTING AS BOARD OF EQUALIZATION:

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into the Board of Equalization. Motion carried.

AUTHORIZE THE CHAIRMAN TO SIGN THE FOLLOWING BOE RESOLUTIONS:

BOE-001 CONCERNED WITH DENYING THE APPEAL OF DAVID W. FORCE, JR.

Resolution No. BOC-09-001 was submitted concerning the denial of the appeal of the determination of the Garfield County Assessor regarding David W. Force, Jr. finding the Hearing Referee's recommendation saying Mr. Force has not met his burden of proof to show that the Assessor's Office valuation is incorrect, and the valuation is consistent with properties in the area.

Commissioner Samson made a motion to deny and uphold the findings. Commissioner Houpt seconded the motion.

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

BOE-002 CONCERNED WITH DENYING THE APPEAL OF MICHAEL G. & EILEEN M. WASKI

BOE-003 CONCERNED WITH DENYING THE APPEAL OF MICHAEL G. & EILEEN M. WASKI

BOE-004 CONCERNED WITH DENYING THE APPEAL OF MICHAEL G. & EILEEN M. WASKI

BOE-005 CONCERNED WITH DENYING THE APPEAL OF CRYSTAL RIVER MARKETPLACE, LLC

BOE-006 CONCERNED WITH DENYING THE APPEAL OF CRYSTAL RIVER MARKETPLACE, LLC

BOE-007 CONCERNED WITH DENYING THE APPEAL OF CRYSTAL RIVER MARKETPLACE, LLC

BOE-008 CONCERNED WITH DENYING THE APPEAL OF CRYSTAL RIVER MARKETPLACE, LLC

BOE-009 CONCERNED WITH DENYING, THE PART, AND GRANTING, PART, THE PETITION OF APPEAL OF TODD & KRISTINE LEAHY

BOE-010 CONCERNED WITH DENYING, IN PART, AND GRANTING, PART, THE PETITION OF APPEAL OF TODD & KRISTINE LEAHY

BOE-011 CONCERNED WITH DENYING, IN PART, AND GRANTING, PART, THE PETITION OF APPEAL OF TODD & KRISTINE LEAHY

BOE-012 CONCERNED WITH DENYING, IN PART, AND GRANTING, PART, THE PETITION OF APPEAL OF TODD & KRISTINE LEAHY

BOE-013 CONCERNED WITH DENYING, IN PART, AND GRANTING, PART, THE PETITION OF APPEAL OF TODD & KRISTINE LEAHY

BOE-014 CONCERNED WITH DENYING, IN PART, AND GRANTING, PART, THE PETITION OF APPEAL OF MICHAEL G. & EILEEN M. WASKI

BOE-015 CONCERNED WITH GRANTING THE PETITION OF APPEAL OF MICHAEL G. & EILEEN M. WASKI

Commissioner Houpt made a motion to deny and uphold the findings for the following Board of Equalization Resolution find that the hearing officer's valuations are to be upheld:

Resolution No. BOC-09-002; Resolution No. BOC-09-003; Resolution No. BOC-09-004; Resolution No. BOC-09-005; Resolution No. BOC-09-006; Resolution No. BOC-09-007; Resolution No. BOC-09-008; Resolution No. BOC-09-009; Resolution No. BOC-09-010; Resolution No. BOC-09-011; Resolution No. BOC-09-012; Resolution No. BOC-09-13; Resolution No. BOC-09-14; and Resolution No. BOC-09-015

Commissioner Samson seconded the motion. In favor: Houpt – aye Martin - aye Samson - aye

DETERMINATION ON PETITION ON APPEAL FOR THOMAS & JUDITH RAU

Applicant did not appear. Paul Schoeppner and Joe Sunn submitted the recommendation and motion for the owners Thomas and Judith L. Rau for a no-change in the actual value of the property in question. The actual value of the property claimed by the applicants should be \$280,000 total stating there was no evidence of a forced sale; however, based on comparable properties, which sold during the applicable period, the Assessor's office stated the actual value should be \$309,680.

Commissioner Houpt made a motion to the assessed value that it is fair and supports the Assessor. Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson – aye

Commissioner Samson made a motion to come out of the Board of Equalization. Commissioner Houpt seconded the motion. In favor: Houpt – aye– Martin - aye Samson - aye

REMINDER OF THE 28TH SPECIAL MEETING ON COUNTY ROADS AND INTERSECTION WITH STATE HIGHWAYS - PUBLIC WORKSHOP AT 1:00 P.M.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Kim Shriver, the new 4H youth development Extension program associate, gave each of the Commissioners a handout - a Fair Book and County Book. She explained the events that are taking place or will be implemented the next several weeks. Kim reiterated that she was here to serve the kids and asked for input.

Chairman Martin suggested that Kim set up a meeting with Paul Vandre and have an interview in Glenwood Sprigs, and then see Jim _____ in Rifle to make sure it is also on the west-end public television station.

Commissioner Samson received an email from a Connie Cather from DeBeque who uses the fairgrounds and he asked Kim to give Dave Eberle and Kevin Runyan a call. Connie was very impressed with the fairgrounds and had glowing remarks to Kevin on how hard he works to keep everything so nice. He also asked Kim if she would plan to come to the BOCC meetings about once a month.

BUILDING & PLANNING ISSUES

CONSIDER AN EXTENSION TO THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE PIONEER GLEN SUBDIVISION. APPLICANT IS SPECIALTY RESTAURANTS - DAVID PESNICHAK

David Pesnichak, Yvonne Bryant, BBH partners and Toby Guccini were present.

David submitted the following exhibits: Exhibit A – Staff Memorandum; Exhibit B – Letter from John D. Tallichet of Specialty Restaurants dated June 16, 2009; Exhibit C – First Amendment to Pioneer Glen Subdivision SIA to be signed by the Chairman of the Board should the amendment be approved; Exhibit D – Amendment to Standby Letter of Credit dated July 6, 2009; and Exhibit E – Subdivision Improvement Agreement for Pioneer Glen Subdivision. Chairman Martin entered Exhibits A – C into the record.

BACKGROUND

As you will recall, on July 21, 2008, the Board signed the Final Plat and SIA for the Pioneer Glen Subdivision, which generally consists of subdividing the 33.8-acre property located just west of Battlement Mesa on CR 300 into six residential lots and one open space tract. This action by the Board is memorialized in Resolutions 2008-66 that has been recorded in the Office of the Clerk and Recorder.

REQUEST

The Applicant submitted a letter on June 22, 2009 requesting that the SIA completion date be extended for one additional year to July 21, 2010 (Exhibit B). The SIA requires that all improvements aside from revegetation be completed within 1-year of the execution date of the SIA (Exhibit E). As the SIA was executed on July 21, 2008, all improvements are to be completed by July 21, 2009. The SIA allows for an extension of the completion date at the sole discretion of the Board and further requires that the amendment be memorialized in writing. The Applicant has provided a signed and notarized form, which is acceptable to County Planning and Legal Staff and is ready to be signed by the Chairman of the Board and Clerk to the Board at the next regularly scheduled Board meeting should this amendment be approved (Exhibit C). In addition, the Applicant has extended the Letter of Credit (LOC) to January 28, 2011, which is greater than the required 6-months past the proposed extended completion date of July 21, 2010 (Exhibit D).

STAFF RECOMMENDATION

Staff finds the request for an extension was properly filed with the County. Therefore, staff recommends the Board grant a 1-year extension to the completion date of the SIA for Pioneer Glen Subdivision to July 21, 2010.

Commissioner Houpt made a motion to approve the one-year for Pioneer Glen Subdivision for July 21, 2010.

Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson - aye

CONSIDER AN EXTENSION TO THE SPECIAL USE PERMIT FOR UP TO 31 TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED ON THE NORTH PARACHUTE RANCH NORTH OF

**THE TOWN OF PARACHUTE AND ORIGINALLY APPROVED UNDER RESOLUTION 2007-61.
APPLICANT IS ENCANA OIL AND GAS – DAVID PESNICHAK**

David Pesnichak, representing EnCana – Jason Eickman were present.

David submitted the following exhibits: Exhibit A – Staff Memorandum; Exhibit B – Letter from Jason Eickman, Permit and ROW Coordinator for EnCana Oil and Gas; and Exhibit C – 2009 Garfield County Temporary Housing SUP – Renewal Summary Table.

Chairman Martin entered Exhibits A – C into the record.

On August 6, 2007, EnCana received a Special Use Permit (SUP) for up to thirty-one (31) “Temporary Employee Housing” facilities 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 (Resolution 2007-61). Condition of Approval Number 11 within Resolution 2006-61 states:

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.

The purpose of this request is to renew the SUP for one additional year from the upcoming August 6, 2009 expiration date. This would allow the SUP to be in effect for one additional year. If this extension were granted, the next expiration date would be August 6, 2010.

Following review of the application, it appears that the approved housing facilities have been serving the intended purposes without notable unintended consequences. Further, EnCana has demonstrated a willingness to comply with all relevant regulations and no violations have been observed. In addition, the Garfield County Planning Department has been kept within the loop of communications regarding the installation of every camp along with the Grand Valley Fire Protection District and the Garfield County Sheriff’s Office.

Provided the success of the SUP as approved under Resolution 2007-61 in combination with the willingness and desire of the Applicant to work with the County, Staff recommends that the BOCC approve the requested annual renewal.

Jason said they plan to follow all recommendations.

Commissioner Samson made a motion to grant a one-year extension for EnCana for their temporary housing to the date of August 6, 2010. Commissioner Hought seconded the motion.

In favor: Hought – aye– Martin - aye C Samson - aye

AUTHORIZE THE CHAIRMAN TO SIGN THE LETTER OF SUPPORT FOR THE PUBLIC UTILITIES COMMISSION (PUC) FOR SAFETY ENHANCEMENT TO THE INTERSECTION OF MAIN STREET/CR100/SNOWMASS DRIVE AND RFTA TRAIL CROSSING IN CARBONDALE. APPLICANT IS THE TOWN OF CARBONDALE – FRED JARMAN

Town of Carbondale – Tom Baker, Deb Quinn and Fred Jarman were present.

Fred submitted a letter of support from the Public Utilities Commissioner Director submitted by Mr. Doug Dean, Director regarding the RE: Notice of Friendly Intervention by Right, Docket No. 09A-469R

The letter stated, on behalf of the Garfield County Board of Commissioners, we wish to file a friendly motion to intervene and state our support of the safety improvements proposed by the Town of Carbondale in their Public Utilities Commission Application (Docket No. 09A-469R) at the intersection of County Road 100, Snowmass Drive, Main Street and the Roaring Fork Transportation Authority Right-of-Way and Trail in Carbondale, Colorado. We believe the proposed safety improvements are in the best interest of the safety and welfare of Garfield County citizens. Please find enclosed the required copies of this Notice of Friendly Intervention by Right.

Tom said because of the railroad corridor and asking support of the county as this land is in the County.

Fred agrees and so does the road and bridge

Commissioner Samson made a motion to letter of support for the Town of Carbondale in their Public Utilities Commission Application (Docket No. 09A-469R) at the intersection of County Road 100, Snowmass Drive, Main Street and the Roaring Fork Transportation Authority Right-of-Way and Trail in Carbondale, Colorado. Commissioner Hought seconded the motion.

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

PUBLIC WORK SESSION

A PUBLIC WORK SESSION TO DISCUSS POLICY APPROACHES TO NEEDED IMPROVEMENTS AT INTERSECTIONS WITH STATE HIGHWAYS AND COUNTY ROADS – FRED JARMAN

This was rescheduled for a Special Meeting on July 28, 2009 at 1:00 p.m.

OTHER ITEMS NOT ON THE AGENDA

Commissioner Samson would like to have a discussion regarding holding the Board of County Commissioners meetings in other areas of the County. Many other interested parties may want to show up.

Commissioner Samson asked for input as to the three scheduled meetings, which of the three would be the better choice.

Jean has stated from her point of view that would be the first meeting of the month.

Commissioner Hought – We have talked about this in the past and she has been on other boards where this was done; however; it’s very challenging for the staff and public for them to figure out which place the meeting will be held. She suggested perhaps doing this on a quarterly before we set up to do this monthly. See if people really want to attend. She thinks it would be nice to try to be available to the entire County but needs to know this makes sense from the staff and the clerk’s office.

Commissioner Samson requested feedback.

Jean – Our concerns would be that the DHS building has the recording equipment in place as this was discussed last year and the County anticipated doing this and put the capability with recording, video conferencing, etc.

Commissioner Samson supports a hearing in Battlement Mesa when we have that hearing regarding drilling with the PUD. It is more of a commitment to move around.

Chairman Martin – Agrees on the location for the Battlement Mesa public hearing. This was promoted in the past and we did have good communication however, we found less people show up in other areas rather than here in this room.

Commissioner Samson would like to have meetings in Carbondale to Parachute.
Commissioner Houpt said people are accustomed to coming here. She asked Ed to obtain the feedback from other department heads.
Chairman Martin suggested we could do a test runs, perhaps with workshops and see if we get participation.
Commissioner Samson asked that he receive a report back from Ed in a month.
ADJOURNMENT

Attest:

Chairman of the Board

JULY 28, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The special meeting of the Board of County Commissioners began at 1:00 P.M. on Tuesday, July 28, 2009 with Chairman John Chairman Martin and Commissioners Commissioner Houpt and Mike Commissioner Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.
Board of County Commissioners sitting as the Board of Equalization
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into the Board of Equalization. Motion carried.

AUTHORIZE THE CHAIR TO SIGN THE FOLLOWING BOE RESOLUTIONS:

- 1) BOE-016 - Concerned with denying, in part, and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 2) BOE-017 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 3) BOE-018 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 4) BOE-019 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 5) BOE-020 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 6) BOE-021 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Parcel 5, LLC
- 7) BOE-022 - Concerned with denying, in part and granting, in part, the petition of appeal of Battlement Mesa Land Investment
- 8) BOE-023 – Concerned with denying, in part, and granting, in part, the petition of appeal of Robert C. & Linda M. Cutter
- 9) BOE-024 – Concerned with denying, in part, and granting, in part, the petition of appeal of Donald L. & Lila L. Fuller
- 10) BOE-025 – Concerned with denying, in part, and granting, in part, the petition of appeal of Bernard J. & Judy D. O’Donnell
- 11) BOE-026 - Concerned with denying, in part, and granting, in part, the petition of appeal of Thomas G. Morton
- 12) BOE-026 - Concerned with denying, in part, and granting, in part, the petition of appeal of Thomas G. Morton
- 13) BOE-027 - Concerned with denying the appeal of Demis Ranch LLC
- 14) BOE-028 - Concerned with denying the appeal of Thomas Morton & Debra E. Rivera-Morton
- 15) BOE-029 - Concerned with denying the appeal of Thomas G. & Debra E. Morton & John A. & Carol B. Gallegos
- 16) BOE-030 - Concerned with denying the appeal of Thomas G. & Debra E. Morton & John A. & Carol B. Gallegos
- 17) BOE-031 - Concerned with denying the appeal of Thomas G. & Debra E. Morton
- 18) BOE-032 - Concerned with denying the appeal of Thomas & Judith L. Rau
- 19) BOE-033 - Concerned with denying, in part, and granting, in part, the petition of appeal of John F. & Nancy B. Martin
- 20) BOE-034 – Concerned with denying, in part, and granting, in part, the petition of appeal of Michael G. & Eileen M. Waski

Commisioner Houpt made a motion to approve Board of Equalization Resolutions No. BOE 016 through BOC 034 upholding the referees recommendations denying, denying in part and granting in part as listed above and authorize the Chair to sign.
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of the Board of Equalization. Motion carried.

CONSIDERATION AND ACTION REGARDING A CHANGE ORDER IN THE CONSTRUCTION CONTRACT WITH KELLY TRUCKING FOR THE AIRPORT CONSTRUCTION PROJECT – ED GREEN AND BRIAN CONDIE
No action

PUBLIC WORK SESSION

A PUBLIC WORK SESSION TO DISCUSS POLICY APPROACHES TO NEEDED IMPROVEMENTS AT INTERSECTIONS WITH STATE HIGHWAYS AND COUNTY ROADS – FRED JARMAN

Fred Jarman submitted a memorandum to the Board of County Commissioners with respect to the discussion held on July 13 regarding improvements at Intersections with State Highways and County Roads for discussion and consideration.

Most of the County's road network can be characterized as a "farm to market" road system whose carrying capacity has been compromised due to an increase in general growth and energy exploration and production activity. Recently, there have been several proposed land use development applications that have been proposed in areas that are either located at or near an intersection of a County road and a State Highway. Through these project reviews, it has become apparent that these intersections operate at low or failing levels of service and those certain significant improvements would need to occur to accommodate current pressures as well as additional future growth pressures. As you are aware, some of these intersections (primarily west New Castle) are also impacted by energy development activity, which exacerbates the issue. This memo will focus primarily on intersections with state highways in the County.

I. PURPOSE OF THIS MEMO

Based on these pressures, the Board of County Commissioners (BOCC) and the County Manager have requested I put together a memo that discusses these issues in the context of a broad policy discussion to determine what actions should be taken to deal with these issues. You will note this memorandum uses intersection of County Road 300 and State Highway 6 & 24 as an example of a failing intersection that highlights the challenges the County faces throughout the County presently or will in the future as development increases.

II. County's Current Tools

A. The County's Capitol Improvements Plan (CIP)

The BOCC adopted a Capitol Improvements Plan (CIP) in 1997 that essentially 1) established a Traffic Impact Fee system to offset the full cost of residential development's impact to the County's road system and 2) specified target areas where immediate improvements were needed. Since 1997, the County has collected Road Impact Fees and spent portions of those fees on specific road improvement projects. It is important to note that the 1997 CIP and traffic Impact Fee study specifically excluded examining improvements to intersections with State Highways, nor have any of these fees collected been spent on intersections with state Highways. The calculations for these fees are now 12 years old and do not cover areas of the County that have recently been greatly impacted by unforeseen development pressure.

The Traffic Impact Fee system put in place in 1997 did not apply to all growth; the BOCC only adopted the portion that applied to residential subdivisions even though the study provided a mechanism to apply to commercial and industrial traffic pressure as well. Further, the system did not include the whole County. Since then, there have been several developments that the BOCC approved, which did not have to contribute any fees to offset their road impacts on the County's road system. (This is the case for the CR 300 / 6 & 24 intersection.) [To date, fees collected from this Impact Fee system have provided the County with \$685,000.00 to be used in specific Traffic Impact Fee areas. This system requires that if the fees are not used within a 20-year horizon, the County is required to return the monies to the development.] Unfortunately, none of the monies can be spent in this area or specifically on a CDOT intersection, as they are not identified in the CIP.

Staff recommends commissioning an update to the 12-year old CIP that accomplishes the following:

- 1) Revises the Traffic Impact Fee system to address all types of traffic generation and not just residential growth and is applied to the whole County; and
- 2) Specifically addresses County / State intersections and provides a funding mechanism to assess fees for users of those intersections.

2006 LSC Transportation Study

In 2006, the BOCC commissioned a traffic / transportation study by LSC Transportation Consultants (LSC Study) to serve as an updated Garfield County Transportation Master Plan. This plan updated the rational nexus for requiring updated Traffic Impact Fees for residential development, which was a significant increase from fees in the 1997 CIP where a single-family dwelling would be required, contribute up to \$8,485, which was an increase from \$2,680. If this system were put in place, the County would have collected approximately \$45 million by 2025 based on population increases in the LSC Study.

This LSC Study proposed a "Gas Well Impact Fee" at \$2,077 per well. If that system had been implemented in 2006, the County would have collected \$5.5 million by this point. This study also specifically did not examine the Levels of Service of intersections with State Highways. Staff has presented the study several times to the BOCC since 2006; however, the BOCC has not adopted any portion of this study.

B. Colorado Department of Transportation (CDOT)

As County roads intersect with State Highways, the Colorado Department of Transportation (CDOT) has the legal jurisdiction to require access permits from Garfield County as trips exceed a 20 percent threshold over existing traffic. The CDOT administers these access permits by the State Highway Access Code (the Access Code). The Highway Access Code provides that the County (who is required to be the Applicant for an access permit) may delegate that responsibility to a developer to obtain the access permit. Because, it is the applicant's project that would be generating the trips that push traffic volume over the 20 percent threshold. State law prohibits approval of a project unless it has adequate access to the state highway system in conformance with the State Highway Access Code, which is why access permits are required.

In a typical CDOT / County Road intersection, there are three general user-types at any given time which include existing residents (residential / agricultural property owners), proposed development growth pressure (new projects) which includes energy development in parts of the County, and the existing travelling public on the CDOT right-of-way. These users characterize the circumstance at the CR 300 / 6 & 24 intersection.

To complicate matters, there are other circumstances that further exacerbate needed improvements that will require the County to pay the full extent of the improvements. For example, if the RE-1 School District decides to locate a school on the property on County Road 154, it will be the County that has to fund and improve the

intersection with State Highway 82 and cannot the County cannot delegate that responsibility to the School District or CDOT. This is a multi-million dollar improvement.

CDOT has allowed Counties (such as Eagle County) to review and issue Access Permits instead of CDOT; however, this local issuing authority is limited to very small private direct access points onto the State Highway System. CDOT does not permit Counties to permit themselves for County Roads as they intersect with the system. For example, the County Road 300 / 6 & 24 intersection would not be delegated to Garfield County to issue a permit to itself. That review would always rest with CDOT.

In recent discussions with the CDOT Region Three Access Coordinator, CDOT is not in a position to make any financial contributions to its intersections due to state budget woes. As this relates to CR 300 / 6 & 24 intersection (or other intersections), one their end CDOT can only commit to speed up a permitting process. Any needed improvements to County road / State Highway intersections will fall squarely to Garfield County or entities that Garfield County can legally delegate to for these improvements.

This memorandum includes an attachment that identifies a majority of intersections that either need improvements presently or will need to be improved due to anticipated development. Staff will provide a presentation that illustrates these intersections at the meeting on May 18, 2009.

Ultimately, CDOT has a Highway Access Code that does not effectively meet the needs for improvements at these intersections especially as new development continuously adds 19.9% traffic to an intersection, which obviously falls below the 20% threshold requiring a permit. Staff believes CDOT has an obligation to play a financial role in improving its intersections as a portion of traffic using it already exists and grows on the state highway. CDOT has a process by which Counties can request certain County projects be given priority in the CDOT project ranking process. Perhaps the County can become more active in this process.

III. WHO SHOULD PAY FOR INTERSECTION IMPROVEMENTS

Beyond jurisdictional authority issues, Staff finds that any policy discussion on this issue will result in the same discussion: Who pays for the improvements? Can it be done fairly and timely?

A. Case-by-Case Contract Negotiation

In the case of the CR 300 / State Highway 6 & 24, Chairman Martin suggested bringing in all the “folks” who use that intersection and determine if some fair-share mechanism could be put in place to pay for improvements. The question is who are the “folks”? If you consider all of the likely parties who use the intersection, it primarily includes the following main groups:

- 1) **Existing property owners** in the area of Spring and Wallace Creeks, those on CR 300 along the Colorado, Morrisiana Mesa, and perhaps citizens in Battlement Mesa;
- 2) **Natural gas exploration and production contractors** associated with natural gas drilling activities which includes all of the associated large heavy haul vehicles used throughout the drilling, completion and long term maintenance process which includes all the sub-contractors; and
- 3) **Owners of development projects** approved by the BOCC such as the George Strong PUD, Frac Tech industrial Services, the Encana Compressor Station, Una Gravel Pit and a proposed gravel pit.

In this case, the intersection most likely operated at an acceptable level of service until approximately 2003 when the natural gas activity began to increase and recent Special Use Permits were approved which all have a cumulative impact on the intersection. Presently, the County regulates SUP-type development but does not regulate the trips to and from drilling operations beyond the over-weight / over-size permit requirement. The County’s Comprehensive Plan states that the County should not approve projects that negatively impact a road / intersection unless it can be properly mitigated. Specifically, the Comprehensive Plan identified the following applicable issues, Goals, Objectives, Policies, and Programs in 1997:

ISSUES

- *Development in unincorporated areas of the County will continue to place demands on roadways initially designed to carry traffic related to agricultural uses;*
- *Land use decisions have placed incompatible traffic mixes on some roadways, due to the approval of projects placing residential and commercial/industrial traffic on the same transportation corridors without appropriate mitigation.*

GOALS

Ensure that the County transportation system is safe, functional, appropriately designed to handle existing and future traffic levels and includes options for the use of modes other than the single-occupant automobile.

OBJECTIVES

- 3.4 *Proposed developments will include street designs that will reduce adverse impacts on adjacent land uses, respect natural topography and minimize driving hazards.*
- 3.6 *Proposed commercial and industrial development will direct traffic to roadways capable of handling projected traffic.*

POLICIES

- 3.6 *Development proposals will be required to mitigate traffic impacts on County roads proportional to the development's contribution to those impacts. Mitigation may include, but not be limited to the following:*
 - A. *Physical roadway improvements;*
 - B. *Intersection improvements;*
 - C. *Transit amenities;*
 - D. *Signage requirements;*
 - E. *Alternative traffic flow designs;*
 - F. *Funding mechanism to implement necessary mitigation.*
- 3.8 *Staff review of proposed commercial and industrial development will include a determination of the potential impacts of the project on the local transportation system. Specific issues to be addressed include the following:*
 - A. *Traffic generated based on Institute of Traffic Engineering (ITE) rates;*
 - B. *Existing traffic counts on adjacent roadways;*

- C. *The appropriateness of proposed access points;*
- D. *The compatibility with existing and future traffic on the affected roadways.*

PROGRAMS

- 3.1 *The County, with the use of its Capital Improvements Program (CIP) planning, shall identify existing road conditions and shall establish road standards appropriate for the proposed scale of development.*
- 3.4 *A Capital Improvements Program, based on land use patterns proposed in the Comprehensive Plan, should be developed which identifies roadways, which potentially could experience significant traffic increases in the future. Mitigation necessary to address these impacts should also be summarized.*
- 3.5 *A ten (10) year Master Plan of Roadway Improvements, based on anticipated funding at the local, State and Federal level should be developed in cooperation with the Road and Bridge Department.*
- 3.6 *Planning staff, with guidance from the Planning Commission, will investigate methods of equitably assessing proposed developments for necessary roadway improvements.*

The County has the authority to deny development projects if these goals, objectives and policies are not met. The challenge, as in the case of the CR 300 / 6 & 24 intersections, is that there are other significant traffic impacts from oil and gas development uses that the County does not regulate via the land use permitting process. So, even if the County applies the Comprehensive Plan authority above, it would not apply to Oil and Gas drilling traffic which has been the primary user of that intersection.

To this end, Staff has met internally as a group including the County Road and Bridge, Engineering, Administration, and Building and Planning Departments and with certain gas companies in a meeting in Parachute. The following concept was discussed as a “fix” to the problems with the CR 300 / 6 & 24 intersection:

Assumptions:

- 1) The preliminary engineering study performed by High Country Engineering (HCE) indicated a design that would make the intersection better would cost between \$1.2 and \$2 million;
- 2) This preliminary study is very preliminary and does not include full engineering drawings and is based on trips during a high use period;
- 3) Does not include any negotiations needed with the Union Pacific Railroad for new road platform designs;
- 4) Apply in the next round and successfully receive Energy Impact Grant monies from the state;
- 5) Assuming a rebuild in construction year 2010; and
- 6) A new revised look at the traffic that needs to use that intersection.
- 7) Gas companies would share (pro-rata) cost on which company uses intersection; however, the companies stated that because there is no cash coming in and drilling is forecasted to drop, the present use is down so a new study should be performed to see if the improvements would also be less.

Actions: Who should pay? When should they be paid?

- 1) Assuming the \$2 million cost, the amount would be split in four pieces in the following way:
 - a. Oil and Gas Companies = ¼ (330K to 500K)
 - b. Garfield County = ¼ (330K to 500K)
 - c. Energy Impact Grant Funding = ¼ (330K to 500K)
 - d. Other Development (George Strong / RTZ Gravel Company and others) (330K to 500K)
 - e. CDOT = no contribution
- 2) Construct improvements in 2011 construction year.

This action is essentially a negotiation between the BOCC and all of these parties on behalf of CDOT. If these parties agree to their required contributions and the timing is right, then the intersection could be improved. There is no legal requirement that the parties must contribute in this fashion. There are several challenges to this approach.

- 1) As a matter of fairness, the BOCC recently prohibited the issuance of building permits for development of lots within the Traveler’s Highlands Subdivision because of the poor access from that subdivision onto State Highway 6 & 24. This forced Traveler’s Highlands to create an Improvements District to assess fees and make their own improvements to their access onto 6 & 24. The County did not negotiate with other users or contribute any monies to this project. This intersection has a direct impact on the ability of the CR 300 intersection to function properly as it is directly across the highway from CR 300 and a user of the intersection.
- 2) If the County contributes to this intersection from the County’s general fund, what are the criteria or the standards for how much the County should contribute? Staff agrees that a certain portion of the financial contribution should come from Garfield County, as there is existing traffic that should be dealt with from the County’s budget. This also keeps in mind that tax payers (property tax primarily) already pay a mil levy that goes directly into the Road and Bridge budget for their projects on the County road system and cannot go towards capital improvements on state highways.
However, Staff is fearful that if the County prefers to negotiate private contracts with certain users, it will set a bad policy precedent where other developers will ask the County to also contribute to their intersection impacts across the County. In other words, there should be a legal fair mechanism that fairly assesses contributions that applies across the County and not negotiated on a case-by-case basis to eliminate a future “arbitrary and capricious” challenge to the County.
- 3) Inequity towards new / proposed development as to what they can legally be expected to contribute to their proportionate impacts to an intersection.

- B. Public Improvement District (PID) / Local Improvement District (LID)

Tools that are often used to make improvements include Public Improvements District (PID) which are citizen initiated or a Local Improvements District which is County initiated and requires a public vote. Generally, these districts become taxing entities (authorized under State Statute) which can finance, construct and maintain public improvements. They may be formed to address any type of public improvement or service and they have the authority to issue debt and to impose a mill levy against real and personal property within the district. If the County chooses this option, it would need to define the “neighborhood” that contributes to the improvements of the intersection. From a broad policy perspective, Staff does not recommend the BOCC initiate a PID for all of these intersections around the County.

C. Garfield County Unified Land Use Resolution of 2008

Not dissimilar from authority provided in the Comprehensive Plan, the BOCC recently adopted certain provisions (Section 7-108) that also deal with this issue and provide the BOCC with the authority to deny projects unless the following standards are met for all changes in land use:

7-108(C) Safe Access. *Access to and from the use shall be safe and in conformance with access standards set forth in the [title of new road/bridge standards]. Where the land use change causes warrant(s) for improvements to state or federal highways, the developer shall be responsible for paying for those improvements.*

7-108(D) Adequate Capacity. *Access serving the proposed use shall have the capacity to accept the additional traffic generated by the use safely and efficiently. The use shall not cause traffic congestion or unsafe traffic conditions, and all impacts to the County and state roadway system shall be mitigated through roadway improvements or impact fees, or both.*

SUMMARY

As you have read, this memorandum points out that the current systems are inadequate to deal with the real needs the County / CDOT face presently and in the future. As is evident, Staff finds the County’s Capitol Improvements Plan (along with its Traffic Impact Fee system) to be antiquated and inadequate to provide any meaningful offset to the County’s burden to improve its road system and intersections. This is further exacerbated by CDOT’s inequitable Highway Access Permit system that is inadequate to properly address needed improvements to these intersections.

Based on this, Staff suggests that the BOCC consider the following:

- 1) Initiate an update to the County’s 12-year old Capitol Improvements Plan by hiring a consultant to specifically provide the County with a fair, equitable and legally defensible funding mechanism to offset the significant costs that would otherwise be borne by the County taxpayers. This revised plan should also include a new rational nexus / rational proportionality test to assess meaningful impact fees for commercial and industrial development and not just residential development as it is today. It should also extend this authority to all areas of the County.
- 2) Consider increasing the fees charged to over-weight / over-sized vehicles with exemptions for agricultural uses.
- 3) Actively participate in CDOT’s project prioritization process for specific County / State intersection improvements.

Finally, Staff suggests that the timing for this update is appropriate to pursue immediately as development activity has slowed considerably. This positions the County to be adequately prepared to better deal with development as it increases again.

Key Intersections from West to East

- A. County Road 300 & State Highway 6 & 24
- County Road 323 & State Highway 6 & 24
- B. County Road 246 and State Highway 6 & 24 (County Landfill)
- C. County Roads 210 / 223 & State Highway 6 & 24 (West of Rifle)
- D. County Roads 225, 227 (Miller Lane), 229 (Antonelli Lane) & State Highway 6 & 24
- E. County Roads 315 (Mamm Creek) & 346 & Interstate 70
- F. County Road 235 (Davis Point) and 262 and State Highway 6 & 24
- G. Peach Valley Road and County Road 263 & State Highway 6 & 24
- H. County Road 115 (Red Canyon Road) and State Highway 82
- I. County Road 154 and State Highway 82 (Hardwick Bridge Road)
- County Road 154 / 114 (CMC Turnoff) and State Highway 82
- J. County Road 113 (Cattle Creek), County Road 110 and State Highway 82
- K. County Road 100 and State Highway 82

Discussion:

Chairman Martin – A couple of things I noticed Fred, when you are saying unregulated in reference to oil and gas, you have another issue, which is overweight, and oversize permit process; pipeline and utility costs etc. They are all in there and they are apportioned, which is a fair tax in reference to the road improvement – that is also on others that you have to put on all the industry as well. Therefore, that is being collected and you are leaving that out. The other one is on the 1997 study – it was flawed from the beginning based on what we were trying to do which was concentrating on building of houses and not looking at the entire County as a whole as industry, etc. Interesting that you would say that the industry is supposed to pay up to \$5 million dollars so far since that went in.

Commissioner Houpt – No, that would have been the 2005 study.

Chairman Martin – And they have collected \$3 to \$5 million dollars a year since 2005 and put into improvements so they have actually have exceeded in reference to the other approach we have. And, if you look at the areas we have designated as impact areas, we are supposed to generate \$45 million on homes and we have about \$1.5 million over that period of time in reference to roof tops and developments – so it is still flawed. The impact study that was done and had many politics in it as well in reference to the roads, types of roads and that could have been weeded out. It

was weeded out at one time and then reinserted and became one of those footballs that we could not resolve so we did not adopt it – it is flawed as well in reference to the type of impact fees, how much it would cost and then you looked at the actual mill levies and property taxes on the people that payed property tax. One of the smallest portions of that property tax is road impacts or road fees. The largest is schools. It has always been that historically speaking. Schools get the lion's share and Road and Bridge gets a share, and we make those adjustments based upon our priorities that we put together with our budgeting. 13.65 mills and we make those adjustments for capital improvements, wages and benefits, etc retirement, rebates on taxes all broken down and we do change that from time to time which we are allowed to do to build up on projects. That is not where it is happening either if you look at property tax in reference to oil and gas. They pay a tremendous amount compared to everyone else. You are talking \$2.5 billion of assessed valuation on property tax. The rest of the County is less than a billion. I think that we are looking at an industry to tax them again with impact fees and so I thought it was unfair. That was my argument in reference to the impact fees on the study that was done. And also, the industry's willingness to sit down – they give their drilling plan, meet with the road and bridge folks, set their priorities and know where they are going to be, they lay their maps out and then they establish the haul routes. This is one of the biggest issues we have to look at. We, the County Commissioners, designated certain roads for haul routes. That is where the industry goes. That is where the impact is going to be by the industry. They are the ones that use that most of the time and they are the ones that put the money into it when it breaks down. That is upon request and understanding. They do not have to, that is the handshake agreement we have in place and I think it has been extremely successful. If you look at the west end you will see a lot of roads that have been paved and improved, drainage done, etc simply because they are using those as designated haul routes. We also have many oil and gas conservation fund dollars on haul routes. The amount of money that the state has given us to do those roads needs to be maintained. So, that's why we put as much priority in those as we can. One of them is going to be unfortunately, Battlement Mesa, which is CR 300, which has been rebuilt from Battlement Mesa all the way to Una Bridge. It has been rebuilt and paved by the energy companies. Now we have a huge pipeline going through that intersection again which is going to tear it up as well as we had to put a different bridge in there. So, we need to take that study that we did twelve years ago, just as you are suggesting and set some priorities based upon safety factors, haul routes, what we have deemed as priorities and everyone in here needs to do that. To do that with land use, we need to be the lead in working with the state so we know what is going on not just the state and the developer doing it. That is why we are behind the eight ball as we all know. We need to sit there with the developer and CDOT and agree with those improvements. That is where I am coming from and the mechanism of payment is there – all we have to do is fine-tune it.

Commissioner Houpt – I have a different slant on that but you have just identified 12 major intersections in this County that because of our past policies have not been attended to. And, what probably would have been a more appropriate manner, I remember when I was elected and learned that we have that 20% threshold for improving intersections and my big question at that time was well, why does the last person in have to pay everything. And John brought that point up today and I think it is a very valid point. The Capital Improvements Plan was finished in 1997 and it is a very old plan that is obsolete. We have this study that you brought to us 3 times to be considered and approved, a lot of time and effort and money was put into this, but it is out of date also and needs to be revised. You brought up some difficult questions that I do not think the people in this room or this Commission is capable of responding to without having an updated study conducted so that we can adopt a new policy on how to resolve these issues. I do not want to start double taxing people; I do not want to continue to hold only certain developers responsible for the upgrades and the intersections. I do not know the answers as to how to get there. I do know that it would not be affordable for this County to start negotiating intersections one by one across the County and agree to play a major financial role in resolving those issues. I think the original preliminary bid for CR 300 was \$1.2 to \$2 million. I think we need to do in a very systematic manner and make sure we have a better process in place. I do not know why we have not updated the Capital Improvements Plan (CIP) in so long and we really should have addressed this transportation plan as well.

Chairman Martin – The cost of study right there, you think it is expense now, the cost of that study is astronomical. That is the problem why we could not adopt it because we would obligate the cost of the improvements to those standards and we could not afford it.

Commissioner Houpt – Well we could have had we been willing to have business pay their way.....

Chairman Martin – Not even close.

Commissioner Houpt - We have always had residential development pay their way and not commercial and industrial pay their way. I have to say, John that I do not disagree that the industry has invested a great deal of money in this County; but, I have people from EnCana and Williams, you know, there are a lot of companies who are not investing in these roads and we end up paying the lion's share. They use the roads; there is no tool that the County has for making sure that too are coming forward with funds.

Chairman Martin – Other than the taxes that have been identified. The other issue is the 20% rule that is a state access code issue and all we did was to take that from the state access code and put it into our own land use code. That is backed up by state statute. What you have to do and one of the things we needed was baseline study on the priority areas of all of our intersections – we do not have that. Now we are going to impose that particular one on CR 300, which has four different studies by four different companies on access and the percentages of uses. It goes up and down.

Commissioner Houpt – These other intersections have other studies as well. We have had discussions on all of them.

Chairman Martin - As far as negotiating intersection by intersection that is exactly what we do right now. That is the policy we have in place right now – that is the impact we have right now. It depends upon the traffic study that we impose proportionally shared based on their use.

Commissioner Houpt – We have not invested in an intersection with the state highway since I have been in office. Fred, do you know....

Chairman Martin – I pointed out one on Highway 82 which happens to be the gravel pit at CR 103 and there are two gravel pits at that particular intersection.

Commissioner Houpt – And when was that improvement made. Did CDOT participate?

Chairman Martin - Ralph Trapani did it as one of his last jobs.

Dan Roussin – It was before my time, I have been here since 2001.

Fred – Mine too.

Commissioner Houpt – When was that improvement?

Chairman Martin – That was one of Ralph's last job around here. We have done many improvements and many cooperative efforts together and have not charged each other – stayed within budgets, on and on. We are sharing the cost. That is what we need to continue to do.

Commissioner Houpt – Well, we have not been doing that for a very long time and I can tell you that in 2011 we will not have the money. We are going to start down a new road. What I am really advocating for today is that we follow staff's recommendation; we have the studies updated and we have a defined plan for meeting the financial plan for meeting the financial responsibility.

Chairman Martin – You have the beginning of that Tresi and that happens to be the declaration of the different roads within the HUTF funds, which we receive from the taxation from the federal government and the state. We identify those roads; we certify those roads, and the level of service they are going to be held etc. Marvin then sets the priorities; what we need to do is to review those and do our jobs and maybe review them a little more in-depth on our priorities working along with Fred who works with Marvin. Maybe we should be in that room as well looking at the growth patterns and take the responsibility of saying yes we agree or disagree instead of just looking at a list and say Marvin can you get this done and let it go. The responsibility is on this Board. Another study just pushes it off and does not make the decision. This Board needs to make those decisions.

Commissioner Houpt – Fred, what would a new study accomplish for really moving forward to prioritization of the expenditure – maybe Marvin can help you with that too.

Chairman Martin – Tresi's question was what would the cost of a new study be and the length of time and again it is not budgeted until 2010.

Commissioner Houpt – That was not my question. My question was what a new study would accomplish to help in terms of addressing priorities and financial commitments and what that means.

Fred – I think it would do just what you are saying. You have a study that is 12-years old that I think it has been proven inadequate to deal with the growth pressures that you have at the end of the day. You can continue to parlay the same experience you had but you will still have failing levels of service in the County that only gets worst. It is a policy question for you as a Board to see how you are going to tackle that issue. If you do not, then do not.

However, the CIP gives you a legal way to say, I do not think that we as the Board of County Commissioners can continue to shoulder the cost of development and perhaps that ought to be borne by somebody else. Maybe it is the development creating the impacts. However you do it, you have dedicated funding streams, you have hopeful funding streams we call them, whether that is grant monies, HUTF monies is de minimus – it's a penny in the bucket. I have talked to road and bridge about this and they understand this is not dissimilar from the heavy haul routes scenario. At the CIP level what you could do is say, it appears when we canvass the County here are your real trouble spots, we put a priority on those so that you can focus your capital planning then say in the next five years. This is what is typically done in other jurisdictions and so they can lay out a roadmap to say here is how we think we can get there. The impact fees in talking with all the other jurisdictions; it is abundantly fair and probably the most fair to be honest with you. Does it pay for it, of course it does not. There is no way near that it pays for it. It is not supposed to. It is supposed to offset that burden that somebody else has to carry so that your citizens are looking to you and say, well, wait a minute, all this growth getting approved, which checkbook is that improvement being written from. I already pay taxes so how does that improve. Therefore, the question is really a simple one – either you say well we have to shift that burden to someone or something – there are many mechanisms to do it that are legally defensible, fair, whether they are politically acceptable that is of course your call. The fear we have is the hopeful money is going to dry up faster than you know.

Commissioner Houpt – I think it will.

Fred – To be in a position to where you can look at this fairly is the way I think is the best way. Other jurisdictions take it to the far end of the spectrum as you know. Your neighbor to the north has an impact per well just shy of \$18,000 per well that has yet to be challenged; it is not in court. A rumor that it was being challenged is not the case at all. You have counties that do not do anything. Somewhere in the middle, there might be a place for you all to make a decision so that you are shifting that burden to somebody; it is not an out-of-concept as this is done around the world. The CIP to get back to your question to have a document in place provides certainty for somebody to say, if I choose to develop in Garfield County, I know exactly my game plan. I know what my proformas looks like rather than having to guess later or have some political negotiation on what I may or may not be held too. I think just the sheer nature of certainty is a big issue for the development community. Of course, no one wants to pay anything. I do not want to pay taxes either. The CIP gives you a basis and what I would suggest it gives you is a straw man to chew on. There may be things in what you would say as the former Board did with the LSC study where there were things they did not agree. That document has not yet been approved. You have at least that opportunity by updating that study rather than starting a new one. You would have something from which to springboard.

Commissioner Houpt – Would you be able to use this as well.

Fred – Absolutely.

Chairman Martin – A little bit about Rio Blanco, remember the population, the size of the county, which is larger than Garfield County. It is a concentrated area and the number of wells is 200 a year versus what Garfield County has which is 2000 plus a year and their overall improvement area is in one centralized area not over the entire county. It is County Road 5 and that price tag based upon the wells, based upon the mileage is why it is \$18,000 because the project goes anywhere from \$100,000 plus up to \$200,000 million dollars just to take care of that infrastructure. So that is all they are doing is collecting impact fees to take care of that one little area where we are talking about the entire County. How are we going to do it fairly? That is why we have been able to negotiate because of the oil and gas impacts in certain areas. They did not try that in Rio Blanco and that was their approach. It met with resistance then you look at how many years it is going to be to collect enough money to do that project with \$100 to \$200 million dollars at 200 wells a year.

Dale - Let me throw out something. You are way out here in cerebral pick around land; you are talking about 12 intersections with potentially shared cost responsibility. Does it make sense to talk about whether you want to attack those 12 intersections as your first priority?

Commissioner Houpt – I do not know until I see the study because I get calls from people everyday about concerns they have about their roads. We have miles or roads and we do not have a budget for these intersections. That is why we really need to address where that money is going to come from. We have a budget that is going to take a huge hit in 2011 and we need to plan for that as well. I know people need the work plan, a study and plan. When we are

talking about these kinds of dollars, I need to know how I am spending public funds. It is not responsible to just throw it to the wind.

Chairman Martin – Under the public works programs and the amount of money that we have invested in infrastructure, I think Marvin's crew along with a crew can come up with the priority of the 12 intersections and the rest of the priorities within the County. We do not have to pay an outside agency to come in and do this for us. We do not need another expert. I think with the knowledge and the information we already have that decision is one this Board needs to be doing and we need to be working on that right now.

Commissioner Houpt – Well, I do not disagree that we need to start working on it right now but I do disagree that we have enough information in place when what we have in place is a study that was conducted in 1997.

Chairman Martin – I am not talking about the study in 1997. That is a base; the information on a daily work plan, the priorities that we put in place for the last four years, the accomplishments that have been done and all of that stuff is already recorded and at hand. We have the growth patterns that we have with industry as well as housing as well as commercial outside the cities. We can sit down and compile those ourselves. This group right here can come up with priorities within a few weeks knowing that and then we look at the 2010 budget and start doing prioritization on our planning in reference to Marvin, planning and impact. We are not taking the responsibility; we are trying to give it to somebody else and then hedge our bets and then it will go away and everybody will be happy. We need to do it now.

Commissioner Houpt – a valid report forward so that we can do our job.

Chairman Martin – We have all the experts that we need in this room. We do not need to bring any more experts because all the experts would do is sit down and talk to you and glean information from those that already have it and then put it together and hand it to you. We need to be doing that so we have a more in-depth understanding and response to our citizens, our concerns and priorities.

Commissioner Houpt – It was easier to carry on business in that manner when we were in the middle of a boon and we had a wealth of money in our budget. What we are looking at right now folks, we are looking at a budget that is going to drop tremendously in two years. We need to be fiscally responsible about how we move forward. When you do any kind of road project and I see people in this room who know very well, what I am talking about – it is expensive and you are talking about a lot of money. You do not want to see double taxation on people; you want to make sure that development business and residential growth pays for itself. You want to be fair about who participates. We certainly want to look to other entities like CDOT. They are broke but there is money out there. We want to look at other partners who should be at the table as well. You know I cannot support moving forward until I know what that final bill is going to be and I do not think that 1997 study is going to tell me. Marvin has a very large budget. However, intersections and state highways are not a part of his budget. You add that to it and then you are looking at a significant amount of money.

Chairman Martin – In 1997, the overall dollar that would have taken care of every intersection and every project we had identified was \$22 to \$25 million dollars, excluding Four Mile Road, which was about \$35 million on its own. That is one you have in front of you. You are talking \$100 plus million dollars in reference to the Four Mile road. What we need to do is establish priorities by this Board, working with our own staff and coming up with decisions.

Commissioner Houpt – I do not think our staff is prepared. I heard specifically from Fred that he really felt an expert needs to be brought in that has the expertise to accomplish this task.

Commissioner Samson – Fred, do you have any idea what the 1997 study cost?

Fred – I have no idea.

Commissioner Samson – Do we know.

Dale – Was that Peter Nichols and his group.

Chairman Martin – Yes, it was.

Dale – It was not a tremendous amount of money.

Chairman Martin – It was also based upon our engineer, road and bridge director King Lloyd, who provide a lot of information as well. It was based on a previous study from Chin and Associates that did the infrastructure measuring strength, etc based upon the kind of level of service on roads. You are talking \$10,000 to \$20,000 dollars. It took about 5 – 6 years to get it done and that is what we have as the 1997 study.

Commissioner Samson – It took 5-years.

Chairman Martin – Yes. That was your baseline study of what the roads were, how Chin and Associates evaluated the roads as constructed, what was the base underneath the roads, what was the level of service at the time, what were the growth patterns, and what they were trying to accomplish with the roads that were in place, etc.

Commissioner Samson – Question for Marvin – working with Fred or whoever else is on the staff, do you feel like you could do an adequate job of what is necessary to make the priorities?

Marvin – Yea, I think we could. We can make a priority list and come to the Board with an agreement. One of the things is I do not think it needs to be a great big study. I think if we were talking about intersections, we would deal with the intersections, get an engineer's estimate of the cost on the rebuild on the intersections and maybe plan it out for a little bit in the future to make sure that the intersection will last for a while.

Chairman Martin – The idea that we are going to identify all of these and build them all in one year is not what we are talking discussing.

Marvin – That is not what I am talking about either.

Chairman Martin – Over a period based on the priorities, we could review it every year and include who develops what proportional share coming in under the access code, cost recoveries, etc. It is not the fact that we are going to take it out of your budget right off the bat and nobody else is going to get anything.

Commissioner Houpt – With that question in mind, Fred what additional work were you talking about when you were talking about this study and not just prioritizing but in addition to prioritizing?

Fred – One of the things we obviously look at is the growth projections through the County and where we anticipate the growth occurring so we can be ready. Then, you have a mechanism in place that just does not wait for all the sudden impacts to show up and then you build. You actually are prepared and you can anticipate to some degree. It appears that this is going to happen here so maybe we ought to be ready. That is one way. The prioritization is part of it and looking at the land use base and then looking at the activity.

Commissioner Houpt – Do we have any of that information in place?

Fred – We are working on it. We are getting ready to begin the Comprehensive Plan Study projecting where this land use is going to go. It is a natural step that this happens. In many cases, you will see comprehensive planning

efforts also include the capital improvements study along with them. They really operate hand in hand. The other part of your question is part of that update is to reasonably update those fees and the access behind your impact fee system so that your fees actually mean something. In doing, this is the legal basis, in my view and should be an outside assistant.

Commissioner Houpt – And why?

Fred – Because in-house I do not believe we have the capacity. In fact, I know we do not.

There are groups who specialize in doing this that is why most counties hire a company. It is extremely complicated; they track state law and everything else. It is something I would certainly not urge you to do in-house.

Chairman Martin – We did and that is what we have in place from the 1997 study.

Fred – There was a lot of outside assistance, John.

Chairman Martin – I remember many an hour going through the regional nexus and putting those formulas together.

Marvin spent many hours and so did King Lloyd, the first engineer that we had as well as the Commissioners. It is possible; it is establishing a reasonable nexus, which is defensible in court and you do your proportional shares.

Fred – It is really your comfort level because when there is a challenge it is to you, the Board.

Chairman Martin – That is correct.

Fred – I would hate to see Marvin and I sit and say well with all great intentions, but it was not what you thought it was going to be.

Chairman Martin – If you apply it today...

Fred – That is probably the reason behind why you went behind the LSC study. The Board commissioned that study and spent the money. You did not go in-house and you can do it again. I think there is a lot of proof to that method.

Chairman Martin – Since we have not adopted that Fred and if we apply it today, you are still on the hot seat and so is Marvin as well as this Board in reference to the reasonable nexus because it is adopted and in place. We have to defend that no matter what.

Commissioner Houpt – Mike, have you had an opportunity to look at this study.

Commissioner Samson – Briefly yes.

Commissioner Houpt – There is a lot of good work in this study.

Commissioner Samson – Marvin, I have a question for you. In all of these meetings that you attend for CCI and you go to these road and bridge meetings, can you give me some kind of ideas so we try to reinvent the wheel here all the time. What do most counties do with this problem?

Marvin – Most of the time when I go to the meetings we discuss the county roads, intersections is not a large discussion.

Commissioner Samson – Are you familiar with what other counties do?

Marvin – No, I know they have a study or a mechanism to get the funding for whatever intersection it is, and that is the real issue. These 12 intersections or whatever intersection we have is getting the funding the improvements. It cost a lot. I have a large budget but it would probably double or more the budget to accomplish what needs to be accomplished in a few years.

Commissioner Houpt – That is why a big part of this was trying to figure out how to establish....

Marvin – We need to know about what kind of dollars we are talking.

Dale – The other thing to keep in mind is that when you talk about how much Marvin really has, the general fund is 3 1/3 larger than the road and bridge fund. It is how you allocate resources too and that is another consideration.

Commissioner Houpt – Today it is.

Chairman Martin – The general fund is the only fund that you can transfer out of to another fund. You cannot transfer anything else other than the general fund. It is a huge task and is something we have pushed aside. We need to be wise and take the bull by the horns and work with CDOT and anyone else that comes forward with Marvin, planning staff and the comprehensive folks, etc. We need to have it front and center and work on this particular issue.

Commissioner Houpt – I think that it would not work well to ask the staff to put that on their plate unless we give them this 2006 plan and use that as the template for whatever you come up with.

Chairman Martin – Use all three studies that we have; we do not need a full study.

Marvin – Maybe with Fred's staff, my staff and engineering we can come up with some kind of a plan – not a huge plan but some kind of a plan and the direction we need to take and bring it to the Board.

Commissioner Houpt – What concerns me about this is we are heading into some lean times and I want to make sure we are doing this properly. I know you people can bring forward the information and priorities but how we address this – even if it is somebody to pull in all of the information from other counties on what they are doing. We know we have some neighbors who have some hefty impact fees in place and we know there are other counties that do not deal with these intersections either.

Chairman Martin – The key point is they do not pay for the entire intersection or the improvements. You still have to budget and prioritize the information moving forward. Even the funds we have over in the treasurer's office, if not used within the 20-years, we pay it back. I do believe under that Resolution we also pay them back with interest to the taxpayers. You have to be careful with that as well.

Commissioner Houpt – My point is that this commission has not even decided that we are going to pay for a portion of these intersections. We have not received any information that shows that we are capable of paying for these intersections or show what portion of the intersections we are capable of paying.

Chairman Martin – Well, we have to declare what we spent on HUTF funds every year. You already are establishing where your priorities are and where your spending is, you are already putting money into these roads and you can look up your HUTF report and see exactly where you spent your money. And then you compare that to what Marvin's job schedule has been, how much money they put in on top of that to see what came out of the HUTF funds plus what the other funds were to finish the project. You do a side-by-side comparison and you can see exactly how much you put in. Just because a road is built does not mean that the expense stops, it only continues from there. We put in money into every road every year.

Commissioner Houpt – John that was not what I was saying.

Chairman Martin – In the construction of it, or the improvement, that will have part of the HUTF funds and part of the other maintenance money and other partners that we have. We choose when we do that – we choose how much and we choose based upon our declaration of how much money we are going to put into it to improve it to a level of service. A study only gives us a guideline. We still choose to do it or not do it.

Commissioner Houpt – But we need to be well informed before we make the decision to move forward on how our priorities are going to be.

Chairman Martin – We can agree to disagree.

Commissioner Houpt – Otherwise we...

Chairman Martin – We will just spin our wheels and put in on the shelf. I would like to hear from the audience, because you and I can argue all day long and it will not get us anywhere.

Audience:

Chairman Martin – David, you have a unique situation.

David Hicks – I own a number of the lots in Traveler's Highland Subdivision and I think the CR 300 intersection probably illustrates most appropriately the issues that you are dealing with and the impacts we are seeing. Probably not even the 1997 or your latest study had any clue as to how much growth was going to occur in the west end with the drilling capacities due to how much drilling improvement change has been over the last 5 to 10 years that allowed them access to gas wells that they could not have done before. The study is not going to help you a bit, trying to forecast is just a different crystal ball; is it right or not, who knows. The money, if you choose, I'm not even talking about my side of it; the other side of the intersection is the SUP's and PUD's go away because of the cost of the burden you put on it as a Board are too high. You are still going to be sitting there looking now at the entire bag improving that side of the intersection. Nobody is going to come to the plate to play in the game with you. I am telling you the hard facts of the realities. Just as you are facing budget cuts, everyone on this side of the table is seeing the exact same issues and you may well be looking at improving that intersection 100% on your own regardless of all the studies you do, etc. Are there improvements to that intersection that can be made with the players that are ready to play today? I do not know. I'm just saying you have to look at it with the reality of there are some people willing to contribute at this point and a year from now you may not have that ability.

Commissioner Houpt – And what I am talking about is how we move forward with that as well. We have insufficient impact fee structures in place. If we had something more realistic and practical in place, there would not be two applications hanging out there waiting to see what was going to happen with this discussion. The improvements would have been money from the industry use that is on that road.

David Hicks – The money you have currently, how you got it is not even a debate.

Commissioner Houpt – But it is significant.

David Hicks – It is significant.

Commissioner Houpt – It is significant in what we will have to pay into the future.

David Hicks – It is significant but the flip side is significant and that is the point I was just trying to show. By not making a decision and getting one of them behind when you have players at this one intersection that I do not believe you have at the others is something that ought to be considered that is my only comment. My side of it really does not have impact on the huge problem that you have on the south side of that intersection.

Chairman Martin – The other thing is the economy itself. If you make the businesses go away, your economy also suffers, and you do not have it anywhere else either. At that point, you have a lack of safety and the impact is still there one way or the other, jobs are gone, or there is no money no matter what. I guess at that point we take the same position we have in the past; it will just go away, people will stop using it and we do not need to spend any real money to improve it. If we are looking at economic development, we do just the opposite. If you want things to thrive like we did over there at the Rifle Industrial Park and make the improvements, put things in place, make it happen and look what happened – it blossomed and bloomed. Now, it is paying for itself many times over and we are still collecting all the revenue that we had plus the new businesses in reference to taxes. There is not a great deal in the immediate area for the entire County to be improved but it is an improvement and it brought more businesses and more jobs. I think that is what we were after to make sure that we keep the industry going, the housing industry, the grocery stores and the only way we can do that is to invest in our infrastructure. That is what we are trying to do. This must all be based upon priorities, needs and the impacts.

Commissioner Houpt – That would be a good plan but that is not what is in front of us today. What is in front of us right now is changing our policy to meet the needs of two applications. That is not a very responsible thing to do unless you also have a plan for how to move forward with your policy.

David Hicks – I understand that, but let me give you one final example and then I will shut up. On my side, I am under the gun and have to do the improvements on my side. Now, that money could be used in the grand scheme to help the final configuration of that intersection, but if I do the work prior to your starting, it is throw away. So the 20% that I am going to contribute to the intersection, I might as well go out and stand in the windstorm because it is not going to help anybody in this room, CDOT or anybody else. There is a time value to what I am doing whether it is worth considering or not; that is not my point. It is my decision to make; it is sitting there.

Chairman Martin – It is the same way we approach the wildfires that took out Mitchell Creek. What we did was sit down with the NRCS folks and say listen, we can wait 6 – 8 months and we can get money from the federal government through their disaster program and our engineering. All the rest of us will be able to do some of this stuff, but in the meantime, you will have to put up with all the floods, debris flow and the inconveniences. The Board of County Commissioners said why not put the money up front and take care of everything right now and then when the federal government or whomever approves all of their activities then they can send the money to us and we can have a cost recovery. That was amenable. What we are doing is the same type of situation using David Hick's money, the gravel pit, George Strong's development costs and using the pipeline money that is coming thought the intersection. That pipeline is to be 32" to 34" on top of another one that takes up the entire bridge. Guess where that is going. Dan, we talked about that before, it is headed your way. We all come together and say we pool everything; yes, there is a cost recovery and there is a time issue. Yes, there is a change in policy but it is about time we start addressing what we have identified as heavy haul routes to put certain people there to keep them off the streets so there is not a degradation of the other streets that are not built to that standard. Yes, it is a policy change. It is about time we stepped up and said we need to be doing these proactively and not reactively.

Commissioner Houpt – Exactly and I do not want to do this reactively which is what I said.

Chairman Martin – It's a starting point.

Commissioner Houpt – It is precisely what we are doing and I do not disagree that it is not a good idea to discuss this but I am not going to support this at all if we do not have a plan in place for how we are going to move forward with addressing our policy. It would be so irresponsible for us to be this reactive with every single intersection in our County. I can guarantee you that of the identified intersections I know that probably 2/3's of them have come in

front of us since I have been here. I know that it would become an issue again and I do not think that we should be a reactive County. I think we should be responsible about how we move forward. You do not change policy by reacting to a current issue; yes, you can try to work on that issue but if we are going to start addressing state intersections and CDOT I still think should be responsible for this too. I think there should be a budget.

Chairman Martin – It's not even in their 30-year plan

Commissioner Houpt - ... I know you would agree but I ..

Chairman Martin – It does not even meet the 30-year plan; it's not even on the radar in 30-years. Now we cannot wait 30-years.

Commissioner Houpt – It should be made a part of

Chairman Martin – Unfortunately, it is a state overall priority within Garfield County; it does not even hit the priority list of the top 106 priorities, which Tresi took part in establishing.

Commissioner Houpt – Well, that is because we have a policy in place that you and Larry actually voted to approve last year that says developers will be responsible for these intersections.

Chairman Martin – Proportional share.

Commissioner Houpt – It does not say proportional share.

Chairman Martin – Then you are going back to the one person getting to pay for the whole intersection according to your interpretation which is totally unfair and would probably be challenged in court.

Carolyn – What was agenda today was a discussion on policy, not of one intersection.

Chairman Martin – I agree.

Carolyn – And not even of 12 intersections. This is not a legal issue but I am wondering if I could suggest something that might push the discussion along.

Chairman Martin – I am trying to get these folks to participate. David made his statement.

Marvin – Dan can speak on how he works with other counties and cities in his jurisdictions.

Chairman Martin – A policy that changes is really what we are talking about here. It is A & B in reference to the State Access Code. Should we continue to pass on that responsibility to developers or should we as the County be the lead person. That is the only policy shift that I see.

Dan Roussin, Region 3 permit manager – First thanks for inviting us to the conversation. Seriously, it is important because we are partners and I have always thought that. I think it is important for CDOT to be as partnerships as much as we possibly can. I listened to Fred's presentation; I thought it was a good presentation. He was very accurate on what he said about the access code and to be frank, the access code does not deal with the fairness issue. What it deals with is –when it is needed, it says please do it. The issue is the fairness issue and the funding issue.

The code really does not have a great way of doing that. I also agree with Fred's recommendation on a study; I deal with 14 counties, 54 towns and cities in my region on access issues. This by far is the toughest thing that local governments have to deal with – the equity issue and how to afford these types of improvements. Many local governments actually do not deal with it at all. They put their head in the sand so to speak and hope that development is able to handle it. In some cases that works, but in many cases it does not because the type of improvements that are needed is far above the resources of the just one development community. I think Fred's presentation said trying to get people to negotiate; I think it is a good way to get people to negotiate. It works well if all the parties are agreeable to negotiate and work together to get it accomplished. The problem is we cannot get everybody together. CDOT has seen successes where developments have worked together and come to CDOT to get a project together. In more cases than not, I have seen more failures than successes. It is probably 3 to 1. It is just because people have different priorities; it is something difficult to deal with because of their different priorities. In regards to CDOT funding, I want to try to defend ourselves. Our funding mechanism and how we do it is that we have a pot of money and whatever the pot of money is it goes to the TPR that is where we do our major intersection improvements, or corridor improvements. Basically, the TPR doles out the money. We have a planning process to help to be fair on where it is doled out. Commissioner Martin is correct; the intersections we talked about today – they are not on CDOT's radar screen. The issue is we need to try to get them on the radar screen for CDOT before our money can help alleviate the problem. We also have safety money, which is hazardous elimination funds that the federal government gives to CDOT. The counties can apply for hazardous intersections. This is another way that we can try to help with the funding of intersections. Probably the best example in Garfield County that was hazardous elimination funding was the roundabout in Silt at 9th Street. That was \$700,000 - \$800,000 dollars that the state participated in. The Town of Silt also participated significantly. It was not all CDOT. That is a partnership and one way of doing it. The funding mechanisms consist of hopeful funding. The hopefully funding is DOLA and things like that but it is just hopeful funding. The only thing I can say is, for CDOT to be involved, we have such a rigid system on our funding mechanism the only way for us to get involved in that is through the planning process through the TPR process. What I do for CDOT is I do 3rd party projects where development impacts the state highway system and that is through the state highway access code – that is my job. The issue is if they are not in the public funding mechanism, then they have to go to a 3rd party. The 3rd party could be the development community, local governments, a combination, but typically these types of projects are not CDOT funded – they are either local government funded or development funding. That is how we handle it and that is what the access code does. Now, where we have challenges is the bigger projects. CR 114 and 113 are serious projects – I have no idea what the funding is or what the cost is to fix those intersections but from my experience, it is significant amounts of money. That is where the policy that you have in place does not work because they just cannot do it. They do not have the tools – one developer does not have the resources to fix those types of intersections. That is where the issues come and how to handle that. CDOT boss, Pete Meritis, the region traffic engineer, recognizes there are issues like that and he has recognized that we need to help as much as we can. That is why I am here and why I have the resident engineer here and the traffic engineer as well as the permit engineer because we recognize we need to be at the table and try to come up with solutions. Our problem is solutions that we can do. Our rules are so rigid that we cannot fix it by giving money, but we have looked at doing partnerships with the County where we might be able to put our expertise in place. That is something we have done in the past where we have helped with the expertise. It may be looking at the analysis and the traffic engineering aspect of the intersection. Now, at this point, my boss has not said yes, we will do everything – that is not why I'm here but what I am bringing to the table is one mechanism we have done in the past to help local governments deal with these types of issues that are non-funding issues because we ...

Chairman Martin – That comes back to the point I am making. The only policy change we are really considering is if we continue to allow the developer to be the lead in these projects and it does not really work, there is not enough

people to make it work – success is not great. Shift it to the County as the lead and the County participates; it does not mean they have to pay for everything. What it amounts to is we are there and bring the people together, they put the plan to CDOT, CDOT does the final approval, the cost analysis and the proportional share goes out to the people and it is taken care of. We are the ones that organize it, we are the ones that see the need is there, the impact is there, we work with the developers not matter if they are industry, or housing or food markets – whatever they – even the college has an impact that we have to deal with. We are there, we see it, we work with CDOT and we bring more to the table than staying away and allowing the developer and CDOT to come up with the solution. That is the shift in policy. That is all that I am suggesting that we do. We take the lead and we are there.

Commissioner Houpt – It sounds really simple to cross out a word but that then makes us responsible for making sure that the work is completed and at the end of the day if we don't have the money in place to be able to accomplish that, we have to figure out a way to write the check.

Chairman Martin – Not necessarily.

Commissioner Houpt – ...and the reason I want more information in front of me is because CDOT does not have funding for these projects...

Chairman Martin – It's like any other projects if there is no money, the project does not go forward. What we are doing is sitting there making sure we have the plan in place, the improvements are there that need to be there – as far as cost, if it is unattainable – the projects sits. But to make sure every avenue is explored and we take the lead to make sure the access code is preserved and CDOT gives the okay to go next to the bank who says we're paying for everything here. Who is paying for it - let's go – not just Garfield County.

Commissioner Houpt – So the development does not go forward, the business does not go forward.

Chairman Martin - Just like in our policy – at least we are there and we encouraged it and brought all the partners possible to the table to make it happen. That is all the shift is policy that we are trying to get across.

Commissioner Houpt – I do not think it is that easy.

Chairman Martin – If it was easy, it would have already been done. Those that came before us whatever – accomplished it and did not leave it up to us to take care of.

Commissioner Houpt – I think it was a political decision not to do it because for years people have been under the impression that it doesn't cost money to use roads and impact fees have not been popular. No one has been willing to assess the industry and commercial use with large impacts fees to be able to cover the cost of highways. It is always an interesting conversation when you are talking transit versus highways because the typical taxpayer will say; well you have to subsidize transit. Well you have to subsidize any kind of transportation infrastructure.

Chairman Martin – And you have identified that through your property tax, you HUTF tax, your gasoline tax, etc you are taxing it numerous times to take care of your road issues.

Commissioner Houpt – Some people have more impacts than others do.

Chairman Martin – Yes, some people go to the hospital more that others but we still get to pay the same in our property tax to Grand River Hospital. I might not ever use it but I get to pay taxes for those that do. It is not fair, I understand that, it is not equal and I understand.

Commissioner Houpt – If I was living on a road where I had a lot of oil and gas activity going on, a gravel pit, construction yards and had my home I sure would not want to be paying the same level of tax that those companies were that were using that road.

Chairman Martin – You do not. You pay a proportional share to the overall appraised value but not in dollars, not even close to equal dollars. You need to look at what the proportional share is based upon the revenue that is generated and you are paying the tax on that revenue. Your house does not pay as much as the gravel pit by any means. Not even close.

Commissioner Houpt – I do not think that is a fair.

Chairman Martin – That is the tax formula unless we go for a change in tax formula.

Commissioner Houpt – I do think you have to go to changes. I think we need to be realistic and take another look at this study and look at impact fees. I do not know how else we are going to pay for these roads. All of the funds that we get from the federal government are starting to go down. Our budget is not going to remain where it is today.

Chairman Martin – It is the highest it has even been. I remember when the sheriff's budget was \$250,000 for a year and now its \$12 million or better. It has changed within that much time. It is still based on priorities and we are trying to keep our business alive and keep the tax rolls going, people employed, etc. If not we can just sit and hold our hands and wait until everything is either in a grid lock or everybody goes away. Then we will say, who in the heck is going to plow the roads in the wintertime or mow the grass in the summer and we will not have the money to do that either.

George Strong – I agree with Fred that probably the biggest frustration is in the lower end of the business community and how much it will cost me. It is how long are you going to stall me. If you can put it in the formula and get to paying it back, it is a business investment right now while you have partners. I do not think it is fair to say policy should blanket all your intersections. How can you rely on those that have no business on it versus one that has paying partners. I think they almost have to be independent and recognized as what they are paying back. Everybody has budgets - I have them and you have them, everybody has budgets and I understand.

Commissioner Houpt – And you have a business plan on how you are going to move forward and expend those funds.

George – Yes, and there should be a business plan put on these intersections. You have paying partners on this particular CR 300 intersection. I'm here and we have paying partners on it, we have the County in it, we have CDOT saying they will give us some help so why don't you look at it and see what solution you can get to and get it going. Right now, you are looking at losing partners, which means you are losing revenue. People are pulling out down there; they do not like the bureaucracy and they are going to Mesa County. I hear that everyday just because of the fight that we are in and I do like all the little houses on the other side of the river from us. They do not pay near what our little four commercial uses are going to do. You are talking \$500 a year in taxes versus a build-out that will be \$20,000 to \$30,000 a year in taxpayer money. Where does that go - off that commercial.

Commissioner Houpt – But it goes to maintaining roads and it goes...

George – And intersections to help put the business in there. Businesses are every big part of a road with growth. You are going to have to fix your intersections. Therefore, yeah, you need some planning but I do not think stalemating is going to get it anywhere either and doing study after study and ignoring it and ignoring it will not get

it anywhere either. You have active partners on quite a few of these intersections and you better pull your resources up and start getting some of these things done especially before lean times.

Commissioner Houpt – I do not think we are talking about stalling or we would not be in this room. What you are talking about is spending your money and your neighbor's responsibility.

George – Yes and keeping business alive because that is what supports the bills.

Scott Balcomb – I am not here for any land use client or any particular interchange my point short and sweet. These are your roads and you have a responsibility to fix them. It is not an optional responsibility it is a responsibility to get moving. Get out in front and provide some leadership. Everybody is sitting here stalling, wondering how we are going to get this done. There is only who can get that it done, it is the County. Get out in front. Commissioner Houpt wants to have the answer before you start; you cannot do that. The answer may be different for every single interchange but until the County gets out in front and identifies a way to get this thing done, nothing is going to happen and the responsibility will not be met. It is not optional – you have the responsibility.

Commissioner Houpt – Well, it has been optional for 30-years. This County has not taken responsibility over those intersections and now today we are being asked to do that. I am sorry that you do not think it is responsible to want to know what would be the implications. I do think it is important to understand what the implications are and I do not disagree that we should take responsibility.

Scott – There is only one thing that we have agreed on and that is whatever the past policy has been it does not work. You need to try something new; try getting out in front. Go out and find the answers; do not wait for them to come to you. You are not going to get them from a bunch of engineers with all due respect to my engineering friends in the office; you are not going to get answers from many lawyers. You are going to get and find answers by digging around and finding them by getting people to contribute money and expertise. It may only happen on one interchange or may not happen on any, but if you're not out looking for answers, you are not going to find them and the consultants won't give them to you, their job is to bill hours. I know how that works.

Karl Hanlon – I will try to address this at a policy level and not on a specific intersection. As you are all aware, I've done a lot of work trying to address at least one side of the CR 300 issue setting up special district and we are going to have a conversation amongst you as the Board of that Special District and us as the residences of such special district at another meeting probably. Today is the first time but it was comforting to finally hear an acknowledgement of your responsibility to these intersections. Because for the 13-years that I have practiced in this valley, this is first time I have heard the County acknowledge a responsibility for an intersection. The fundamental position that was before this Board and being the one that stretches back to time and in memory since the formation of the County has been that it is CDOT's problem or somebody else's. That is a good starting point for you people to acknowledge that these are in fact your intersections and your roads.

Chairman Martin – The County predates CDOT. CDOT came to us and said would you take that.

Karl – It is a good though that this argument has come and gone. One of the things that Scott addressed really well, in terms of where you are and I appreciate the desire to know the outcome. You, while as an individual have not been here for the history of that Board and as policy decisions you as a group are that Board and continue to be that Board. There is a policy in place that failed miserably for a number of years and it continues to fail miserably if you do not take some affirmative action. Like Scott said, get out in front and take the lead. That involves risk an enormous risk. You have to take some things on faith; you have to take your staff on faith and what they need and the resources they need. You have to take on faith that you are going to get people to the table. If you put it off and continue to put it off, the impacts to the County are going to be significant and the loss of businesses and revenue. It is easy to look at and say here are the dollars we are putting out for this road. There is a negative number is all that is in the budget. What that does not reflect is what that investment as in the Rifle case, returns you. A good example of another jurisdiction that did it in significant investments as Rifle has done in a number of cases is Glenwood Springs. They have done it with the roundabouts in West Glenwood, which was a huge investment to get a business and a commercial center going in town. There are huge investments if you just look at the outlay because it does not look like it is a smart move. In the end, it is what is driving and sustaining the economy and we can see how much worst off Glenwood would be today if they had not invested. These businesses are here during these lean times. These are the kinds of investments you are talking about making. I would say that you have 12 intersections identified. You have CDOT at the table saying we are willing to provide some expertise. I would imagine if you sat down with CDOT and negotiate like-kind services so you could you get their engineering staff to help you out. Can you get some engineering estimates so you know what the cost of those things are? Everybody is looking at projected revenue shortfalls, you people are in a significant position because I know you have significant reserves. You are going to have to make a business decision about how much you invest of those reserves to make sure you have a return on your investment later on. That is what we are talking about with infrastructures. It is an investment for what is going to happen later on. In closing, I think I am going to disagree with John on what he thinks the policy changes that need to be made today. I was somewhat mortified as we have this conversation today in terms of what is in front of you. I think there are really two important policy questions that you need to answer. I think you need to answer those right away to be able to do what Scott said, which is get out in front and lead. The first of those is yes, we are going to be the lead agency on the permitting process. We are not just going to turn that over and not fully participate in the permitting process. I think that is important because it gives you a great deal of understanding and participation in the process. What that does not do is go far enough and you need to do a second policy decision which we absolutely have to make and you have to make that today or else businesses like Mr. Strong, who was just up here is going to disappear on you. That policy is that you have to make a commitment that you will financially participate either in like kind or in real dollars at some level. It is at your discretion how you participate. However, if the development community understands that you are willing to financially participate, that will go a long way towards leading and that is what the policy that has failed has not done. Things like development fees work great if you are at an A level of service at an intersection. If the intersection is perfect then you add incrementally whether it is under or over 20%. Sure, you can keep that intersection up, the problem you have is, unfortunately, you are going to have to pay for a really bad policy that was in place for a very long time and it will cost you some money. You cannot look around to everybody else in this room and say, it is your problem, and we made a bad decision. I am not suggesting you pay for all of it but I am suggesting you come to the table both in like kind services and in financial participation. I think that is really important and I think that is what a lot of folks in this room are really looking at. It may be \$50 but it feels a lot better than saying – hey, we know what you need to do, go out there and do it.

Chairman Martin – I'm still trying to see where you disagreed with me.

Karl – Because what you did not do John, you did not say that the County was financially willing to participate.

Chairman Martin – In participating we already are and that's a given.

Karl – Yeah, but all of us are participating and that is a given, but it is the commitment.

Chairman Martin – All participation to all intersections is different. What I am not going to say is I want to get the checkbook out and write everything. No, what it amounts to is that we establish participation and we will put money into those intersections because we have to. That is my exact point; we have dedicated those roads and designed those as haul routes. That is a higher responsibility than a regular roadway. At that point, we have shifted our funds to take care of that safety issue.

Karl – You have talked about the haul routes and I appreciate that in Western Garfield County. You also have half-dozen intersections in the Roaring Fork Valley, which are not haul routes. Those are just really bad intersections and all of us who have lived in this County and I have personally lived everywhere from Canyon Creek to El Jebel. I have dealt with a number of those intersections on a personal level and all are the same as they were 13-years ago when I moved to the valley with the exception of a couple of stop lights that have gone in thankfully to CDOT on a couple of those locations.

Chairman Martin – You mean CR 109 has not been improved and it is not a haul route; Hwy 82 has been improved and it is not a haul route.

Karl – I have lived on CR 109 for a long time and there is a lot of patchwork on CR109. Anyway what I am saying John it is that the commitment outside of where you think you have designed in your budget, saying today that we will participate in like kind services and financially if it is warranted and the County believes it is necessary. It gives you absolute discretion but saying that today is a very good start.

Chairman Martin – I think that is what we are trying to get everybody to say today.

Karl – I think everybody on this side of the table are all here saying we have participated or are willing to participate financially. Frankly, at this time in the economy, our ability to financially participate on the development is severely hamstrung because as you have noticed, you cannot get commercial in. There is just no money out there. It is extraordinarily hard to get and those are the kinds of things where you have to think about your local economy and what investments do you make to keep your local economy going.

Commissioner Houpt – What do you think about impact fees versus the uncertainty of what you will have to pay if you wanted to get an application through and even as a partner.

Karl – The difficult is that from a pure development prospective, impact fees are wonderful because you know you just have to pay the dollars and you don't have to do the work and whether that was enough dollars to get the work done does not matter. That certainty is great if you are not also on the hook for fixing the problem. The way the County is right now, you have impact fees plus you have to get from CDOT an access permit and they ding you for the really big-ticket price. That is the one thing you took that we cannot pay for, so from the same point under the current policy it's great to have impact fees because you know what the check is; however, the uncertainty is that since the County does not have a plan for these intersections, you really do not know what the price tag is until you get with CDOT.

Chairman Martin – Or when it is going to be done.

Karl – Yes, that is the problem we have at 300 Road and a bigger picture by way of example is we do not know when it is going to be done because the price tag is so big. One of the things I would suggest as an approach on those intersections is to identify them, identify what the sphere of effect is and utilize your powers to set up special districts just as we started to do in Traveler's Highland to create a mechanism whereby you can be paid back if you are fronting that money. You know you have additional tax revenues coming back in at a reasonable rate of return over the impacted areas. One of the neat things about Garfield County is that it is hard – there are varied disparate impacts from the western end of the County to the eastern end of the County or into the Roaring Fork Valley. I think there may be one mechanism you have at your disposal; it is one tool you could talk to your legal staff about. Again, that requires Fred's department or some outside consultant to really determine what the sphere of impact is on that particular intersection. I think the other simple change is to do away with the 20% rule. There is nothing in the statute that says 20% for CDOT access permit purposes. It does not say thou shalt not ever ding developers for under 20%. It is a convenient thing and we all do it when we draft regulations on this 20%, but on a bigger picture...

Chairman Martin – My point exactly.

Carolyn – And you said you were coming up here to sit and not to represent any particular development.

Karl – No one in particular but just to talk about policy. I guess what I am saying in that it is certainty for everybody and it avoids the game shift. Quite frankly, we all have to play because we do not know how else to deal with it because we don't know how you are going to deal with the intersection. We know you are not, so I know what my number is. I know where I have to be.

Carolyn – It is interesting, you might be an exception because I do not think you are developer at the moment.

However, today we mostly have representatives of the development community here. I am here because of my job and I am not here because of the two or three people who were killed at County Road 100 before we got a stop light. I find it fascinating that there are not folks here who are outside the development community. But listening to you all talk, if we're starting and trying to prioritize, say we just get a list of all the county road intersections, we have a map so what is our first priority going to be. Safety – how many people have been killed, heavy haul routes so we can make sure that industry is satisfied, where there is development communities, I don't know what they are.

Chairman Martin – Exactly, there is so many to do and that's why we are trying to get that done.

Carolyn – Those are the three things that came up into days meeting.

Karl – Suggestion of a fourth, which is and I think this is the reality when you are financially participating with people. I have done this in a number of jurisdictions and my role is on your side of the table. One of the things that move you up on the priorities is if you bring money to the table as a private sector.

Carolyn – That was the other one I heard today.

Karl – That is absolutely a big part of it because that is what addresses those that are here that have the issue at CR300 or some of the other intersection. It is that we have money now and that can change the priority because all of those intersections in terms of safety particularly have all been there and had those near misses at almost every one of these intersections. Sadly, prioritization in part is the financial ability to get the job done.

Eric McCafferty – Made it known that he would have to leave as soon as he presented. This discussion comes at a very important time. The last two speakers talked a lot about the thing I was going to talk about. One point and that is planning, programming, and try to be proactive to these things. If you got your staff together, especially Fred and

Marvin; I think you could probably come up with the planning and otherwise you would pay a consultant a million or more dollars to do. These gentlemen know where the intersections are that are probably worst and can rank them from worst to best and then you will then have a plan on how to approach those. Turning back to CR 300, and 6 & 24 intersection, some months ago there was preliminary engineering done for less than \$10,000. If you spent a million dollars on this plan, that would be 100 intersections that could be engineered at least to some preliminary design standard which you could then prioritize and rank and figure out which ones you want to deal with first and second, on and down the line. I think you have to start somewhere and that would be an excellent way to start and I don't think you have to spend millions of dollars and many months if not years coming up with a plan or a program about how to address these.

Chairman Martin – Actually, you and Dan bring a very interesting point we don't have to reinvent the wheel and actually we are participating and paying for two different studies presented right now in how we are dealing with intersections. That is the CDOT access, which is the Rifle Transportation Access Plan, and the Silt Transportation Access Plan. Taking those templates and that information on how to put it together working with our staff and even willingness to get Dan Roussin committed –

Dan – We are doing 7 or 8 of those right now.

Chairman Martin – What we have is the opportunity – we have the need and the opportunity and we need to have that desire to get it done. Eric and everyone said get it done, we need to concentrate on that – we know how to do and the responsibility is back on this Board to make a decision.

Commissioner Houpt – A question for Fred – I did not expect anything and I am still very concerned about the dramatic change we are making in policy that has been in place for better or worse for the past 30-years. And what that will mean for the County in terms of budget demand, staffing demands, liability, attention to the current road infrastructure and what that will mean for your budget Marvin. What is the approach to partnerships going to be, what those priorities are going to be. Carolyn's point is an excellent point, how to determine which intersection is truly in need of being redesigned immediately in terms of safety and demand and whether we want to have a policy in place that talks about fairness and funding across the County. Fred, after listening to the comments from the audience, do you have any new recommendations or changes you would make to your recommendation.

Fred – The recommendation we have is still the best recommendation to you. I do not know if you can come close to another recommendation in the sense that you are in a position now. We are having this conversation because of the policy we have had for the last 30-years. You have a capital improvement plan that is not going to take a million dollars to update, we've done the Land Use Code, you just signed a contract for the Comprehensive Plan that was a quarter of that dollar figure. This will be a quarter of that. Let's be realistic about the numbers we are going...

Commissioner Houpt – How long would it take to do?

Fred – I think you could put a scope of services together that says we have an existing plan and please take a look at it and understand what our current concerns are and help us have an update. I can tell you out of my office we do not have the capacity to do this in-house. This is a lot more complicated than simply becoming a partner at the table. We would be remiss to the people we serve if that is the case. It is too complicated and I do not want to underestimate the thought process that goes into this, the analysis – this is a very complicated thing and obviously a very important thing. So to answer your question, no my recommendation is exactly the same. You have a document, it is a great springboard, you are totally informed by your LSC study, and these are not pieces of information that are worthless. You have a community out there that can work on this; it will be a lot faster than even dreaming of having your in-house staff do it. We do not have the capacity to do it. This is very interesting to me but we are not equipped to do it.

Commissioner Houpt – What kind of time would you be talking about if we hired someone to update this information for us and what would the outcome be for us. Would we have a better understanding of how we could address the issue on fairness and funding basis?

Fred – Absolutely you do. A lot of the questions John and you are raising, these are fantastic questions but you are not getting the answers out of the folks in the room. You can put a scope of services for 12-months seeing what that will get you. We certainly cannot provide you with the tools that you need today to make that policy shift. It would have such an enormous impact on the way you have done things out of 30-years in one afternoon with the little information you have in front of you.

Chairman Martin – It's not a 30-year policy; it's just that in 1997 when I first suggested we make a change and be the lead, it was denied 2 to 1 and every year since I brought it up; it's been denied 2 – 1.

But take the intersection at Parachute, the cooperation, the design, and the money we put in with CDOT, etc did not take a study, did not take the year that you are talking about – did not take a consultant. We did in all in-house, worked together, and got it done. It is finished except for the lights being on, the lights are on order and they will get there soon enough. That was a major intersection; it was a CDOT project and Garfield County, and a small portion of Parachute. We did that; it did not overburden you nor did it overburden the engineering. Marvin and we worked together as a team and got it done. That is what we are suggesting on this particular issue; start here and make a policy change and that is that we take the lead, we commit to getting it done – that is what we need to do and go into the other stuff and the long-drawn out studies. The entire County is what we have to do but still use the template and establish the priorities, the safety issues, risks and also the funding mechanisms that we have in place and do that now.

Commissioner Houpt – The difference is that the need for this particular access came up as a result of two applicants that came in front of us.

Chairman Martin – You need to look at the approval of the CMC intersection which is Chenoa. This is not an isolated situation; it is a failing policy that I have been harping on since I have been in office.

Commissioner Houpt – I do not disagree with that point, what I disagree with is that you change policy in reaction to an application and the conditions that are in place as a result of that application. I have to defer to the staff.

Chairman Martin – Well, I have to disagree with you and I am not going to change your opinion. I had that concern well before you were even elected on that intersection and brought it forward so if you want to continue to say it is that intersection and reaction, you may. But, you are wrong.

Commissioner Houpt – Well, in the seven years I have been here this is the first time we really turned it into a discussion of an intersection; it was not when the oil and gas industry started using it, it was when these applications came forward.

Commissioner Samson – Marvin do you think you can do that job.

Marvin – I can get it started.

Commissioner Samson – Because I am hearing Fred say, he cannot do the job.

Marvin – I echo on both sides – I can get it started but I do not have the expertise to carry it on all the way – but I can get it started but we have to start somewhere.

Commissioner Samson – I am not really in favor of spending a bunch of time and money on another study. I have to be real honest with you there – I’m not crazy about that idea. But, when you make the statements that my staff nor I have time; I just do not have the resources - that concerns me. I do hear Marvin say, let’s go forward.

Fred – What do you mean by do the job?

Commissioner Samson – Well, Marvin made the statement that he could take these 12 intersections and prioritize them. Is that basically where you came from Marvin?

Marvin – Yeah, I think that with Fred, me and maybe Jeff or Randy and the engineering department we can sit down, we won’t have the cost of the scope of work, we’ll have to put the intersection of what they are going to cost, but I think we can prioritize them as good as we can; and, at least get one foot in the front of the other one. Not saying we will not need the help to get the other foot there but at least we can get a start.

Fred – Yeah, we can certainly attempt to do it. The thing I worry about and I have to say about the 12 – these were not to be in any priority or say these are the 12 out of the many. I was just trying to give you an example so that in your mind when we talked about intersections. That is all that it was meant to do. If Marvin and I went out and tried to do an assessment based on some set of criteria, or just sheet improvements, I would assume to be on projected land use, projected drilling and all these kinds of things, then what criteria do you use to create the prioritization.

Why this over this one – etc.; we would have to have a lot of direction to do that and for a time and efficiency standpoint I think you’d be better served to have someone come on board and work with Marvin and I from the outside to help us do that. No. 1) it gets done faster and 2) it will help us bring it back to you and articulate.

Commissioner Samson – It would be done faster; how much money are we talking about?

Fred – We will have to put together a scope of services. The Commissioners can set a budget and say now we will do a not to exceed \$50,000 to take a look at our CIP and understand from you what the policy challenges are including all three Commissioner’s concerns.

Chairman Martin – One-step that you are leaving out and I am trying to bring forward which is the responsibility of this Board is to set those priorities and set the criteria; not an outside consultant. We are ultimately responsible for making the decisions. We need to set our priorities and we need to be able to live up to them. We need to hand then down to you and Marvin and at that point we work with you in a workshop or whatever with the existing list, make our priorities and make our decision. We do not need another 3rd party is the point I am saying.

Commissioner Samson – So you are saying this Board needs to take upon itself to make those priorities without any outside information that Fred has just covered those criteria.

Chairman Martin – We have Marvin, we have Fred, we have...

Commissioner Samson - Fred is saying he does not have the expertise –

Chairman Martin – Not everyone has all the expertise, but you also have the templates of the access codes, you have the travel management plan, you have your studies that responsibility needs to fall back on this Board to make some decisions. We have gotten out of making decisions – we just hand it off and let someone else tell us what to do.

Commissioner Houpt – No, I want to make decisions, but I want to be well informed when I make those.

Shawn Yates working with CDOT as the Regional 3 Traffic Resident Engineer I work with Dan and Alicia on access issues. I think I have some information that may be available and valuable to your County. About a year ago, CDOT Region 3 embarked on this idea of a regional intersection prioritization and it is a great concept; we did find out however that the \$50,000 or \$75,000 we did spend for that did not get us what we wanted out of it. That may be what Mr. Martin is alluding to. We can pay for reams of paper and have different criteria for the prioritization of intersections but the decision-making really needs to come from the governing body that really sets the budget. One thing I can offer is an example spreadsheet that Region 5 which includes Durango, what they used for their intersection priority criteria. One was safety, the other was cost, and one was public sentiment towards it, which is a big factor. Shane offered to send this to Fred and that would be a step that you could work on initially and it is just an excel format. You then could meet with the Commissioners and say are there any other criteria you want to plug into this spreadsheet. This one is slanted towards the safety aspects. There is a big long formula based on crashes, types of crashes that are in that safety column. Let’s face it, intuitively we as humans have very complex minds and I think we intuitively know which intersections are important to put the money. I think that is probably the way the County has allocated money in the past and it has probably worked relatively well until there is a big spike in certain types of developments and other things. I would just offer to send that to you.

Dan Roussin – I just want to add, we have done some of this stuff and we recognize that it is tough stuff. Shawn mentioned we have looked at it and we tried to do it, we have come up with some ideas on how to do it and we are willing to share that. I also want to make sure that you recognize my experience on doing these types of evaluations is really difficult and it is a lot tougher than you think it is – we’ve already talked about how tough it is but I think I do want to say what Fred is saying does make some sense to me. On access projects, I have done projects where we did it internal and we did other access projects where we had a consultant on board and they provided the support. We were still involved in it but they provided the support where we needed. I can tell you right now, having the support is fundamental in getting the project done quicker. I will give you an example – the Paonia access control plan – that was an internal project where Delta County, the Town of Paonia and I did it. We started that project in 2005 and we are finally finishing it hopefully by this year. That was just all internal people coming in there and doing our expertise. One of the challenges we had was workloads. My workload in the wintertime is not as busy as in the summertime. So, I spent every winter up there working on it. We had issues like the Rifle Access Control Plan – that was a project that had development pressures onto it – oil and gas pressures and we were in disagreement with the local government on how highway access should look in that area. So here we had a 3rd party come in and we came to the board to ask for money and we actually came up with something within 60-months and I tell you if we had done internally I can guarantee you we would not have done it in 6-months. What is so important is you need to have the documentation of how you came up with the criteria because people are going to ask you. Why did you pick this one over that one? You had better have good answers. I definitely see that your staff has the expertise but the support is what you need because you have to document everything, get public input and all that stuff and document why you came up with that. We can provide tools and we are willing to help but you need to have some outside help. One suggestion that when I am hearing this is, you have an immediate need right now at one of your intersections and you have partnerships; you also have future needs that are not immediate at this point – the

intersections that Fred went over are important but 11 of the 12 I don't think there is anything going on at this point. Maybe County Road 100 that we are doing so, there is 2 out of 12 that are not immediate issues. Dan – The only thing I am saying is you might want to consider doing them both; that is one option in my help to try to be a leader in one intersection but also come up with the information so you have the information for a general policy.

Chairman Martin – We already made a decision on one of the intersections on CR 100 working with Carbondale the trails authority as well as private individuals and the County improving the intersection at that particular area. CR 100 happens to be on the west end instead of the north end but we are working on CR 100 and those access issues already. Was it a top priority – no, but it was a need and we had the partners and we went ahead and did it. We need a better plan and a better philosophy with a game plan so Marvin can follow and so can the citizens.

Carolyn – Is it fair to say coming out with a list of intersections and figuring out your criteria for prioritizing and then prioritizing is the first piece and then the funding is the second piece or do those have to go along on parallel tracts. From the lawyer perspective, we have to be able to support the rational nexus; we have to be able to say to these people...

Chairman Martin – How much involvement did you have in the prioritization of repaving chip and seal and redoing culverts of the road and bridge last year.

Carolyn – Me, none.

Chairman Martin – Thank you. Who did – this Board? This Board set those priorities by the list than came in front of us and we said yes we agree with it or we disagree with it and we wish to go ahead and do something else.

Carolyn – I am trying to support your argument, John. Maybe part of it can be done in-house.

Chairman Martin – I'm not sure where you are going with legitimatizing and having the public discussion – what it amounts to is a safety issue that this Board is ultimately responsible for – we make those decisions everyday and give the directions to the proper staff. That is my point in reference to where we are going with our policy. Now, if we do not have it budgeted and we have not gone through the budgeting process again that is the issue. We need to take it through the budgeting process, which is our priorities, and the monies that are going to be through the public process, which has all the input of all of the citizens and a final decision by the Board, and then give it back to Marvin. So at that point, you can give us advice in reference.

Carolyn – I am not giving you advice, I am asking a question.

Chairman Martin – But you are not hearing me.

Carolyn – I am having a fight with my Commissioner on air.

Carolyn – May I ask a question. I am trying to just get this conversation to move forward John and not giving you legal advice. The question is – are these two different work projects – can one be done in-house and the other done out of house. Might you be able to win on something and somebody else is able to win on something. All your citizens see you moving forward.

Commissioner Houpt – I would have to ask Fred that question about whether those...

Carolyn – Right but I address myself to the Chair because it is a public meeting. John, are we finished fighting or shall I continue this on television?

Chairman Martin – I'm not fighting. I just have a strong point of view that is all.

Marvin made a suggestion, he suggested that Fred and he could get together and see what we can accomplish in-house and what we will need help on. At least it will be a start, maybe with CDOT's help on priorities with accidents where the most unsafe intersection is, we'll try to get that to this Board, and then maybe the next step is putting it out and see what kind of money we are talking about.

Commissioner Houpt – We also need some recommendations from whatever we do to move intersections forward on a potential policy change. The policy that's in place right now is in conflict with the County even being a partner in this, so we need to understand where we are moving forward on that and I believe that was the essence of your recommendation earlier today.

Fred – It is.

Commissioner Houpt – So that we can change the policy, if that is what makes sense. I am not hearing anyone argue that it probably does not make sense but we still have two policies in place that take us out of that equation.

Chairman Martin – Question for the legal staff - do we have a written policy on this particular issue?

Deb – The two sections in the new land use that Fred sited are the statement of policy that might need to be changed if you decide to change what you have done in the past because it pretty much codifies what your policy has been in the past.

Chairman Martin – It's the only time since 1997 that is has been written, since January 1 of this year.

Deb – It is what is in our current code.

Chairman Martin – The question is it is the only time it has been written since the January 1 adoption of this Unified Land Use Code. It was never written in the old code.

Fred – It was written but in a different format. As you all know this was in the Chapter 5 – the practice that we've been talking about is in a different place.

Chairman Martin – Yes, the practice was there ...

Fred – It is state law.

Chairman Martin – Except it had the two options. One we could go ahead and designate that which we had to do on all the subdivision regulations otherwise we were the lead and that is what I am saying about written policy; in practice, it was that way, but it was not a written policy. We always chose and I always voted against it that we give that to the developer to be the lead where I thought we needed to be there. That was one of the reasons we hired an engineer from the start.

Fred – From our perspective, having a 3rd party that CDOT is suggesting, the same scenario that helps them out on their state access permitting plans for Silt, Rifle, they have this ability to bring this expertise. Between Marvin and me – Marvin is a smart person but I am not sure he willing to stand up and say put a stamp on this intersection unsafe and this one is not. Nor certainly am I but believe it is something we are going to run into based on prioritization with that list and how do you do it. It is a great idea and you should do it – I think Marvin in his 5-year horizon say well, what are we going to put on the plate the next 5-years.

Chairman Martin – The traffic engineer in the form of Jeff Nelson who also participates with me in the TPR and he understands that planning process. He also understands the designs and what have you with those intersections and has done roads. You people are not the only ones who have the expertise. We have an engineer as well. Again, it is up to his supervisor to allow him to do it, just as it is yours to allow you to do it, etc.

Dale – Let’s not overlook our own internal resources as far as the loss prevention safety side but by using our insurers to quantify what we are going to suggest. We pay a lot of money for our CAPP premiums every year.

Motions

Commissioner Samson – There are three things:

- 1) I do not think everyone is going to be happy with me.
- 2) I think we need to go forward with this County Road 300. If we have principal players that are willing to be at the table and it seems like we do, I do not have a problem with the County stepping up and saying bring everyone together and let’s get that done. I think we need to take care of that today and let those people go forward.

Commissioner Houpt – What do you have in mind with our participation in that financially? I am assuming that will come back to this Board once... how are we first going to identify all of the partners.

Commissioner Samson – Well, I think they have already been identified.

Commissioner Houpt – Well, if we have identified the oil and gas companies as well.

Chairman Martin – And the pipeline people.

Commissioner Samson – You have the pipeline, the railroad companies, two gravel pits, the RTZ, Grand Junction Pipe, Strong and EnCana with their compressor stations but my understanding

Chairman Martin – And we have the north side over here too – Traveler’s Highlands – David Hicks and the Special District.

Commissioner Samson – My understanding is that everybody that is a principal player is willing to come to the table and get this intersection done. That is what I have heard from three or four people here today, correct.

Commissioner Houpt – Is that true?

Audience – Yeah, yeah, yeah.

Commissioner Houpt – All of those parties....

Audience – Everybody has been saying that ...

Commissioner Houpt – That was not my question. My question was whether individually you were ready. My question was whether we actually talked to all of the partners.

Commissioner Samson – My understanding from these individuals is that they have those people lined up ready to go, correct.

Audience – All we need to do is meet before you people.

Chairman Martin – Mr. Green has also had a meeting I think Marvin, the engineer and Fred you might have been there as well, and they identified the different partners. That is how it came forward to this point if you are talking about CR 300.

Commissioner Samson – I am talking about 300. I think we need to go forward. I am ready to meet with those people; I am ready for the County to take the lead. Let’s get those people in the same room and hammer it out. Now, you are asking about a financial commitment. Yes, I think the County is going to have put some financial commitment. How much, I think that is what we are going to do when we hammer it out.

Commissioner Houpt – I think this is something that this Commission needs to decide as a Commission though.

Commissioner Samson – They are going to be before us. Does that require a motion?

Commissioner Houpt – I would like to hear your entire packet first.

Commissioner Samson – The third thing is:

- 3) I need a little more time to digest what has gone on here. I am still trying to get my feet on the ground but with that being said, I think it would behoove us to have Fred, the engineers and Marvin sit down and start putting something together. If they come back to us and say, “Look we are way over our head; we have got to some technical support; these guys are telling me we better get some technical support here.” If the people that are in-house say, “We’ve got to have some more help;” then I think we as a Board better give them some more help.

Commissioner Houpt – I think we are wasting time actually, if we proceed in that manner because Fred has spent a lot of time of this. He has spent years on this very point and he came to us today with a very precise request. It is not a full-blown study; we have the resources in place.

Commissioner Samson – But nobody has answered my question, how long will it take and how much money.

Chairman Martin – We will not know until we put it out there.

Commissioner Samson – I do not want – it took 5-years to develop that thing, is that what I understood.

Commissioner Houpt – No.

Commissioner Samson – I do not want anything to do with that.

Fred – You can set the parameters and you can say I have a task that I expect a scope of services that I am going to send out for people to competitively bid on; it says in eight months. I want to give you \$50,000 to take a look at this; can you do it. That is when you get your answers back.

Commissioner Houpt – But at the end of the day, what I want out of this and I don’t think we can get it with your suggestion; I want a recommended policy change to come forward with the supporting information so that we did not just sit here for two and a half hours arguing about the fact that we have a broken policy in place. However, we have the information in front of us to make sure it works for the next 30-years or however many years.

Commissioner Samson – We fix it and we fix it right. So, let me ask this question, I am trying to be the power broker, can you agree with me first and I think John is with me on this, on County Road 300, if we vote for what you just said without rehashing it.

Commissioner Houpt – Yes, I can because then I feel as if we are moving forward. We are not just trying to address two applications that are on the table, but we are actually recognizing that we have a broken policy. Then, the next time this comes in front of us, we will be able to change that policy. I want our staff to have the resources to do this.

Commissioner Samson – Do you understand we are going with this; can you live with them both.

Chairman Martin – I can live with anything and usually do.

Commissioner Samson – So you will be voting affirmative.

Chairman Martin – I will vote. What is the final motion?

Commissioner Samson – I am going to make a motion and then Commissioner Houpt is going to make a motion. I do not want the legal staff to mess it up.

Carolyn – I am not going to mess it up. I do not want you to mess up.

Deb Quinn – All I want to do is point out to this Board in the Land Use capacity, after public hearings, you have designated two applicants, RTZ and Strong to obtain the access permit from CDOT. That was through a public hearing process.

Commissioner Samson – That has never changed.

Tim Thulson – That is not correct, because it is only if the County decides not to take the lead.

Deb – Oh yes, yours is different.

George Strong – I do not believe my subdivision has been signed.

Commissioner Houpt – You are still tied to that requirement.

Chairman Martin – Unless, we have a change in that request.

Deb – RTZ is a little different. I apologize to Tim for forgetting that piece. I do not think it is inconsistent with those existing land use resolutions for you to tell all these people, who have represented today that they are willing to come forward with some money and to talk to us about how much they need from us. That is what I hear you saying, let's talk to them about that and have some staff get together and figure out where we are with it all and bring it to the Board. I do not think that is inconsistent with the outstanding land use approvals.

Commissioner Samson – You do not think it is okay is that what you are saying.

Commissioner Houpt – It would it be inconsistent if the County became the lead on obtaining the access code.

Deb – In getting the permit from CDOT - yes that would be inconsistent. However, we can deal with that later.

Chairman Martin – You have to revisit the final resolution on George Strong in order to be able to do that but that has to be a request.

Commissioner Houpt – I am sure that you people can get that access code and if we are partners we

Commissioner Samson – That issue is one of the big things we will be talking about when we all come together.

Therefore, can you help me with a motion so that it is legal?

Deb - I think what you are talking about before is all right.

Commissioner Samson – I would move that the County take the lead, that does not mean that we will necessarily be getting the access code but the County will take the lead in getting the principal players/parties together for the building of an intersection at County Road 300 and State Highway 6 & 24. Along with that we will make a commitment financially – I'm not going to say how much, I'm just going to say we will make a financial commitment to be part of that intersection being built.

Deb – On the financial piece, it is always subject to budget appropriations. You cannot make a financial commitment without that process.

Chairman Martin – It has something to do with the Constitutional Amendment; Tabor Issue I guess.

Deb – Correct.

Commissioner Houpt – So, if I agree to this...

Commissioner Samson – Yes.

Commissioner Houpt – Okay, I will second your motion.

In favor: Samson – aye Houpt – aye Martin – aye

Commissioner Houpt – I will make a motion that we accept staff's recommendation to put an RFP out to hire someone to work with them on identifying and prioritizing intersections in this County; coming back to us with the costs, the study of these intersections; and, a proposed policy to change what we have in place with our current Code for intersections that involve state highways.

Commissioner Samson – Does that fill the bill as far you have heard; are you okay with that motion?

Chairman Martin – Sure, you are going to go ahead and do a scope of services for intersection evaluation and then you are asking for a change in the Land Use Zone Text to allow the new policy in place instead of what we have on the books.

Deb – I heard it all as one for an RFP to address those issues.

Chairman Martin – It should be two motions, one is for an RFP to allow staff to go out for the scope of services so we can prioritize the intersections and safety factors and at that point we can go from there. Then if there is a change in reference to that, there should be a third motion and that is to go ahead and make the appropriate Land Zone Text changes.

Commissioner Houpt – Well, I will split the motion but I want the work to come back together as one piece.

Therefore, my first motion will be for the RFP.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt – And my next motion will be that along with the study that will come forward from staff and the contractor we hire for a proposed policy for our Code to replace the policies that are in place that deal with intersections along state highways and that will be brought to us.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

REQUEST – THOMPSON DIVIDE COALITION

Chairman Martin had one more request that was not on the agenda. It was something that I thought perhaps was important enough to bring up. It is working with Dorothea Farris and Representative Salazar and his staff regarding the Thompson Divide Coalition. For those that just do not believe that this County would even entertain working with them, they would like it in writing; therefore, I propose that we give them a letter of support in reference to the Thompson Creek Divide project so that we work with them to come up with a solution or solutions to the Thompson Creek dilemma.

Commissioner Samson – I am lost about protocol. Since this was not on the agenda are we okay.

Commissioner Houpt – They had asked to be on the agenda on Monday. We could either do it today or we could address this on Monday.

Chairman Martin – That request was my conservation in working with Dorothea and Representative Salazar's staff. What it amount to is the Coalition gave Dorothea the permission to talk to us and act as their representative. We did, and in fairness, I agreed. We have been working on this since before Christmas. That was that we would go ahead and work together and put it down in writing saying that we support the efforts to go forward and to try to overcome the differences between development and no development to see if there is anyone willing to avoid litigation. We would do everything possible and then report back to Representative Salazar. Reading some emails, many have taken it way beyond that scope of supporting no development whatsoever in Thompson Creek and that is not what we are trying to do.

Commissioner Houpt – Well, that is what the Thompson Divide Coalition might be trying to do. It is why I wanted them to be here to explain to us what they wanted support on.

Chairman Martin - It is not the Coalition because Dorothea represents the Coalition. It was the Wilderness Society that requested that to be on there and Lisa Moreno. I have her email that is addressed to you, Tresi. What I am saying is we need to go ahead and honor our commitment to the Coalition saying we will work diligently with the BLM, the Forest Service, the Coalition, the private property owners, the mineral right owners and try to come up with some resolution of the three federal units that are in the Divide Creek area. I have all been proven out and there are so many wells and so many pads, etc. Then try to work out some kind of an arrangement so that either the mineral right owners do not develop; give back the rights to the federal government; the federal government as well as the State of Colorado needs to reimburse people that have put money out. However, work together to come up with a peaceful resolution and try to protect the area as much as possible. That is what I committed to do.

Commissioner Samson – No one is arguing that, my problem is should we be doing that in this meeting or should it be put on the agenda for Monday’s meeting for public input.

Deb Quinn – It should be on Monday.

Carolyn – You are always taking a risk when if you do something that was not agended.

Commissioner Samson – Let’s just request this item be put on the agenda for Monday. Dale will take care of it.

RESOURCE ADVISORY COUNCIL (RAC) INFORMATION – SECURE SCHOOLS

Commissioner Samson said he has information on the secure rules. I met with the woman down in Grand Junction and basically what she wants from us is to nominate people to be on that RAC. I have the information.

Chairman Martin – For all three categories or just one.

Commissioner Samson – All three categories. I wanted to bring it up so you can be thinking about who you would like. Then on Monday, perhaps you could give me names. He submitted this as Category A, B, and C. Then they will have to fill out ---

Chairman Martin – Then that is subject to review and selection of the Committee.

Carolyn asked if this should also be an agenda item for Monday.

Commissioner Samson – Did not believe this is a voting item, just submit the nominees.

Chairman Martin – You should select one person to represent the County from the three categories so that you are nominating three and every county involved nominates three.

Commissioner Samson – She wants more than three.

Commissioner Houpt suggested we all bring in a few names.

Deb – It should be on the agenda for making decisions on Monday.

Chairman Martin – You are required to do so and the money the state is holding has to go to the four projects identified by the RAC; we will donate so much money.

Commissioner Samson – Category C – I will be the representative for Category C, but we will need people from Category A and B. Category A is labor people and industry; Category B – is more of the environmental and historical interests.

Commissioner Samson commented regarding today’s discussion, I am glad that we can still work together after we have differences.

EXECUTIVE SESSION

Carolyn Dahlgren requested an executive session involving her position as Deputy County Attorney with just the Commissioners and the Clerk and Recorder.

Commissioner Houpt made a motion to go into an Executive Session. Commissioner Samson second.

Motion carried.

Commissioner Houpt moved to come out of Executive Session. Commissioner Samson second. Motion carried.

No action taken.

Commissioner Samson made a motion to adjourn. Commissioner Houpt seconded the motion.

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

ADJOURNMENT

Attest:

Chairman of the Board

AUGUST 3, 2009

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 3, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, Dale Hancock, 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

Terry Broughton, 8789 CR 320, Rifle stated he is concerned about a historical trail. The County Commissioners and the Division of Wildlife have had meetings on this, and this trail seems to be disappearing because of a company who wants to drill on this property. They are trying to keep the public out. The trail is on the internet and has been on every map made in the County.

Chairman Martin clarified he was talking about TeePee Park trail. It was also discussed that it was going to be relocated and some people are unhappy with the way it was relocated, because of the safety factor. Chairman Martin has had some discussion with the Forest Service and feels this needs to go to the Access Committee for discussion.

Terry said that is the problem; they do not have an Access Committee. The County Commissioners said they quit having meetings. Terry said he protested them shutting it off; when it goes on for 10-years and everyone keeps

saying, oh no that trail is there. There are hassles between people trying to travel the historical trail and people trying to trespass.

Chairman Martin said he has also heard about the encounters with the property manager and people using the trail and it was not pleasant.

Terry said there has to be a decision made someday before someone gets hurt.

Chairman Martin stated he wanted to get this on the agenda. He suggested contacting the Forest Service, the Division of Wildlife and the property owner and seeing if they will sit and talk with us and do a survey of that trail. Also, contact the property owner of TeePee Park - Black Diamond.

COUNTY MANAGER UPDATE – ED GREEN

TREASURER’S DEPOSIT AGREEMENT WITH BLACK DIAMOND MINERALS – JAKE MALL

The owner desires to obtain certain road and bridge permit (s) for oversize/overweight permits (see exhibit A). The owner shall deposit with the County Treasurer \$500.00 to secure extra legal use of certain County roads in compliance with permit (s) issued or to be issued in the form attached as Exhibit A.

Jake stated that Black Diamond is requesting that instead of getting a bond they opted to do a treasurers deposit with Garfield County. Everything was set up through the legal department and the treasurer, and the money has already been deposited. Jake is asking the Board for signature.

Commissioner Houpt - I make a motion we approve the Garfield County Treasurer deposit agreement concerning the road and bridge permit for Black Diamond Minerals LLC and authorize the Chair to sign.

Commissioner Samson – Second

Don had a couple of questions; there are some blanks and he wants to make sure with the form he has that we have the information we need to complete this agreement. Don asked Jake, referring to item 2, acknowledgement of satisfaction are you representing that all of the requirements have been met, and Jake stated yes. Don asked in terms of the funds that are held by the treasurer, do you have the amount.

Jake stated it has already been deposited with the Treasurer.

Don asked how much the Board is authorizing to be released; there is a blank that has to be completed.

Jake said he understands it is \$500,000.00 plus any accrued interest.

Don stated to Commissioner Houpt that her motion included interest as well and she stated yes.

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

JUVENILE DIVERSION – DEBBIE WILDE, MARTIN BEESON, AND TONY HERSHEY

Chairman Martin stated they have supported this for many years. He understands that the State has not been helpful this year; they cut their budget by \$100,000.00. You are asking us to continue this and put a little extra in.

Debbie stated that was correct. The first part of that is nice as we receive State dollars toward diversion and they anticipate in the letter from the State. They anticipate those funds coming back. However, right now every department is cutting 10%. The State is hoping that local governments will help in-between to keep the program going. We have appreciated what the Board has done in the past toward the effort of juvenile diversion. We are saying to the District Attorney’s office that we want to be available. The other part of the huge impact is that we are getting cuts from other places at the same time. Debbie said they are coming to the Board with a request of an additional \$50,000.00, which would put them in a position where they feel they can continue. She will be having a conversation with Pitkin County this afternoon; they are interested to know what happens here. Your decision will have an impact on what happens with Pitkin County this afternoon.

Chairman Martin stated the reason is that we put that into the District Attorney’s for the diversion contracts.

Commissioner Houpt was appalled to hear this program took a hit this year. As a County Commissioner, she does not want to keep building jails. She wants kids to be successful and she thinks it has been proven this is a key program.

Martin Beeson said he agrees. He believes this program keeps kids in school and keeps them from getting back into trouble. He feels this is a program well worth keeping alive if we can. Tell me what to put in my budget and he will.

Ed Green stated, as you know, this year you have about \$55,000.00 in your budget. What they are suggesting is adding \$50,000.00 for the 2010 budget.

Tony added it is so expensive to house someone whether in a jail or in a youth facility. To get them on the front end for minor things and get this program in place really prevents future criminal behavior. There are studies after studies showing you do not want to overreact and throw them into detention on minor things. This type of an interim program is very helpful.

Commissioner Houpt said they would be working on the budget for the next few months. She would like to make a motion to direct staff to add an additional \$50,000.00 to that line item.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Dale asked if they received other block grant funds out of the division and Debbie said no.

Debbie explained there was an allotment/formula, which had to do with what they spent on law enforcement etc. As those funds were reduced and we had to at least have \$10,000.00 for our area. Every City and County would sign off for us and we went below the allotment. However, we were not eligible for any dollars. One additional suggestion Debbie made was to have a letter from the Commissioners saying we are stepping up to the table right now realizing how important juvenile diversion is and how important the State dollars are for this program. Youthzone is at the top of that grant piece because we were able to maintain the program in-between.

Dale stated that the Board should not lose site that the division is also the controlling agent for the Community Corrections Program.

16TH STREET CLOSURE FOR GARFIELD COUNTY FAIR PARADE IN RIFLE ON AUGUST 8 – KRAIG KUBERRY

Kraig stated they are asking permission to close the 16th Street Road that they do every year. They have not had any conflicts in the past.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

TRI-STATE GENERATION REQUEST TO ENTER COUNTY PROPERTY TO CONDUCT MONITORING OF DRY CREEK – RANDY WITHEE

Randy received a letter from Burton C. Norem, Senior Permitting and Land Specialist referencing their letter dated January 20, 2009 to Ed Green. They are requesting permission to enter Garfield County property to conduct

monitoring along the banks of the existing Dry Creek and later the future County realignment of the channel. This monitoring is a requirement for Tri-State's water discharge permit for its Rifle Generation Station. They are also requesting a copy of the realignment project that includes the Dry Creek drainage along with the County's drawings. The monitoring is to record the presence of water and aquatic life in Dry Creek and the proposed realignment. Tri-State's monitoring will generally consist of one person walking along the creek bank approximately once a month for the next couple of years. The first monitoring event needs to occur before the end of the summer of 2009; therefore, Tri-State requests your permission before August 15, 2009.

Commissioner Samson made a motion to grant permission to Tri-State Generation to enter County property to conduct monitoring of Dry Creek and authorize the Board to sign such. Commissioner Houpt – Second.

Don stated his only concern with any use of County property is that we may have to do this through some type of permit or license to cover indemnity liabilities. If someone gets hurt while on our property, we do not want to accept the liability.

Carolyn said it does not say anything about liability and it does not say anything about coordinating with our engineers and with the other people who will be monitoring Dry Creek under contract to the County.

Commissioner Houpt asked if this could come back to them after legal has a chance to review.

Randy said they are trying to get started by August 15.

Carolyn stated that Brian has been out of town and he has not had a chance to look at it at all.

Dale said, as he understands it there is no impact with the runway realignment.

Commissioner Houpt stated she would like this to come back next week after legal has had an opportunity to look at this and talk to Randy and Brian.

Carolyn said the only legal issue is the one Don brought up; there is no discussion about liability, you would just be dealing with general common law principles instead of something that is a written permission. Her concern is more practical than legal.

Randy said he thinks Brian has looked at this.

Chairman Martin felt they could approve it with a consultation to make sure everything is in order.

Commissioner Samson said he grows weary of the legal ramifications to give someone permission to go onto County property to do a job when we are worried about all the possibilities.

Commissioner Houpt stated what Carolyn brought up not only deals with the liability, but with what is happening on the airport as well. They have until the August 15. She likes it when they have already gone to legal and everyone feels comfortable bringing it to the Board. She is not hearing that today.

Commissioner Samson asked if the last paragraph took care of it. He read - it is expressly understood that such permission is granted on the condition that any damages resulting from said activity shall be paid by Tri-State Generation and Transmission Association.

Carolyn said that is damages to our property; but, she stated to the Commissioners her concern is much less legal than it the fact that she has not heard from the airport director as to whether or not he is okay with this and coordinated it with the other engineers. Maybe Randy is in charge of this and the airport director is not.

Randy thinks they should go forward and when he talks to John Hernandez or whoever comes out they would have to report to the airport and coordinate with them throughout the project.

Commissioner Samson stated to go forward.

Commissioner Houpt said there are three reasons she would not support this. One is we could really get this done next week and they would still be on schedule. Second there might be some legal concerns and third with everything going on at the airport she thinks it is better we have it signed off by everyone.

Chairman Martin said he would make sure we have a conversation with Mr. Hernandez to make sure he coordinates with all parties involved. In favor: Samson – aye Martin – aye Opposed: Houpt – aye

DISCUSSION OF SIGNING BONUS FOR CHANDELLE STONE – RODNEY HOLLANDSWORTH

Rodney Hollandsworth and Lou Vallario were present.

This bonus stems from the hiring bonus plan for all newly hired employees and is effective from April 1, 2008. The bonus is in the amount of \$2,000.00 and is a onetime payment subject to taxable income.

Don said this is a personnel item involving a specific employee under the Colorado Open Meetings Act. This item can be held in executive session unless the employee requests a public discussion. He is assuming that is what has occurred so you are free to go forward.

Chairman Martin asked Chandelle if that was correct and she stated yes.

Chairman Martin stated there was an issue with a signing bonus given in the Sheriff's office to Chandelle. Is that correct and everyone stated yes. Chairman Martin explained instead of Chandelle staying in the Sheriff's department she transferred to Community Corrections.

Rodney explained that Chandelle joined the Sheriff's department in February 2009 and received a signing bonus of \$3,200.00. In the early part of June, Rodney had an opening in his department, Chandelle put in a request for transfer, and she was accepted on July 1, 2009. As of this date, Rodney has not heard any request from anyone for a return of the bonus money. Rodney believes it is HR's contention that because she transferred within departments within the County that she is still eligible and should receive the bonus money.

Ed said the issue is will she retain the bonus money.

Chairman Martin read the policy. He asked if that was the issue under the policy. Rodney stated yes.

Commissioner Houpt said they have discussed new hire versus transfer. She personally thinks it would not be appropriate to require the repayment of this bonus.

Chairman Martin stated the policy is no longer in place.

Lou Vallario stated correct; it was suspended April 1. He stated the only issue he had and he wanted to state this is not advisory all between Chandelle or Rodney. Chandelle is a great employee and he is sure she is a great employee for Community Corrections. It is more a matter of the protocol of the policy. Other people who have left the employment of the Sheriff's office have been required to pay it back because there is a commitment of one-year service at the Sheriff's office. To Lou it is not even the issue of payback in essence of avoiding the argument of whether to transfer or not. His only concern would be a legal one. The fact that these funds are through a Federal SCCAP Grant and they have specific guidelines as to what these funds could be used. Including recruiting, hiring, training, overtime for general ledger related purposes. The argument might be when we recruited Chandelle, we certainly complied with the conditions of that grant to work in the jail; that's a given. The discussion is can we enter into an agreement that says you have to commit that for a year in regards to SCCAP's guidelines. His concern

would be SCCAP coming in and saying that was an inappropriate use of that money because she did in fact support the jail operation or is it just on the surface once we paid her that we met that obligation.

Ed suggested as an alternative to simply to have the \$3,200.00 transferred from Rodney to the Sheriff to reimburse and the SCCAP issue would not be relevant.

Dale said he thought about this when Lou alluded to the use for detention purposes in the Community Corrections facility as that is who they are dealing with. Every inmate in there is by design either diverted from the State prison system or has served in the State prison system. It is there as either a condition of parole or pre-release. Dale would suggest that it qualifies with respect to any SCCAP concerns as far as the detention aspect.

Lou stated that was his concern and he was not trying to penalize Chandelle. It was just a matter of grant monies designed for a specific use and we know if we use grant funds for other uses, there could be a penalty. Lou just wanted to make sure everyone was comfortable and he agrees with Dale.

Don said Dale's argument makes sense; he is mostly concerned with the position of the grantor. Don does not know if it is a legal interpretation; it is really what rights might the grantor assert. Don did not know if Lou talked to them or not.

Lou said he had not and stated there is nothing in their breakdown of what these funds can be used for that say a certain timeframe. That is a timeframe we imposed locally, which is one year. Chandelle came to us; we did recruit her and we gave her that bonus and we did so in accordance with the SCCAP Grant. Chandelle chose to leave the Sheriff's office within a year so that is more of a local policy than a grant condition. He does not think it is an issue but that is why we are sitting here talking.

Don stated it may be one of those things that we go forward with knowledge that there may be some minimal risk that the grantor might seek recoupment of these funds.

Chairman Martin wanted to ask a question in reference to the payback of the funds. Where would you put those funds? Would they go back into the SCCAP Grant, which is not bonus signing anymore.

Lou said it would have to go back into the line item of SCCAP. Some grants the Sheriff receives, particularly through the Department of Justice for example say we seize a vehicle in a drug case. There are requirements that say we have to use that vehicle for a minimum of two or three years, otherwise it could impose some type of condition. He does not believe there is anything in this case but he needed to bring it to everyone's attention since this is through a government grant program.

Chairman Martin said it looks like we have three options; we can tell Chandelle she has to pay back the bonus, we can transfer money from Community Corrections back to the Sheriff, or we can say we understand that the SCCAP grant is conditionally used. She is a great employee; we are not going to worry about the money transfer and she stays with Community Corrections.

Ed said they could do a hybrid; we can assume there is no problem with the SCCAP Grant funds, if it develops then we can transfer the money.

Chairman Martin stated there is one other issue if a grant is being used and the money could be used for the continuation of another program are you in any danger regarding other programs with SCCAP.

Lou said they do have it earmarked for certain things related to the general ledger but nothing that was \$3,400.00.

Commissioner Houpt said the only reason she thinks this makes sense is because Chandelle did go to Community Corrections. If it were completely unrelated to the type of training she received and her purpose for serving the County, then she might have a question.

Chairman Martin asked Chandelle, is there was anything she would like to say; she stated not at this time.

Commissioner Samson stated he did not want to take the money back. He stated he liked Ed's suggestions that we approve this bonus and if there are ramifications down the road, they will transfer it. He stated – I would move as such. Commissioner Houpt – Second.

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

CONSIDERATION OF APPOINTMENTS TO RESOURCE ADVISORY COUNCIL SECURE SCHOOLS ACT – MIKE SAMSON

Commissioner Samson explained that people he has contacted are too busy. He tried to encourage people to apply for the planning commission and various boards. He explained there were notices advertising for people to come forward in both the Rifle and Glenwood papers.

Commissioner Houpt asked what the deadline was and Commissioner Samson replied ASAP. Commissioner Houpt asked if they could carry this over to next week and let the announcements sink in.

Commissioner Samson asked if they should keep trying to talk to people. We have at least one person and they would like to have about five.

Commissioner Houpt asked Commissioner Samson to explain to the public the volunteer opportunities.

Commissioner Samson explained those people who would be interested to serve on a recreational advisory council sponsored by the Federal Government. It would include Gunnison, Garfield, and Grand Mesa National Forest. For this year, there is about \$45,000.00 to divvy up. The advisory council would have to approve expenditures.

Commissioner Samson stated they need people from three different categories; one, elected officials, and people that have environmental concerns, and anyone from industry or business. He is encouraging people to apply for this and if interested to give any of the Commissioners a call.

APPROVAL TO AWARD A MULTIPLE CONTRACT FOR PAVING ON COUNTY ROADS 300 AND 301 – MATT ANDERSON AND KRAIG

The invitation for bid was publicized and four bids were received. Based on the bids and as detailed in the bids staff made the determination that awarding this bid as a multiple award contract represent the lowest price/technically acceptable as a bid to Garfield County.

Frontier Paving for County Road 300 in an amount not-to-exceed \$25,866.00

United Companies for County Road 301 in an amount not-to-exceed \$1,032,401.70.

The period of performance for these contracts is from August 3, 2009 through December 31, 2009. Matt is asking the Board to approve the above multiple bid to those contractors.

Commissioner Houpt –I make a motion we approve the award on a multi-contract to Frontier Paving in the amount of \$25,866.00 and United Companies in the amount of \$1,032,401.70 to provide paving on County Road 300 and 301. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

COUNTY SHERIFF UPDATE – LOU VALLARIO

BRUNO, COLIN, JEWELL AND LOWE PRESENTATION – MARC COLIN

Lou introduced Marc Colin and reminded the Board that Marc had given a presentation on a legal plan and there were some questions from the Board.

Marc stated they have been representing law enforcement since 1980 in their present form. Marc explained the company how it came about and what they do now. Marc said they have had occasion to represent a variety of officers here through Trident and that brought to light a couple of issues. One is the need for representation of law enforcement personnel in criminal matters that are duty related. The second is in regards to records. This is the area they specialize in and do a lot of work with the media and the ACLU against the criminal defense bars when they are seeking production of internal affairs or personnel records in defense of a criminal matter. Those are his areas of specialization that are relevant to this particular proposal. Because of our interaction with Lou and some of the police chiefs in the area, we were asked to present a proposal that actually addresses two different kinds of issues. One is the records issue and the other is a criminal and civil monitor program. They provide representation to individuals who are being sued or being criminally investigated for matters arising from the performance of their duties as law enforcement officers. It does not have anything to do with off duty incidents unless they arise from an effort on behalf of a law enforcement officer to perform their duties even though they are off duty if they are compelled to do that. This is what the proposal was designed to address. There is a multitude of organizations that provide legal defense plans for private citizens and governmental employees. He does work for several of them and the most successful /efficient plan that provides representation to governmental entity employees is run out of California called PORAC. They have about 100,000 officers in California and they represent law enforcement in Nevada, Wisconsin, Montana and Wyoming. They have a very solid economic base. They provide much more extensive plans than what we have proposed here. What they do provide is a civil monitor program that protects the individuals who are being sued and then they provide criminal defense representation for duty related conduct. He explained they have several different plans. This is the one they thought fit economically and then added a layer to it for the records issues that have confronted law enforcement here in the Roaring Fork Valley.

Commissioner Houpt stated the only thing that concerns her is if we have an employee that is covered and we have an attorney who is representing them, and you had a service where you would come in and review those documents to make sure they are adequately represented; then how do you keep from stumbling over each other.

Marc stated they have been doing this for 30-years with various governmental entities. There is a multitude of interest that can be impacted in the context of a civil suit against a governmental employee. Most are governed by the government immunity act or the peace officers act. Their role is to protect the individual's interest and their personal assets. Essentially, this is what they are assigned to protect; certainly, everyone has exposure as a governmental employee. The County under one of those two acts picks up the exposure. One of those two acts is generally going to govern whether or not the County is going to provide a defense. For example, they work the City of Aurora who pays half of their fee in all civil cases arising from duty related conduct. In that case, the City Attorney and at times, retained counsel by the City is representing the interest of the City and of the governmental employees if their conduct might impact the City. They then step in and only represent the personal interest of the officers, if there is a claim that their conduct was willful and wanton that can avoid indemnity under the Colorado Government Immunity Act. If there is a claim for punitive damages that is not covered by either the Colorado Governmental Immunity Act or the Peace Officers Act, the governmental entity does not have to indemnify for those. Then you have a cap under the CGIA of \$150,000.00. If someone is being sued in federal court, that cap is not operative. It is operative to the extent that the County has to pick up the first \$150,000.00; but, if you have a severely injured or deceased plaintiff, the potential upside in that case, is over \$1 million dollars and there is no indemnity obligation, unless the County or the Governmental entity chooses to offer it to the officer. These are the areas where we focus. Everything we do is in concert with the governmental entity council. There are rare circumstances where there is an adverse position that would only happen if the City or County were to say we are not going to indemnify you. We are not going to provide you with a defense; we are offended by what you did; we do not believe you were acting within the course and scope of your employment. In that kind of circumstance, we evaluate. Do we need to do something to get this officer independent counsel? This plan would kick in under those circumstances and provide full coverage for the officer, if the County were to decide they were not going to indemnify or provide a defense. The reality is, in almost every case, if we went on behalf of the individual officer; the government entity wins, and the Sheriff wins. Similarly, if the County is successful in defending whatever the basis of the lawsuit the individual wins as well. Marc would say 99.5% of the time over the last 30-years he has been doing this, everything we do supports the interests of the governmental entity as well.

Don thinks Marc's firm has been representing law enforcement officers even longer than he is representing. The questions Commissioner Houpt has asked are the ones you need to focus on actually in determining whether you want to go forward and look at an insurance program for the Sheriff's department. He stated a couple of examples that have come to the Board, which he thinks highlight what Marc has said and maybe make it a bit clearer about the issues he is talking about. The records case, when we get a records request it will normally come directly to the Sheriff to produce certain records, and they are normally personnel related records. Don's office undertakes the first representation of the Sheriff's department. It could be that request would come to Lou and he would say we have a policy and he does not want to release these without any opposition. However, he says he really does not have a problem in this case. Don could represent that to the court and will release these records with a court order. An individual officer has an individual right to privacy that person may want to assert and that individual officer may not agree with Lou's position or the position Don has taken. They might want to assert their individual right. That circumstance did actually occurred out of Lou's office, probably a year or so ago. Don's office was in a difficult position of representing Lou; however, the court ordered us to contact the officer and make sure he could show up and assert his right so we did. The officer came in and Marc does not remember if the officer received individual counsel in that case; but certainly was entitled. When those situations have come up and if the officer asks for payment that issue would be brought to the Board on a case-by-case basis. We have talked about this in the past and the Board decides if they want to be involved. The liability issues can become a little stickier because there are multiple layers of liability. There is the Indemnity Act negligent wrongful action type claims under State law where the Immunity Act has limitations that Marc has described that apply and then there are the civil rights actions where there are no limitations and are strictly under our insurance coverage for protection. Normally what occurs in the civil rights case, our biggest area of exposure, is we will get a claim for both force and scope of employment related that brings the County and the Sheriff into it because then we are talking about policy issues. We may also receive individual claims, sometimes with punitive or exemplarily damages requested. The pool has an obligation, as does

the County, to provide an indemnity defense on those claims for which the County can be liable in its official capacity. That does not include normally exemplarily damages and that leaves the County and the officer in a somewhat tenuous circumstance. Don said more so when he represented Denver than here. It can be very difficult because Don is representing the County and he says to the officer he will provide a full and active defense to you, but oh by the way, he could lose and then guess what, you get to pay the exemplarily damages. That does not give the officer a lot of comfort where they stand at the end of the day. Many times, they will want additional representation to make sure that what Don is doing is not going to sell them down the road and sacrifice their liability for the benefit of the County. What normally occurs with the pool, in those civil rights type cases, is there will be one attorney representing the County and many times, there will be a second attorney paid for by the insurance pool representing the officer. Technically the second attorney still would not represent the officer on the exemplarily punitive damage claim. However, it is difficult to say to an attorney that you are going to represent and protect this officer; but not on one part of the damage claim but on the other. That really does not practically occur. These cases have been brought to you one at a time normally and he has said, Lou and Marc are here on behalf of law enforcement officials, it occurs outside; but it comes up for other employees not just law enforcement. Don used Ed as an example and said he came to the Board and said; look in a practical world whatever I did, I did on behalf of the County and the Board has to make a decision whether or not they will provide full protection in spite of what insurance may do or the Immunity Act may require. With all of that said; the way these issues have come up in the past, virtually all of them have been case by case, and in those cases where the Board has said yes, the criminal matter is so closely tied to performance of County duties, we think it is only fair we provide that defense. Additionally, in a records case, a liability case, you have sent Don's office off to get attorneys lined up to represent those officers or help them. This is not an issue with the firm; their law firm does excellent work and has for decades. This is a decision for the Board whether you want to provide.

Chairman Martin asked, if this would be in contract form for the 2010 budget; or are you starting immediately? Lou stated they still have some work to do in order for Marc's firm to set this up in his area. We will need "X" number of people involved and so far Marc has presented to all of the chiefs and they are still in the process between City attorneys and their councils. It is not a done deal yet. They need more people to come onboard for them to make it worthwhile. Lou stated if there are any financial concerns as far as the investment in this; the example he would give, when two of his TRIDENT officers were accused of criminal contempt regarding a records issue. Marc's firm represented them and got them off because it was a bogus claim; but nonetheless what their office charged us, at their hourly rate for those two officers, would pay for this program for two years to cover all of our deputies. It is \$84.00 per year per deputy; instead of paying thousands, it would have been covered under this plan. Lou thinks it is a wise investment.

Commissioner Houpt said she is assuming after you identify who would be involved in this area there would be a more specific breakdown of costs. There is the premium and we already know the hourly rate.

Marc said the hourly rate they charge for flat fee contracts like this is about \$100.00 less than what we charge if you just walk into their office. He believes it is \$165.00 per hour; which is consistent with what the CAP attorneys charge and they are performing a similar function. Within a few years, he is planning to move here and he has selected an office on the western slope. Marc just finished a case for a Denver officer; you may have seen him on TV last summer. It was a case where the officer was in an undercover capacity outside of Coors Field, he was struggling with a suspect and it appeared on TV news that he pushed the suspects face into the pavement and broke his teeth out. It turned out that didn't happen and they just finished that case about a week and a half ago and that officer, duty related employment, four officers were initially involved with the criminal investigation, two officers were identified as potential suspects, it got narrowed down to one; those fees were alone were \$75,000.00 - \$100,000.00. Criminal defense can be an expensive proposition, under the PORAC side of this; PORAC picks up the costs. They hired three experts for him forensic expert, video expert and a use of force expert.

Commissioner Houpt thinks the change the County Attorney is talking about is one where we would not necessarily, in every situation, hire that attorney and pay those legal fees. However, if we bought the insurance that would really mean that we really would be paying all of those attorney fees. It is a policy change.

Marc stated he thought Commissioner Houpt was right in terms of the criminal side. He does not know what the Boards practice has been in the past. Many governmental entities if an officer is charged, because of duty related conduct, while it is not a charter, if you will provision, or an ordinance provision the governmental entity will pick up that cost in any event. With regard to most of these other issues, the civil monitor, the records issues; his expectation would probably be you get Mr. DeFord's office involved or his office would have to retain independent counsel; so this offers a significant cost savings in those areas. The only area of concern that you have expressed, is the criminal area. You are correct; but he would hasten to add, whether you are providing it or not someone is going to have to retain council on behalf of this officer, and in a very unusual situation where you are saying, you know what, this is just totally inappropriate in our view. You have a plan that kicks in and it's not Garfield County that he thinks publically perceived as paying for this at \$6.00 a member per month or \$7.00 per month. You have the essentially legal defense plan that comes in and picks up the coverage.

Commissioner Houpt state; we have the plan but we are still charged an hourly rate.

Marc stated no, there is no additional hourly rate. Marc said they bill PORAC, they pay us \$165.00 an hour and there is no fee to the County or to the individual law enforcement officers.

Chairman Martin said he thought they were asking the Board to agree with this in concept.

Lou stated that is what it amounts to; Lou wanted the Board to understand what this is when he puts in the budget.

Commissioner Samson asked if it would be about \$84.00 per employee for everyone.

Lou stated out of the 146 employees they have; they figured 120 employees, receptionists, cooks etc. really would not need this coverage. Lou said he based this on 120 employees and it came out to about \$10,080.00.

Don asked Marc on the policy; since this is an insurance policy, we would not have an agreement directly with your law firm?

Marc said here is what we would try to figure out; this is a little different from what we have done previously. Usually the agreement is directly with PORAC; but because they do not do the record side of this and that was something that was important to this community. They are thinking of setting up a separate entity to handle this and essentially PORAC and his firm would be that entity. It would be an agreement between PORAC, his firm and the sheriff, or this group of law enforcement agencies to provide the legal defense.

Don said from his perspective it is important that your firm would be involved.

Don - Second, he wanted to make sure that everyone understands that this is an insurance cost of defense policy; it is not an indemnity policy. This means that if ultimately the officer loses; there is still no coverage for those damages.

Chairman Martin said he thinks everyone will understand once it is all signed. I hope that you can get a group together and bring it forward and put in your budget. He thinks it is a good idea.

Lou thinks with the support of the Board it will help other Cities and Towns get interested in doing it.

Marc said if the Board would like an example, he has a three-way contract in existence that has been going on since 1986 in Aurora. It is his law firm, the City of Aurora and the police association of Aurora. The City and the police association each pay a certain portion of our fee in civil cases. Marc has a format he could send to Don as a sample. Don said he would like to see that and Don asked Lou to keep everyone posted.

Lou stated he would get with the other chiefs and see where they are in the process and if necessary, he may need to talk to some City Councils and Town Councils as well.

Don said Lou might also consider contacting Pitkin and Rio Blanco since they are in the judicial district.

Marc said it is very helpful to have more entities, simply because if you are within the same judicial district, there is an education process that goes on with the court, and usually the first 5 or 6 of these are a lot more difficult than the next 20. Simply because you are educating the court a lot of times in terms of these individual rights that the courts don't think about that much.

- **Response to Audit**

The Keefe Commissary Network system was explained in detail. This is a multipurpose system that tracks from beginning to end, each individual inmate's personal funds continuously for each stay. This system allows the Sheriff's office to track and charge fees for services such as bond, booking fees, envelopes, pens, medical, phone cards and commissary items through separate account lists. In order to track the Sheriff's office fees correctly and have an accurate running balance, each fee has to be set up to affect the following three accounts correctly. 1. The Keefe Bank Balance; 2. The inmates balance; and 3. The fees (bond fee) account listing. The problem with balancing the Keefe system; several of the thirteen fees were not set-up as needed. For instance, a few fees were never set-up to reduce or increase the Keefe bank balance. Second, when an inmate comes in with \$5.00 it is automatically added to his/her account; however, it is not added to the Keefe bank account until the case in the safe is counted, verified, and put into the actual bank. Then a manual deposit is done in Keefe matching the deposit at the bank and matching the deposit entered into New World Systems. However, this process was not being exercised when Cathy Redman took over. Third and the most elaborate issue with balancing the Keefe system has to do with a misused internal Keefe function dealing with outstanding checks. When an inmate is released, they do not cash their release checks. After a specific period, these checks should be voided in Keefe and moved to an account listing in Keefe labeled abandoned funds. These funds are sent to the Great Colorado Pay Back and have to be abandoned for five years before they can be donated to the Great Colorado Pay Back program. In 2008, the previous manager tried to get ahead of the game, expired in Keefe all outstanding checks up to January 1, 2008, and put them into the abandoned funds account. The function in Keefe to expire these checks is the misused function and cannot be changed, locking those funds in the abandoned account list. The problem; the majority of these funds are now actually owed to the Sheriff's office mostly for medical charges. A large portion of inmates are repeat inmates and may come in the first time and leave with money, but come in the next time and owe us money when they leave. The abandoned funds account list, in Keefe, should match our actual bank account outstanding checks amount, but does it not because of the misused function. To correct this issue, each outstanding check was verified that the funds were actually abandoned and that the inmate does not owe the Sheriff's office money. There were more than 1800 outstanding checks from 2003 on, covering just over \$12,300.00 of which they have been able to recover nearly \$4,000.00 in fees due to the Sheriff's office, so far. Once they have the exact total for abandoned funds and have made the proper adjustment to the Keefe account listing the Sheriff's office will be able to show the system does balance to the actual bank account. Cathy indicated the audit report also stated that an individual should do the Keefe reconciliation process with no access to inmate account balances. She believes the language is misleading in this statement. She does have access to the inmate accounts and can cut checks in order to collect the Sheriff's fees each month. However, she is not an authorized signer for that account and has never been authorized to do so. Cathy spoke to Paul Backes at McMahan and Associates and he agreed that their process is legitimate. Lou though it was important to let them have a better understanding of what and why they were doing what they are doing. In essence, there were issues and the most complicated one is the Keefe system. Lou explained the system as described above and explained that it is a very complex system. He explained when an inmate leaves the facility and they have funds in their account, they write them a check. Over the past 8 or 10 years, thousands of those checks have never been cashed. It appears we have this much money when in fact we should only have this much. They started over a year ago to zero out those checks, voiding them and literally month by month and year by year for at least the past 8 years. Kathy has been working on this and fixing some of things that were not set-up correctly. Lou stated they actually do balance every month as far as what they are supposed to have versus the checking account.

Kathy stated that every month they are able to balance their deposits, checks, interest and misc. The issue has been the un-cleared checks; checking into those and making sure they indeed are un-cleared checks and not fees owed to the Sheriff's office, and putting them into the correct area.

Commissioner Samson asked where the funds went after five years.

Kathy said it goes to the Great Colorado Payback.

Lou explained they tell the Treasurer that 5 years ago they have \$16,000.00 of un-cleared checks, zero them out and send the check to the State of Colorado.

Commissioner Houpt stated this would always be an issue.

Kathy said no; the issue more or less is that it was not kept up monthly, as it should have been. It was just sitting and sitting and not being checked and they did not have in place to void after 90 days, void after 120 days on our checks that we should have had in place. They now have 90 days on their checks expiration.

Dale asked Don if there is a legal requirement that they go back to the State Treasury.

Don stated no; he would have to check the Statute, he is not aware of one.

Lou said basically it should be considered abandoned property and the State does say any abandoned property and is required by law to go to the State of Colorado. Second part is our cash receipts over the counter; they have been doing cash transactions, manual receipts and they suggested we integrate into the New World system. The reason

they are holding off on that is because most of their transactions are civil papers in our civil process and New World systems is finishing building a module for them for the civil side. I hope that in October they will be ready and hope to have a resolution for that.

Kathy talked about the person who balances the account should not be able to release inmate checks. Kathy talked to Paul Backes about this and she thought there was a bit of miscommunication. Kathy is able to cut checks mostly to collect fees as far as bond fees and commissary; however, she does not have the authority to sign off on any checks. Paul did agree they were in compliance because she cannot sign off on checks.

Lou stated he just wanted to clarify this publically.

REQUEST APPROVAL OF PAR FORM VARIANCE

Lou submitted a PAR form to finance for the promotion of Deputy Whiting to Corporal. This is due to the backfill of a Corporal position who was promoted to Sergeant because of backfilling an open Sergeant position since they promoted a Patrol Sergeant to Jail commander. These are NOT new positions. Lou is requesting a "variance" from the normal practice of a 5% promotional increase. At his current Deputy II rate with a 5% increase, Corporal Whiting would be paid \$24.33 per hour, \$1.45 per hour LESS than the other three Corporals they just promoted less than a month ago. Lou would like to move corporal Whiting to \$25.78 per hour which is identical to the other three new Corporals. This rate is still well below the mid-point of the grand and would cost an additional \$1,320.00 for the remainder of the year. No supplement will be required because of these position changes.

Lisa Dawson stated when finance approves Par forms; they approve them if the par form complies with what was budgeted. Since this was not budgeted, we would ask that the Chairman sign this if they approve.

Lou wanted to clarify they were not asking for supplemental funds. Lisa is correct; it was not budgeted beyond what would be the 5% increase; but there was also a savings trickling down from the additional promotions upward. It is within the budget; we have it within our salary line item.

Commissioner Houpt asked if Lou has the number of corporals now that he had budgeted for this year and Lou replied yes. Commissioner Houpt asked why that does not count as being budgeted for, because we made the change on how corporals will be paid a few meetings ago; she stated she is not following this. In your budget if you have slots for a certain number of corporals, then you have the funds available and she guessed this was a question to Lisa. How is it not budgeted for then?

Lisa explained when they calculate the wage budget; we take existing positions and increase it by the percentage that was approved by the BOCC. Therefore, for 2009 that was 5% as an average. This change is an 11% increase and that was not budgeted.

Commissioner Houpt said; but it is the salary if they were coming in from outside of the County they would receive, because that position was budgeted. She said she is wondering if their process tracks changes in positions; it does not sound like it does.

Ed said he understands Lou is rational; but he does not agree with it. Ed thinks performance should track from one grade to the next. What he is doing is erasing that and elevating everyone to one level. By doing that sometimes you increase a person's salary by 11% in one swoop and it is a very costly process and procedure.

Dale asked if the overarching goal is to eliminate the concept of salary compression.

Lou said the overall goal is when two people start out at the same job; they should be getting the same pay.

Example: These two folks were elected in January, Chairman Martin is in his 13th year as Commissioner and Commissioner Samson is in his first; but they are making the same pay because they are both newly elected County Commissioners for practical purposes. Lou says that is how he looks at it and finds it real difficult to tell an employee; congratulation, you're a new corporal, but you're going to make \$2.00 more an hour than this guy because you performed well in your previous position. Well your performance in your previous positions is what got you promoted to the next level.

Commissioner Houpt asked; what if I have been working in the system for twenty years and they have for two.

Lou said and you have been rewarded for that by good performance over the years.

Commissioner Houpt stated you have been rewarded by that; but you are not rewarded by it in your new position.

Lou explained you are starting out in a new position of learning a new job, sitting in a new chair, wearing a new hat equally. Just because you were a good Deputy II, it does not necessarily mean you are an experienced corporal. You are starting all over again as a corporal so to speak and both of you are starting at the same playing field. Lou has a real difficulty promoting people at the same time, at the same moment and saying you will be making \$2.00 less an hour than this guy who is doing exactly the same job.

Chairman Martin said up until January of this year, Tresl was making 50% more than he was even though he had double her seniority, simply because of the way the system is set-up.

Lou said it is State law; but we have the ability to offer variance to our pay policy here.

Ed said I am saying that is fine; but it will cost you.

Commissioner Samson wanted to go back to the budgeting. We have a position and it gets "X" amount of dollars and it is in the budget. Let's take a hypothetical situation, a person who is a present corporal making "X" amount of dollars, you in your wisdom, the Under Sheriff position becomes available and you say I want this guy or gal. They are promoted to Under Sheriff, obviously there will be a big raise. First question to Lisa if that was the case, would that have to come before this Board?

Lisa said the piece that we have not discussed is that every year the BOCC approves the pay administration guidelines and in those guidelines it says, if an employee gets a promotion to a new pay grade, they either get a 5% increase or they come in at the bottom range of that pay grade; whichever is more beneficial to them. That is what the policy is, the Sheriff's department has agreed to that policy and that is the main issue; this does not comply with that policy.

Lou said; let me take that hypothetical further. She is correct it does not comply with the 5% and is correct it would not have to come to the Board because that corporal now moving up to Under Sheriff would be at that starting wage. What he is saying; the outgoing Under Sheriff was probably making maybe \$10,000.00, \$12,000.00, \$15,000.00 more so it is within the budget, in fact, there is a net savings there.

Commissioner Samson said he appreciates that and understands; but Lisa is either saying our policy does not allow for that because you start at the lowest or the 5% increase. That is why you are before us now because the policy is not being followed.

Lisa said in Lou's memo; he is requesting a variance from the normal practice.

Lou said if we give this particular deputy, whose been with us a shorter period of time than others, but has performed well and is now promoted; the 5%, he will be making \$1.45 an hour less than every other newly promoted Corporal. We are looking at him being at \$24.33 an hour where other corporals are up as high as \$28.09. Again, he is not suggesting they are matching all, we have 10 corporals, and clearly some have been there a while and have accelerated up because of performance. All he is saying is we brought the other three in and made them equal and now we just brought a fourth one up and he thinks they need to be at the same rate. There is no reason to say; three weeks ago, we got these guys here, but sorry you're going to be down here. Again, he is replacing a corporal who moved up to sergeant that was making a higher rate than he is moving into. He argues that it is in the budget, or it is possible that when we budgeted for 2009, the position was open and vacant, and if that is the case, we budget those at the mid-range position and he is not even close to the mid-range positions. The funds should be available there as well.

Dale said anecdotally he would tell them if you go to the website at Larimer County where they post all the wages for every employee; it caught his eye when he saw that there were sergeants making \$50,000.00 and there were sergeants making \$110,000.00.

Lou said he was okay with that because maybe those sergeants making \$110,000.00 have been there for 12, 17 years and preformed well. He is all about performance increases; what he is saying, coming into a new position you start out equal and allow your performance versus others performance to dictate whether you ultimately wind up making a lot more money than them over a period of years or not.

Commissioner Houpt – I make a motion that we approve the PAR form to finance for the promotion of Deputy Whiting to corporal as presented by the Sheriff and authorize the Chair to sign the PAR form.

Commissioner Samson – Second. He asked if the position for corporal has a beginning salary that is posted and Lou answered yes, it would fall under a grade 7.

Commissioner Samson asked if he wanted to go beyond that.

Lou said in this particular case; because he is a Deputy II, one grade lower, his 5% would bring him up to that next grade a little beyond the minimum and Lou wants to bring him a little bit more but still stay well below the mid-point.

Commissioner Houpt stated you are not starting your corporals at the low end of the grade scale.

Lou said they are on the lower end, certainly not at the very base pay, only because as we all know our salaries overlap each other. He explained a high paid Deputy II, being grade 6, is obviously going to move up to corporal even with a 5% raise grade 7 somewhere in the mid rather than at the beginning. Otherwise, in some cases they could actually be taking a cut in pay given what they were being paid at the grade below. It is certainly possible, let's say for a Deputy II for years making "X" number of dollars and that "X" happens to be 5, 6, 8% within the corporal pay scale. Obviously if you promote him, you are not going to take money away from him and say congratulations you got a promotion. That is why we have the flexibility within the plan to stay within the beginning and the mid-point.

Lisa said in that case; that person would get a 5% increase. He could get up to 5% more than in his previous position.

Ed asked if they wanted to set this precedence for the entire organization.

Commissioner Houpt said no we have said in many situations that the Sheriffs' department is a different kind of organization. They have ongoing training to move them up to different jobs, different positions and she has not really analyzed whether she believes that what we have in place would work for the Sheriff's department. What we did a few weeks ago, with the promotion of corporals put us in a position of really needing to follow through. We need to figure out if he is on our salary program or not and figure out how we are going to work through that so there is some control with respect to budget. We need to start projecting into the future and figure out what level of salaries this County is really going to be able to afford and what kind of process we are going to be able to afford, in terms of salary increase. She feels it is not at the level that is occurring with the system Lou has in place.

Lou said he agrees with that and he has discussed this with Katherine Ross and Lisa Dawson. It is something, because of the organizational structure and the quasi military, all that does is fit into that, and do we need to do something different. He does not want to; he has said 1,000 times he does not want to segregate away; he wants to be a part of it.

Commissioner Houpt stated they have to be able to afford him too. She is not sure they would be able to afford him in the future. Maybe it does; but in this example, she is concerned with what comes later in terms of increases.

Lou said the whole salary structure and the whole plan is based on market evaluation and those things that are done periodically or however often, and obviously those things adjust. Katherine just did a very thorough market survey for him and again it shows a lot of those position are below market. He is not saying let's bring this to market.

Commissioner Houpt said she is not in disagreement. We had that luxury for years with the healthy budget; but many counties in Colorado have to lay people off. Instead of doing that we want to make sure, we have a salary structure in place that we are going to be able to afford so that we do not have to lay people off.

Lou said he agreed and from the pay plan and the reading of it, yes, there is the 5% rule but there is also stuff in there that says he has the flexibility between starting at mid-point. Obviously if we bring anyone over mid-point that requires approval and discussion here as well; it is contradictory where it says he has the flexibility, but there are also stipulations that prevent him from moving his people when they are promoted to certain levels.

Commissioner Houpt said; take a good look at what other people are doing too. She thinks there are two schools of thought; one is yours where you think everyone should start at the same level, and then there are others where people work up to that. However, performance in a few years could very well bring them up to the same levels. That is what we have in place and know what we can afford as a County. What you have in place right now is what we supported a few weeks ago and she thinks there definitely needs to be some analysis done on this.

Dale believes they have opened the door for a whole lot more conversations.

Commissioner Samson said he would offer at this time; he does not feel very comfortable and would like to do more research, a substitute motion that we table this and bring it back next week.

Commissioner Houpt asked what would happen in the immediate future.

Chairman Martin said the par form is not processed and he will not be paid.

Commissioner Samson asked if he could be paid his normal salary and they could make up the difference if we need to.

Chairman Martin said yes they could do that.

Lou asked what he is being paid as his current Deputy II pay.

Chairman Martin said he has a promotion here; you have to establish what his pay rate is.

Commissioner Samson said he would not feel bad about giving him the 5% for now, and if we decide, we can retro-pay.

Lou said he agrees with Tresi that it requires more conversation and how it will work for the organization and the organization size. If ultimately we put in a pay plan that we are going to set into concrete these rules then those employees will have to live by that. Again, it is probably more of doing the right thing to him that says the way he is doing it is the right thing to do; but on the other hand dollars are attached to that and that's what we have to look at as well.

Commissioner Houpt said we want to make sure everyone has a job.

Commissioner Samson asked if the substitute motion is seconded. He restated that motion; he would like to table a decision on this until next Monday meeting so they can all have more time to look at this situation and in the interim he would be paid the 5% and if we decide at that time to go ahead he will get his retro pay.

Commissioner Houpt – Second.

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

Sheriff's National Night Out

Lou reminded everyone that National Night out is tomorrow from 5:00 – 7:00 with entertainment in Glenwood and in Battlement Mesa from 5:00 – 7:00.

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION AND APPROVAL OF ROAD CONSTRUCTION AGREEMENT FOR CONSTRUCTION OF PROPOSED COUNTY ROAD 317A

The Board was presented with a construction contract for what has been designated as County Road 317 A, the new alignment for a portion of County road 317, aka Beaver Creek Road. The agreement has been signed by all parties except for the Board. Outstanding issues include requested subordination agreements from one of the landowners to assure that title to the road will be free and clear of all liens and encumbrances once the road is tendered to the Board for acceptance; Exhibit D, a task schedule for the road construction itself; and presentation of the wetlands delineation as required by the contracts. They are asking for a motion to approve and authorize the Chair to sign the construction agreement.

Deb Quinn explained as indicated in the memo to the Board she is to update them on the outstanding items. She believes everyone knows the background on this road; it is a placement for the existing County Road 317. It is being constructed as a private road; this road agreement would authorize the Board or require the Board to accept it as a public road at the end of the day, if all the conditions of the contract have been met. This would benefit the Rifle watershed because it gets heavy traffic off existing County Road 317. The outstanding items are Exhibit D to the contract; contractor's task schedule, the purpose of this was to allow the Road and Bridge Department to understand what the schedule was, so that during their weekly inspections they can determine the contract was on schedule. All they have so far is an e-mail from Laramie indicating they have started construction and they expect to be done by December 1. It was not quite the schedule she had in mind. That item is outstanding; on the wetlands delineation, Jimmy Smith, who is here today, was able to get Deb a copy of that and it has been provided to Steve Anthony. It shows there is no construction within any potentially designated wetlands. There was an incident where 25-feet or so of one potential wetlands was impacted with fill. It is good that these are now delineated so that will not happen again. The last items; once we accept the road, the roads have to be free and clear of any liens and encumbrances; we do not want a mortgagee to foreclose and eliminate our public road once we accept it. There is an outstanding deed of trust on one of the two private properties; Mr. Smith is working with private council to obtain a release over the road section of that mortgage. It is not in place yet. The Board has the option of not accepting the road should that not be in place by the time the road is finished. Deb is recommending they approve; she would like to offer a couple of options depending on the Boards consideration. One would be to authorize the Chair to sign the agreement once we have the two outstanding items and leave it for August 17 to reschedule in the event we do not have those two items. In other words; do a motion authorizing the Chair to approve once the attorney's office has received the release of the deed of trust as well as Exhibit D. We can bring it back to the Board in two weeks if that has not happened. She also wanted to thank Mr. Smith for all his cooperation. She did want to tell the Board, at their direction the construction is preceding even though, technically, we have not finalized this agreement. Because everyone was cooperative in getting signatures and almost everything, we needed to proceed.

Commissioner Samson asked Mr. Smith if he was okay with this and he stated yes. So moved.

Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Don stated while Jimmy is here, so the record is clear, the construction and establishment of County Road 317A does not, by itself, eliminate County Road 317 as it currently exists, and that road will continue to exist as a public road until, or if, a petition to vacate that road is submitted and approved by the Board.

Chairman Martin stated; and a public hearing is held.

CONSIDERATION AND APPROVAL OF RESOLUTION REPEALING RESOLUTION NO. 2006-41, AS AMENDED, AND THE GARFIELD COUNTY PROCUREMENT MANUAL – 2000, AS AMENDED AND ADOPTING THE GARFIELD COUNTY PROCUREMENT CODE – 2009

Don explained that this is the formal resolution that would repeal the existing procurement code that has been in place, in its current form, since 2006 and establish a new procurement code which really is a substantially revised version of the 2006 code. They have attached a copy as Exhibit A of the proposed new procurement code. I hope that this incorporates the requested changes of the Board. Don thinks the experience of the Board with the new land use code is instructive on how things might go with this code as well. Because this is, in many respects, a new code he thinks over the next two months you can anticipate additional alterations in the form of proposed resolutions.

Don stated he does not have any specific changes right now; but experience tells him as more people beginning to work with this code, in the real world there will be problems and we will need to address those as they come up. He knows that Matt really wants to sometime next year get a completely new code in front of the Board. Again, experience tells him, he wishes Matt luck. Don feels they will have to deal with this version for a couple of years until they get things worked out.

Commissioner Houpt asked Matt if everything was in there as discussed and he stated yes.

Commissioner Samson – I move we approve the resolution 2006-41, as amended and the Garfield County Procurement Manuel 2000 as amended and adopt the new Garfield County Procurement Code 2009.
Commissioner Houpt – Second.

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

UPDATE ON THIRD STREET CENTER, CONSIDERATION OF IGA WITH THE TOWN OF CARBONDALE, REQUEST FOR AUTHORIZATION FOR CHAIR’S SIGNATURE.

Carolyn reminded the Board that they were given a presentation on this. They were representing an umbrella not for profit entity. There was some discussion about what this contract would look like. Carolyn talked with Tom Baker, the Town Administrator, and clarified that the town owns the building and all of the ADA improvements that you wanted to fund; will become fixtures to that building and the town will own it. What Carolyn has for the Board, rather than an agreement with the not for profit entity, is an IGA with the Town so that it is clear that the Town owns the stuff. It is not that the not for profit is going to get it and at some point convey those ADA improvements to the Town. These are fixtures that run with the land if you will. This is a draft and unless it changes radically, Tom Baker is out of town and Mark Hamilton has just received this. Carolyn is asking for Chairman Martin’s signature to be authorized; if it changes radically, she will bring it back to the Board. Carolyn assumed that one of the reasons you wanted to do this is as she stated in the second whereas; these ADA improvements would make this building, not only ADA compliant, but would make it available for use by more citizens. The second thing she did not know, she assumes that as long as they get this money to them by the end of the year everything will be good. The transfer has already happened into the BOCC’s budget (she asked Lisa Dawson if that was correct and it was). It could be the end of December unless the Town wants it more quickly.

Commissioner Houpt stated whenever they invoice us.

Carolyn referred to paragraph 3A on page 2; the attachment will be exactly what they gave you in the proposal, which was literally a list of the ADA improvement they will do. In paragraph 4 should something happen and the Town is not able to finish project, Carolyn assumes the Board wants the money back for what was not installed. Commissioner Houpt does not understand what scenario that would be.

Chairman Martin explained they were unable to complete the entire changes.

Carolyn said they have not finished their fund raising. Let’s say they only got 50% of the ADA improvements installed; then do you want the other 50%.

Commissioner Houpt said she would want them to be held for that purpose because they will continue fund raising. She does not necessarily want it back because we would have to give it back to them when they are ready to complete the project.

Carolyn explained that if they could never complete it, the Town would be holding 50% of \$135,000.00. It is not likely to happen and hopefully they can finish their fundraising. She did this in the traditional way of doing IGA’s; it says if you do not spend it give it back and we will talk to you next year.

Commissioner Houpt asked; they have to give it back by the end of the year and Carolyn stated yes.

Commissioner Samson stated; on number 8, you have a date here. What is the period for them?

Carolyn stated that is what she is asking. She is not planning to finish the building until May 2010.

Commissioner Samson suggested giving them until May 2010.

Carolyn said that means you are giving them money out of this year and next year’s budget. What she has just heard from Lisa Dawson is that the money has already been budgeted/appropriated and will show up in a supplement, it is in the BOCC discretionary line item. You can give it to the Town of Carbondale; but do you want them to give it back to you if they do not spend it this year.

Commissioner Houpt said no, if they are in the middle of the project, she does not want them to go through the process of giving us the money back.

Carolyn asked do we hold them to May 2010.

Ed said he would give them a couple of more months and Commissioner Houpt agreed.

Carolyn stated; what she actually said, if they fail to perform its obligation to install all of this by the actual date of final acceptance, because they are operating under their own procurement code, they hope it will be May 2010.

Chairman Martin said if they fail to do so then they pay us back.

Commissioner Houpt agreed and said she did not want to hold them to December or May. Carolyn said that from our prospective the money is gone. Carolyn is asking for Chairman Martin’s signature on an IGA with the Town, unless the Town somehow wants to change this radically and she will bring it back.

Commissioner Houpt – So moved.

Commissioner Samson – Second.

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

REQUEST FOR AUTHORITY TO FILE CONDEMNATION ACTION AND AUTHORITY FOR THE CHAIR TO SIGN RESOLUTION APPROVING AND PETITION – BARON LANE, LLC

The subject property is needed for the runway realignment and safety area upgrade project, approved by the FAA and the BOCC. The parcels involved are 17, 18, 21, 27, 28 and 29. Notice of the BOCC’s intention to acquire these parcels has been given to all owners of non-fee interest in the subject property, such as easement holders and separated mineral estate owners of record.

Carolyn said she needed to explain why we are doing this. The last condemnation out at the airport; we did not have the Board do a resolution. The statute for counties does not require you to have a resolution; but what she has found from practical experience, the attorney’s office had to spend a lot of time tracking down when the BOCC approved this airport runway realignment project. Under how many different grant agreements was it funded etc? We decided internally it is a better practice to have the Board approve by resolution the condemnation. This way everything is in one place and when we file the petition we can say to dear judge on a date certain, the BOCC approved all of this. This is a draft; she is waiting on legal descriptions from surveyors and engineers. She is asking for Chairman Martin’s authorization to sign, as Chair, unless there are any radical changes.

Commissioner Houpt - I make a motion we approve a resolution authorizing condemnation of a fee interest parcel, a drainage easement and three aviation easements for airport purposes, AIP number 18 and ALP parcels, numbers 17, 18, 21, 27, 28 and 29 and authorize the Chair to sign.

Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Carolyn stated the second request is that Chairman Martin's signature be authorized on the petition and condemnation that is consistent with this resolution. If you do not want to do that, she will put their packets for next week, the actual petition.

Commissioner Samson - So moved.

Commissioner Hought - Second and stated Carolyn will give this to them and she stated she would.

In favor: Hought - aye Samson - aye Martin - aye

Carolyn stated lastly, this may end up being a "friendly" condemnation and she does have a proposal to bring to the Board in executive session.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don said in addition to the litigation Carolyn noted we need to provide you with legal advice; provide you an update on the status of the litigation on Vezzoso; update on the status of the litigation concerning Powerline Park and to provide legal advice on Amendment 54 to our contracting process.

Chairman Martin postponed the executive session until this afternoon.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Grants - Sales Tax Recover Distribution for July \$51,658.53 - Georgia Chamberlain
- d. Authorize the Chairman to Sign the First Amendment to Pioneer Glen Subdivision, Subdivision Improvements Agreement - Applicant; Specialty Restaurants - David Pesnichak
- e. Authorize the Chairman to Approve the Release of a Security by Signing the Acknowledgement of Satisfaction and Direction to the Treasurer for Gilead Gardens Subdivision - John Niewoehner
- f. Authorize the Chairman to Sign a Resolution Authorizing a Change in Signage on County Road 332, Also Known as Ramsey Gulch Road
- g. Authorize the Chairman to Sign the Special Use Permit for Office, Plumbing Material Storage and Warehouse, Associated Vehicle Parking - Applicant; Capitol Construction, LLC - Fred Jarman
- h. Authorize the chairman to Sign a Resolution Correcting a Scrivener's Error on Resolution 2007-35 - Fred Jarman
- i. Consideration and Approval of BOE Decisions Resolutions

A motion was made by Commissioner Hought and seconded by Commissioner Samson to approve the Consent Agenda Items a - i; carried.

REGULAR AGENDA PUBLIC MEETINGS:

REQUEST FOR INFORMATION REGARDING THE PROCESS FOR DISTRIBUTION OF C.A.R.D. FUNDS - PETER ARNOLD WITH ENERGY EFFICIENT SOLUTIONS

Peter Arnold wrote a letter to Don DeFord's Office with a complaint about the C.A.R.D. process. Mr. Arnold feels the company, Schmueser Gordon Meyer, should not have been the only weatherization specialist utilized in this program.

Peter stated he is with Energy Efficiency Solutions (EES), which is comprised of four partners, two from the general contracting fields and two from the home inspection industry. They do energy audits and provide services to improve client's energy efficiency issues. They are BPI trained and possess both the equipment and knowledge to provide clients with the knowledge and means to improve their home or business energy efficiency issues. We have watched and tried to understand for 5 to 6 months how public funds for various weatherization programs would make their way down from the Federal level to a State and local levels and ultimately to non-profits. At a green technology symposium, held at CMC in Aspen recently, Michael Bennet attended and they expressed their frustration that these programs are long in coming. They even went on NPR Radio expressing the same concerns. They are of the mind that as these weatherization programs were created and initiated that they would be done in such a way that the public could all participate equally in these programs as well as the people who wanted to provide these services to the public. What he understands now is that the GNECI put out an RFP, weatherization and energy efficiencies programs and within these proposals in particular CLEER'S proposal are provisions for SGM to manage the C.A.R.D. program for CLEER. C.A.R.D. as you know is a program to provide financial assistance to downtown property owners and tenants to provide audits and to implement energy saving technologies. So now he asks; how does he know who is writing and submitting these proposals to manage these programs for GNECI so he can be considered to exclusively provide the services for a program like C.A.R.D. and how does he even know that such provisions within the proposal are even being made. Because once you have accepted a proposal from someone like CLEER that consequently gives someone else, like SGM or anyone else, and he stated he is not signaling out SGM as having necessarily done anything wrong except now there is exclusive access and use of those public funds. In this case \$70,000.00, and the exclusion of everyone else in the same industry. It is very frustrating especially when you consider a company that gets to control that money through the C.A.R.D. program achieves the public relations benefit. What is equally frustrating is that it would appear that there are other pending programs within the CLEER proposal that might be handled the same way and other programs that will be for the benefit of any and all other organization companies. This puts people like me in an even more confusing position. Is he supposed to consider CLEER a cooperative partner or his competitor? There seems to be a conflicting objective within this proposal. He requests the Board consider if this was really the intent and the intent of the department of local affairs. He would also like the Board to consider how perhaps EES or any other weatherization company can have equal consideration for this C.A.R.D. program and subsequent future programs managed by CLEER and how it might be better disclosed by CLEER or GNECI what pending opportunities are available, and if they are available to all or again just the people CLEER decides should have those opportunities. He thinks what is at stake here is public confidence perception that these programs are being created for the benefit of a few or if they are for all. Lastly he would like to ask if you would have considered a for profit businesses proposal to manage this program for GNECI and if not why?

Chairman Martin said that is fair. He stated they are the pass through agency, all local governments, including Garfield County, sit at a table in an advisory board; that advisory board then submits, through their interviews, the procurement process etc. the recommendations to this Board. It has to be unanimous before it comes to us. We are the act through agency; we distribute the money as the Board chooses to do so. He thinks the first thing Peter needs to do, if he hasn't already, is go to the NECI Board and actually give that to them and have a discussion with them. They are the ones making the decisions, doing interviews and passing the recommendations to us.

Commissioner Houpt stated; in response to your final question, an RFP did go out and everyone who submitted a packet was considered. However, it was considered through the GNECI board.

Peter said that is where the frustration, for me it was the weatherization company, problem starts. If you write into those proposals, why could I not supply one and say that I am going to take care of everything within this proposal and it would all be managed and he would be the sole recipient of these monies and benefit.

Commissioner Houpt asked; are you suggesting that CLEER is benefiting.

Peter said no, but he has no way to know if CLEER is even going to submit a proposal or two if they are, there are provisions within that proposal that could exclusively make him the recipient of \$70,000.00 to go out and do these mitigations and audits.

Commissioner Houpt stated; because they are receiving public funds, they have to submit RFP's on projects that go out.

Peter said they respond to your RFP but he does not know if they are required to submit.

Commissioner Houpt stated they do follow the grant proposal that was accepted by the State, that brought money into the County and actually John's right, you are talking to the wrong Board. The Board you need to sit in front of is the GNECI.

Chairman Martin explained that Mr. Green is part of that board and some other members are in the room; but those are the decision makers and then passing it up for recommendations of distribution of funds; they go through that process. We get to be the person that says okay it meets these technical requirements; therefore, we can release the funds. Us making that final decision, we are going to interview you, or give the contract to Dan over there, we do not do that.

Commissioner Houpt asked Heather when the next meeting was and she replied September 9 in this room.

Chairman Martin stated; if you have total dissatisfaction; then you could make that complaint to this Board.

Peter stated that at that point it would be too late; because this program is already, the participants have already been chosen and it is done. It is okay but the damage is already done as far as he can see.

Chairman Martin said there is always a challenge to that too.

Peter said he knows there is a lot of frustration as far as trying to; he has read the proposal that CLEER put together, it is well thought out and he does not think in every case there was some sort of conspiracy or anything. However, there is conflicting initiatives within it, which put him in the spot. Am I with them or am I competing against them. He would like to go downtown Glenwood and knock on a bunch of doors and say I would like to do your weatherization. On the other hand, someone else has \$70,000.00 worth of public funds that he does not have. They can give them a rebate that he cannot give. That is frustrating and it would not be if he had opportunities from the get go, along with anyone else that wanted the same services.

Commissioner Houpt said we do have board members here.

Ed suggested that Matt Anderson and Jim Rada come forward and talk about the process.

Commissioner Houpt stated Heather would like to join also.

Commissioner Samson said his main concern is this gentlemen feels, for whatever reasons; that he has been treated unfairly. There was not a level playing field here; he wants someone to explain to him why it was a level playing field and where the misunderstanding lies.

Matt felt the communication process; typically, when we put out the proposal for CLEER, every proposal had teams of engineers, sub-contractors, and he thinks maybe that is where maybe the notification was left out. If we did put it out their publicly, and maybe the information doesn't get out to everyone as well as it should; but at that point he thinks that's when companies, such as Mr. Arnold, should approach CLEER and request to be part of that team. The process that they did go through was a legal, formal process, and it is standard practice and not just with this county, but with all government contracts.

Commissioner Houpt asked what kind of notification you gave.

Matt said when they do RFP's; they put it out on Rocky Mountain e-purchasing system. They also put it in the paper and it runs Monday and Wednesdays; but it could have been possible that it ran on Thursdays as well. He stated they fulfill their legal publication duties; but other than that, if we put it out on the system and you are not registered with Rocky Mountain e purchasing, it will not come to them. If you are not searching through the public section of the papers, on a daily basis, and the little tiny print, he thinks really it is a communication kind of issue. The program is what it is and that was a decision of whether or not for each audit you want to bid out, or did you want to have one company doing all the audits. That was a decision that he thinks they had made when they decided to put out the RFP, to have them submit a full team, and on that is what they reviewed the CLEER proposals. Not just CLEER but the NECI proposals.

Ed said this concept was discussed in NECI Board meetings. They have been meeting since the first part of the year and those meetings are always public, and anyone that was interested in this procurement, could have attended those meetings and been apprised of what was going on as well. Ed said they discussed it just about every meeting.

Jim Rada wanted to comment with regard to the C.A.R.D. project. SGM as a team member of the contractor CLEER; is doing the audit part. Their part in the process is to conduct the commercial audits. When they have provided their reports to the business owners, the owners are open to hire, put out to bid, hire anyone they want to do the retrofit work. There will be opportunities in this process open to other vendors within the community to do the work. As they move deeper into this commercial and residential audit and retrofitting, most of that will be open to the general community in terms of doing both audits and retrofitting work. There will be much more opportunity in the future for local businesses to participate in this program.

Heather said they are planning to do 5 to 7 audits in this program. Of the \$70,000.00, coming from the City of Glenwood Springs, they budgeted \$16,000.00 for the audits and the remaining \$54,000.00 will be distributed to the business, in a reimbursement form, as a rebate for the upgrade work they will do. As Jim stated the businesses that participate in C.A.R.D. will go out on the open market, get bids, and secure sub-contractors to do the work that is recommended.

Chairman Marin stated the actual rebate is coming from the City of Glenwood Springs through the Board and their contributions that has been earmarked to do such.

Heather stated right it is part of the City's local match to the GNECI and it is actually sitting in the Garfield County bank account.

Commissioner Houpt said it sounds like it is a very open process.

Heather stated yes, they would have a selection team meeting this Friday. They have nine applicants for the program and the selection team will be she, Dan Richardson, Jeff Dickenson, the three of them are on the CLEER Professional Team, and Shelly Kaup, City Council, from Glenwood Springs, and Jim Rada will all be on the team. Chairman Martin asked Peter; you do not have anything pending with the CLEER Board or the NECI Board. Peter said he had a couple of responses. This is earmarked or described as a demonstration project, purpose of which is to provide public awareness of what it is they are doing as weatherization specialists, the cost benefits of the business and the public as a whole for updating their systems and what not. He would like to propose, at the very least there could have been a better job done to get this know that it was available. He said to correct him if he is wrong; but he thinks he had nine people who applied, out of all the people in the entire downtown area to get a free, no cost audit. For that matter, additional monies that could help them mitigate the issues. He thinks the whole idea is to demonstrate to the public and make it known publically that this is what could be made available and you get nine applications, he would call that a fail. He can get, in his hand, 50 applications; walk down the street, he tells them he will help them fill this out it is a free audit to them. This is what is being made available and the government wants to help you do this, and he comes back and he has nine. He thinks they should feel they failed miserably.

Commissioner Houpt said let's not call this a failed program; we are looking at a pilot program and sometimes you start with baby steps to educate people on how best to move forward. She stated they are also looking at a situation where we have a tenuous economy. Many people do not want to, or are not able to invest in upgrades right now. She hates to have him put a slant on something that is just starting out, especially when it could build your business as well.

Peter said that is his point; it is not. It is not publically being promoted that this is available.

Commissioner Houpt said the GNECI and we would learn as we move along, but there are also some deadlines that have to be met and programs that need to be put in place. The goal is to grow this concept so that we have these resources available in this county. Not just for the upcoming year but into the future. So positive input is important from people; but not trying to rip the program down; she stated she is sorry but she would like to hear positive input. Peter said he was sorry if that was the way it came across; however, he would suggest there is a misunderstanding, and he has talked to people on Main Street. What they have suggested is what you just said; money is tight, they do not know if they want to commit. People know what they are committing to under this program. They say you have to commit to some number, some amount, and no one knows what that is. You could suggest to them, if you are walking into their store with an application, or any other business that you are not necessarily suggesting that they will have to come up with a 40 to \$50,000.00 fix. Nobody knows that no one is clear on that. That is where there is an issue; you could have gotten more involved directly.

Commissioner Houpt stated she would like to recommend that he get more involved directly too. Go to the GNECI Board and give them some positive recommendations on how they can improve things. We can all stand to make improvements as we move along. However, you have a background in the area and she feels sure his opinion will be heard and some of it accepted, maybe not all of it. However, try to do it in a positive way because she thinks he could have a lot to offer. This is a growing organization and you go through growing pains as an organization. Peter said he would say that the letter they received; he apologizes for the level of frustration he got to as far as ending up here today. He spent three or four days running in circles trying to figure out this whole system and program. He spent as much time as he did trying to understand where these dollars for weatherization were and he is sorry he is still not sure. Maybe he will go to these meetings and get a little more clarity on it. He still thinks the last questions that he asked as far as would you have considered a full-profit business. His concern is; he does not think they would have. He thinks there were larger initiatives that you were trying to achieve by this and we are kind of moving in a different direction right now. If you are going through a non-profit, he thinks there was a different intent. Intent is not the right word I apologize. Approach; he feels like something slipped along the way. Chairman Martin told Peter he would like him to come back after he goes to the Board and give them an update. He explained Peter could come in at 8:00 a.m. or 1:00 p.m. on any Monday.

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

SUPPORT FOR THOMPSON DIVIDE COALITION – PETER HART

The coalition is asking for Garfield County's support to protect this area from future development. This coalition was formed to secure permanent protection from oil and gas development of the federal lands in the Thompson Divide area including the Thompson Creek, Four Mile Creek, and Three Mile Creek watersheds, as well as portions of the Muddy Basin, Coal Basin and the headwaters of East Divide Creek. They have included a draft resolution and petitions from Garfield residents supporting the coalition.

Chairman Martin explained that this came out of a suggestion he had; Representative Salazar approached him, when he was in Washington in March. He then met with Dorthea Farris at that time and they met with the congressman again, here in Glenwood Springs as well as his Chief of Staff and also the local staff member. We asked if we could sit down with the Coalition and the other affected folks from the mineral right holders, to the companies, to the local folks, to see if we could not work together and offer some solutions. Chairman Martin posted maps on the wall to view showing the area of Thompson Creek and the challenges they have in place. He explained one is a Forest Service Map and one is a Garfield County Map. The challenges being there are three Federal units within this particular area. He pointed to a map that shows how many mineral right holders are within those units.

Dorthea said if you divide it into three parts; we are still in part one. She thinks there is a lot of work ahead. She wanted to be very general for just a couple of minutes and asked that they bear with her. She thinks what has happened, since about March, is that residents of this area have found that they are blessed with some very special places here and with that blessing comes the obligation to be stewards of this land. A group of people came together recognizing there were some potential impacts, and the coalition was formed to address these concerns. These concerns are recognized, she thinks, by the coalition and the kind of membership. She thinks Jock will refer to the kind of people and what they represent, who are part of this coalition, it has affected the infrastructure. Whether it is roads or social infrastructure and needs for facilities and services. Whether it is the water concerns, the air concerns of development, recreation from the wildlife concerns, fragmentation that is created by development that affects wildlife, or the recreation that is created because of the wildlife. The hunting, the fishing, all the recreational activities are there. It is an agricultural area, which is leased for agriculture, which is what every jurisdiction says we want to protect quality of life, raw atmosphere, or agriculture in our valley. It's the quality of life and that raw atmosphere and the agriculture, and all those things that the coalition came together to say we are concerned about

this and want to make sure this area; which has some unique and very special attributes, needs to be reviewed and looked at to protect from inappropriate development. This is BLM, US Forest Service, Counties, Municipalities, individual property owners, leaseholders; there are many groups involved. There are many groups involved, so it is a very complex concept. Jurisdictions that have become involved; she believes the Board has a list of those who have a concern. However, it seems to them that Garfield County, as a large county should be involved in this discussion. It seems to her that they need an agreement with Garfield County that says Garfield County supports the activities of the Thompson Divide Coalition to investigate study, and find ways to protect this area from development, in a fair and open process that Garfield County will participate in and work toward TDC goals. That was the purpose of the discussion with your Board and that is what they hope the Board will say; absolutely we agree with that.

Chairman Martin said it does take into some other considerations and that is monetary concerns; that the State of Colorado has received and the Federal Government has received from the private property rights. Which are mineral development and those millions of dollars have been paid to those two government entities in reference to leasing, and that is why you have the recorded number of people who have put money into this area. That's where the fair participation, the discussion needs to also understand what are the solutions; that's why he suggested Garfield County support that conversation to be involved at the table, and to help identify some of, either the pitfalls, the mountains to overcome, some of the solutions we have, and also listen to people that are affected other than mineral right owners. He thinks there are multiple solutions, not just one single one, and take each unit and work with those units to see what is the best, or the least impact we can propose. Again, we have a congressional representative who is willing to wait and get those proposals or solutions until he moves ahead with any kind of legislation. If we are adults about it, he thinks they can do that. One other thing is the forest plan; which is an adopted forest plan we need to consider, which is already in effect. How any changes to that forest plan, or approach, will again constitute a change in the area management plan or the forest plan, which is also the transportation plan, monitoring, recreation, access, etc? We need to know the management plan of the Forest Service and what changes any recommendation would be so we can relay that to the congressional representative to support.

Commissioner Houpt said we also have the huge road list issue.

Jock Jacober said they are excited to have Garfield County propose a partnership here in solving what they consider a real opportunity. We are modeling this activity after some well known other groups that have worked in Wyoming to accomplish precisely the same thing. As John said, they did it by cooperating with the constituents that were involved in the area including the gas lessors themselves and the local jurisdictions. We do not have to re-create the wheel; but we do have to go through the process. He thinks this openness is phenomenal. He thinks this would be a very strong indication that particularly on the County level, it is principally the impacts with which they would be involved. It is an issue of public stewardship; which in the end has the greater value to the entire public community across even the globe. They are prepared and delighted to think that the County is interested in this. They also are quite willing to take any monetary help from the County. They have embraced a water study in order to get a good baseline understanding of what impacts a proposed extraction system up there might have on the Roaring Fork via Coal Creek, Crystal, Four Mile and so forth.

Chairman Martin said we need to open this up to all participants and all interest holders. Because some of that information is available; and you can get it without payment. He thinks some of the companies you are looking at have that information and have put a lot of money into that to make sure they can produce or not produce. They can show you where it is good and where it is not good. They can also tell you the baseline studies that they have. He thinks if they open it up and really become a cooperative and work with everyone involved; not just taking one side and saying this is what we want. We need to spread it out and actually become cooperative, open honest conversation, and approaches, and find the solutions. Again, three different areas and someone could have a tremendous amount of cost. He asked BLM and the Forest Service if they are willing to give back the money for the leases, and they said no. He also asked a couple of energy companies; are you willing to work with the coalition and maybe find a different solution than development and they said yes we are. Again that depends on what kind of attitude, what kind of reception we get if we are constantly villainous, then we will probably not open our mouths, sit, and wait to see what happens on the Federal level. We need to avoid that.

Dorthea said the assumption seems to be that the "transparency" which has changed in what that means. The coalition has never closed itself off from anyone. You apparently have felt, from some constituents, that it is not open to anyone unless they are all on one particular course.

Chairman Martin said he has had that put forward to him by different parts of the coalition.

Dorthea said she does not believe that to be the case. She thinks they need to move forward with the idea that we all have concerns about the protection of an area that many of us feel has certain qualities, and we need to agree on those qualities and find the best way to protect those qualities and reduce impacts that affect all of us. She thinks whoever has an interest in that should be everyone who lives in western Colorado, in this area, should be part of that discussion. To the degree, that people have felt that she hopes that is resolved, because she has never heard that from members of the coalition.

Chairman Martin said the polarization is there. It is just under the surface and we want to avoid it and that is what our agreement was, as you remember, we would try to do that without taking sides, without polarizing one side versus the other. Or even creating a third part, we said we would work with that and he still proposes that they have a letter of support and sit down with the coalition and all other parties and come up with solutions. That is what he is proposing to do today.

Commissioner Houpt said they have supplied us with a resolution that various jurisdictions have adopted, in her mind this takes care of what you are recommending John, and I would make a motion that we adopt the resolution presented by the Thompson Divide Coalition and become active participants in these efforts.

Commissioner Samson – Second. Commissioner Samson stated he had some questions about the wording in the resolution and he would like to talk with the legal staff and administration before we go forward.

Commissioner Martin stated that is why he suggested a letter of support with our intent to sit down with all parties to come up with an approach that we can suggest solutions of the Thompson Creek area, and be, again, at the table, very active and supply the expertise we have. Find out information, bring people together and actually involve other groups such as the Energy Advisory Group, find out research questions, baseline studies that actually work with and be part of the group. Chairman Martin stated he has a problem with a resolution.

Commissioner Houpt asked Commissioner Samson if he had a legal question for our legal staff; otherwise, we can talk about it now.

Commissioner Samson answered yes. He would like to propose; and then he stated he would like Ed and Don's office to go over this before we decide to pass it. He has some questions on some of the wording.

Commissioner Houpt said what it is stating; we support what the coalition efforts are moving toward and it does not deviate from what John is saying. However, she does not want the impression to be left, as we close this meeting that Garfield is going to come in and save the day and reorganize this coalition. What they are asking us to do is support what is in place and help them move forward in a productive way that includes all of the stakeholders, the lease holders etc.

Commissioner Samson said he did not have a problem with it, he is not sure of the wording.

Dorthea asked if it would be possible with those questions today to come out of this meeting with a motion of support for what you have said, which is "Of the coalitions activities to move forward and within a month you will have a review of the resolution to be approved at a certain date; but to be able to come out of this meeting with a resolution that says Garfield County wants to work with the coalition, support its activities to find resolution."

Chairman Martin stated that is what he suggested as a motion instead of going to resolution form.

Dorthea said to include that, which is today's step; that a resolution will follow

Commissioner Houpt stated to Dorthea; you started out with some language, do you have that written down.

Dorthea read it to the Commissioners; Garfield County supports the activity of the Thompson Divide Coalition to investigate, study, and find ways to protect the area from development in a fair and open process. Garfield County wishes to participate in the work toward Thompson Divide Coalition's goals and will develop a resolution for consideration by the BOCC.

Commissioner Houpt said that would be what she would incorporate into her motion saying that this board supports those efforts and we will work with our staff on a resolution over the next month.

Chairman Martin stated that would be a substitute motion.

Commissioner Houpt said it states that we will be working on this resolution; with the language, Dorthea wrote as part of her motion.

Commissioner Samson – Second and he wants Chairman Martin to be an integral part of all of that.

Commissioner Houpt stated she wants to be as well; it is in her district and she has been at the meetings.

Commissioner Samson said he did not mean to exclude her; but since Representative Salazar approached Chairman Martin on this, he needs to be an integral part.

Chairman Martin stated that the only problem he had; will that compromise you (Tresi) being on the oil and gas conservation commission.

Commissioner Houpt stated no, she could keep her roles separate.

Chairman Martin stated the challenges are going to be; he reviewed the maps again.

Commissioner Houpt stated she has been very impressed with the homework this group has done. There is a clear understanding that we are dealing with many different stakeholders in this discussion. She thinks they have been moving forward in a very responsible manner and understand the challenges they will be facing; which is why she feels good supporting this.

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

Martin stated that he and Tresi would both participate.

PUBLIC HEARINGS:

CONSIDER

ABATEMENTS FOR VALERUS COMPRESSION SERVICES, LP – ABATEMENT NO. 09-057, SCHEDULE NO. P908608

Ron Little, Property Tax Consultant and Kenny Kramer, Attorney were present.

Don explained they needed to establish notification although it is obvious in this case, as they are present and it is a public hearing.

Chairman Martin stated they will identify exhibits; Assessor Exhibits will be A-Z and taxpayer will be Exhibits 1-100. Chairman Martin explained the process.

Ron passed out Exhibit 1.

The petitioner feels the property is valued over market value and unequally compared to similar property. Valerus original cost for these units is much lower than the Garfield County appraised value and Valerus has an appraisal report that estimates the market value of these units at a lower value than the Assessor's appraised value. The Assessor recommends denial.

Ron explained his exhibit; page one, they have a number of natural gas compressors, they are in fields in Garfield County and they are working. These pieces of equipment were put into the field generally 2006/2007. They have filed a report to the assessor of what was there on January 1. This protest involves to January 1, 2008. The compressors are listed on page 1 with the unit reference, the year they were actually set in the field is the year, and there is a description in the exhibit. Valerus Compression had an appraisal of all of their units, in their rental fleet, dated October 14, 2008. The summary on page 1 is of those values of these specific compressors. On P908606, \$204,704.00 is appraised value and the value they are requesting is \$305,000.00 and the assessor's valuation of \$340,954.00 and so on down the page. The valuations are in excess of the market. On page 2 and 3 they have taken Valerus Compressions manufactured cost, transportation and installation to the field, and indexed it based upon the date it was installed. He went on to talk about the estimated depreciation, using the Marshal and Swift cost depreciation schedules. You will be able to track each of the numbers from the Valerus original cost. Valerus is a relatively new company; 7 -8 years old and their headquarters is in Huston, Texas and most of the manufacturing is done in a small county southwest of Houston. They do not manufacture from beginning to end a gas compressor. They essentially assemble pre-manufactured parts, put them on a skid, and make them mobile. He explained the type of engines and how they are assembled. They do not have distributors, they do not have wholesalers, and they literally sell to the industry, to the users. This is a small assembly operation that is growing and expanded into the needs of Colorado. They put most of their compressors into a rental fleet. He pointed out from Marshal and Swift the actual cost of assembling these compressors. Following page 9, you will see cost accounting for each of the gas compressors from purchase of the engine, compressor all the way through all the minor parts and labor. On Polaris Compressor package sales on page 71, they actually sell these compressors. These are actual sales of the same horsepower as the larger units. They do not manufacture the small ones; they acquire those from other folks and put

in the fields here; but they did manufacture or assembly these pieces. The 1,340 horsepower; the average cost is \$803.00; when he says cost, he is referring to the cost a purchaser paid. This is the actual sales price of each one of these units and the invoices follow. These are fair market sales from Valerus to users in the field. They have taken the numbers and analyzed them to the appraisals; but to get to actual value, they think these prices should be compared to their units in the field in Garfield County as representation of a replacement cost, or a market value; the new unit in the field. The prices are quite a bit lower than the assessment. Beginning on page 82, they have summarized the appraised values by asset valuation source. You will see the appraised value, as of October 14, 2008 and the appraisal was commissioned for another purpose, other than property tax; but they believe it is as valid as any other. On page 90, they have other gas compressors in the field in Colorado. They have identified the compressors in Mesa County, the unit numbers, the horsepower, the original cost and you will see the values placed on those by Mesa County and San Miguel County. They also have the value notices on which the County processed those declarations. You will also see the 2009 values that follow that and are on page 94. By contrast, you will also see the valuations much higher by Garfield County.

Ron went back to page 1; for each of these protests, they believe the appraised value is representative they are adopting the appraised value by the appraisal. Look at the depreciated cost provided to you; you will see it is a little lower, but it is in line with the valuation and you will see the contrast to the assessor's valuation.

Sean McCourt passed out Exhibits B, C and D. They sent Valerus an omitted property notice; they protested that and they then sent out a special notice of determination and now it comes to this Board in an abatement hearing. Exhibit C identifies the assessor's total value of \$15,284,252.00. The highlighted green indicates the property taxes they have paid. Valerus is requesting an abatement of \$75,000.00. They have revised a couple of their values; he went on to explain the amounts. Exhibit D is a copy of the procedures they are required to use; it is out of the assessor's reference library.

Jerry Wisdom explained an overview of what a natural gas compressor does is in Jerry's report and starts on page 12 of his report. The compressors that are issued are categorized in three different classes, horsepower being the denominator of how these compressors are valued. Jerry explained the equipment they have right now. Some of the compressors have been in the county since 2004 and moved from location to location. Copies of the lease agreements have been included inside Jerry's appraisal. Jerry has considered the market approach, the cost approach and the income approach in this appraisal. In Exhibit B, look at Exhibit I and Jerry explained these are the different trade levels he has depicted. Jerry pointed out, in Ron's appraisal, the appraisal was as of October 14, 2008; again the lien dates January 1, 2008. Jerry's valuations are effective as of January 1, 2008; theirs are not. The appraisal you have on the income side is not active as of January 1. Jerry explained the engine makes and models along with horsepower, the year manufactured and the reported manufacture cost. Jerry also explained how they assemble their product. Jerry went through his exhibits and explained in detail how he arrived at his valuations. Exhibit M is the valuation they recommend to this Board based upon the cost approach. Exhibit N shows how he arrived at the income approach; page 13 show the income approach taken from lease agreements supplied by Valerus. A lot of these lease agreements date back to 2004, 2005 and 2006. Jerry said they did not get current lease rates as of January 1, 2008. Jerry had to adjust for time.

Commissioner Samson said there are two major points; you are stating they got the appraisal date ten months off. January 1, compared to October 14. Number 2 they did not include transportation costs etc. and Jerry stated he was correct.

Sean said he got the impression that not only is their appraisal after our assessment date, January 1, 2008, their appraisal was not for property tax valuation; it was for another purpose and that might be the reason it doesn't include the cost approach. We are required to value these by all three approaches. Sean asked Jerry; we are valuing these as value and use per our guidelines and the difference is their value is really a value in exchange; is that true. They have a package deal they leased to EnCana and that value is as high as they get?

Jerry stated yes; he is taking it up from the manufacture level to start with and then he has added some sales prices in there now to bring it up to a different trade level, but it is still a manufactures trade level. It is not a retail level it has not shipped here. In Jerry's appraisal, in the back, it shows where many of these units have to be returned to Bay City, Texas, Oklahoma; so they still have to do trucking. They have to hire large cranes to unload these and set these units. He took this one-step further; making sure the companies are not including costs and we would be double taxing; he confirmed that with Charlie that those costs were not being reported.

Ron thinks the Board needs to get a solid feel for; that is value, actual value is the basis as of January 1, 2008. Do you know the definition of actual value? Its market value; the price that it would command where it sits on that day. What would it sell for? Has the assessor given you that number? He does not know and the reason being; the math is so extensive that it is unnecessarily complicated. It never addresses the actual value; you have math, you have calculations, but do you have actual value? They talk about value in use; that is a very different concept than actual value and he thinks it is being misinterpreted and misread. Value and use is specific value to a user, regardless of actual value or market value. It could be more or it could be less. The code speaks to actual value, the price at which it will sell in the market. Not value and use as it is defined in appraisal language. Secondly, what is the difference in value between January 1, 2008 and October 16, 2008? Is it a lot or is it very small? These compressors have been here; how much difference has there been between January and October? A few months, it cannot be 100% difference. Secondly, the appraisal we have was not done for tax purposes; he introduced that to the Board. What is the difference; this is an estimate of actual market value. What would it sell for where it is? They know where it is; sitting right there on that day, that is what it is worth. Ron asked everyone to look back at page 9 of their handout. Actual sales of units, actual invoices; these sales do not approach the assessor's cost, valuation of the units. Lastly, Polaris is not Hanover, Hanover may very well be able to add to make a whole lot more profit because of their term in business their length of business, their customer base and experience. To equate these two companies by market value is appropriate; but to say our sales prices are equal to theirs, you cannot do that. Our sales prices are right here; that is replacement cost new. These were brand new units; that is what they cost. How much does it cost to truck them here? A 1/2 million dollars no way! A few thousand dollars yes. As he stated in the very beginning the declaration submitted to Garfield County is Valerus Compressions accounting of what it cost to get it there. That is what the customer pays rent on. Lastly the income approach; this takes rent related to the value of that product when it was set in the field new. That is what they paid for it day one, and that is what they continue to pay that rent over time; but that unit is no longer new. You cannot take the leases and presume a five-year-old compressor is worth and therefore would rent for as much as a brand new one just set in the

field. These compressors do not have an extensive life; they have a relatively short life. They keep them going by overhauling them until they get to a point where it is too costly. This sits out in the field; day after day, not in a garage. It works everyday in the field. People go out and maintain it as required in the lease. That lease is year to year; it can come out of the field and sit in a yard for two or three. When you use an income approach, you have to consider what you are valuing and it is not new equipment as of January 1, 2008.

Kenny stated he had a couple of issues; the tax Statute comes out of Article 10 of the Colorado Constitution. Article 10 Section 3 states most importantly it is the job of assessor to try to find equalized value throughout the State. On page 91 Mr. Little testified in two other counties, Mesa and San Miguel, which are adjacent to the where the subject properties are located, those assessors valued the property a final value of \$510.00 per horsepower, \$438.00 per horsepower unit value, and that is the unit of comparison. When you compare that to where Garfield County Assessor's Office has pegged these properties, on page 1, anywhere from \$836.00 to \$1,018.00 per unit, almost twice as much; he would say that is not equalized values. There has to be some reason there is a difference and he cannot think that it is 39% transportation costs being applied. One area that might explain it the way the County has, what he sees as double dipped and triple dipped on the market. Mr. Little testified what the sales price of these units would be by Valerus and the assessor has relied on a national industrial company, they refer to as Hanover. They produced on their page 15 what looks like an excerpt out of Hanover's reports. On the top of page 15 under Fabrication Compressor and Assessor Fabrication it describes what Hanover does and in the second sentence, we lease this compression equipment primarily to major independent oil and natural gas producers, as well as natural oil and gas companies in the countries in which we operate. He stated it sounds like Hanover is building and selling to the end user. They are almost acting as a manufacturer and wholesaler; they are not acting as a retailer. Jerry indicated they added another 15% retail mark-up; there is no support for that anywhere in the record. At the very least, he would argue that the 15% is not indicative of market value at all. Colorado Statutes, specifically 39-1-103 13A, states "that the assessing officer shall consider the cost approach for the appraisal of property and specifically the provisions of Section 13 in good faith, and shall deny the use to the cost approach only upon just cause; where the requirements of Section 39-5-116 haven't been complied with". It goes on to state; "so long as the taxpayer has provided all of the documentation requested by the County, cost approach should be the upper limit of value, not the market approach and not the income approach". They believe, based on supporting law, the supporting evidence provided by the taxpayer; the taxpayer has met its burden and proven the value of the property was over assessed. Commissioner Samson asked how do you explain why there is such a difference. He is assuming it is the same equipment, the same compressors, and the same horsepower and yet San Miguel and Mesa County are so different from Garfield County.

Jerry stated they probably used a schedule; the cost they turned in, they used whatever approach they wanted to find market value. What he left out was, Rio Blanco County has three of the same compressors he valued for Valerus, which he has, and he valued the same way, and they did not protest those values in Rio Blanco County; yet they did not include them in their packet today for the three compressors. Jerry stated they valued them the same way in Rio Blanco as they did here.

Sean stated maybe those counties just took the numbers given to them and did not question.

Chairman Martin stated they need to make a decision by the fifth and they will do so in writing within two days.

Commissioner Houpt - I make a motion that we deny the petition for abatement, for a refund of taxes by Valerus Compressions Services LP and uphold the assessor's recommendation or the assessor determination on P908608. Commissioner Samson – Second.

Chairman Martin stated; your finding is that the assessor was correct.

Commissioner Houpt stated her finding is that the assessor followed the correct method for assessing this personal property and she supports their determination.

Commissioner Samson stated he concurred.

Don stated Exhibit C; look at the highlighting it indicates assessors revised value and you should be clear on the value.

Commissioner Houpt stated she would like to draw attention to Exhibit C and approve the assessors revised tax level on P908608 and she would like to add to the motion to approve the assessor revised tax level; the motion stands.

Chairman Martin said he was quite impressed with the information there; their research, there valuation, the actual invoices, installation and they made a very strong case.

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

**ABATEMENTS FOR VALERUS COMPRESSION SERVICES, LP – ABATEMENT NO. 09-058,
SCHEDULE NO. P908606**

Commissioner Houpt stated she would deny the petition for abatement for refund of taxes for Valerus Compressor Services on Schedule P908606 and approve the assessors revise tax level at \$4,599.00 as presented by the assessor. Commissioner Samson – Second.

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

**ABATEMENTS FOR VALERUS COMPRESSION SERVICES, LP – ABATEMENT NO. 09-059,
SCHEDULE NO. P908607**

Commissioner Houpt she would deny the petition for abatement or refund of taxes for Valerus Compressor Services LP on schedule P908607 and approve the assessors revised tax adjustment to \$47,625.00.

Commissioner Samson – Second.

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

COMMENTS FROM CITIZENS NOT ON THE AGENDA

Geneva Powell Garfield County Housing Authority. She has a request for a new board member; Dave Roberts with Alpine Bank; they are requesting he take a five year term on their Board to replace Shelly Button who resigned in March. They have met with Dave and believe he will be a great asset to their Board.

Chairman Martin – We will have to agenda this for an official appointment or tentatively accept that and let you use him, but then agenda this.

Geneva said in the past she has sent a letter and it has been signed.

Chairman Martin stated correct; but they put it on the agenda for action and they will do that. You can tell him it is a good possibility.

Geneva wanted to inform the Board, in case they get phone calls from families in the community, the Garfield County Housing Authority, who administers the Section 8 housing choice voucher program through the Federal

Government, HUD have had insufficient funding for this year. They have applied for additional set-aside money, stimulus money or recovery money and they have not been successful getting money for rural America. They have sent letters, on Thursday, to 76 families; telling each they would be terminated from the Section 8 role assistance program, effective September 30. They were able to give 60-day notice; the Housing Authority Board is looking for about \$67,000.00 to cover the rent for August and September. They are \$52,000.00 a month short. They had good support from Senator Bennet's office and Representative Salazar's office. They sent letters to DC to the Federal Government making requests on their behalf. They have F.E. Russell who is an economist for HUD that also wrote a special economic review for our area asking for money. There are still e-mails coming out as late as this morning, for housing authorities that are critical, in that they may have to terminate families from the program that we can still apply for money. They have applied for those monies; they applied on Friday and again this a.m. and will continue to keep that in the front if anything comes across the line we are eligible for. She explained they have been in business since 1984; the County Commissioners then established the Housing Authority. There have been many changes; but it has always been money from the Federal Government, and this is the first time they have been shorted.

Chairman Martin asked how many clients.

Geneva said they will lose 76 and it leaves them about 300 – 302 left over. They still will be running the program; they have to reduce it in size down to the funding level.

Chairman Martin felt they will see even more next year cut.

Geneva said she is afraid they will, and at this time the waiting list has usually been 4 to 6 months, it's over 2 years because they can't take anyone off the waiting list if they don't have funding; if they are cutting families. They did a random draw; they felt this was the fairest way to do this. In the PIH notice, our Federal regulations allowed us to protect the elderly and disabled households. 54% of their clients are elderly and disabled and the rest of the families were at risk.

Commissioner Houpt asked for what period.

Geneva said she did not know.

Commissioner Houpt said; you are looking for \$67,000.00.

Geneva stated that give them 60 days notice and they took that money out of the administration account and other programs. Their rental assistance payment in August was a little over \$230,000.00. The Money from HUD is \$178,000.00 per month.

Commissioner Houpt asked if we as a County wrote a letter supporting you where are you looking for money right now.

Geneva stated the Federal Government; it has to go through congress. Geneva said the money they put out there, that they are able to apply for, was \$100 million dollars set aside out of the Omnibus Act of 2009. It was competitive nationwide; many of the rural communities feel the same thing we are. Mesa County has the same problem, the Housing Authority on the Front Range has already terminated. Housing Authorities in Utah have already terminated also. This is simply a cut in funding and they had to cut the clients. They will continue to apply and if they get money, they have a preference for the families that went off the program. They will never sit on the two-year waiting list; they will put them back on first; but they will have to meet all the eligibility requirements again. The newspaper should have a press release and they will have a series of public meetings this week for the clients.

DIVISION OF WILDLIFE - BEAR ISSUES

Dan Cacho, DOW local officer for Glenwood Springs. Dan wanted to discuss the bear issues; they have had, last week, over 30 bear calls in a two-day period in Glenwood Springs. Some were bears in people's backyards to bears breaking into garages and getting into trash. Most of the call are coming from the West Glenwood area an area where there is no trash ordinance. Dan wanted to see what the Commissioners thinking is; he knows the division has approached the Board before for a countywide ordinance and that did not work out. Perry and he have been throwing out ideas; maybe localized ordinances, not including the whole county, maybe just areas of West Glenwood and No Name.

Commissioner Houpt asked do you think it would make sense to have a countywide ordinance.

Dan said he did; but if it is not going to go anywhere he would at least like to see if they could get the areas where they are having problems, at least have that.

Commissioner Houpt asked who enforces the ordinance in Pitkin County.

Dan said he believed the County Officers and the code enforcement officers.

Chairman Martin stated it is a trash ordinance; it is not law enforcement, it would be code enforcement.

Commissioner Houpt stated she thought it made sense to have an ordinance to support them. Especially when you read in the paper about bears being destroyed.

Dan said he does not have anything written up; but he wanted to see what the Boards thoughts were on this. They have had several calls in No name, several calls in Glenwood, and really, the Town of Glenwood has not been that much of an issue; West Glenwood is a huge problem. He has been spending his whole summer there.

Commissioner Houpt asked if Glenwood had an ordinance.

Dan stated yes; but the area is outside of the municipal boundaries and like West Glenwood is not covered under that. It comes down to enforcement of that ordinance.

Chairman Martin stated the other approach is to do the neighborhood watches, and show them how to protect themselves, and to be responsible for their own actions.

Commissioner Houpt asked how effective ordinances have been.

Dan said his opinion is that in Pitkin they have had better luck with the enforcement side. The Glenwood officers are still doing enforcement; but he thinks Pitkin has done more and has seen a little more success with compliance. No matter how much enforcement you do there is always going to be an issue with the trash. You will never get rid of that component of people who just do not care and leave trash out, garage doors open, their front doors open and bears are going to get in. We will always have problems; but he feels that if they could reduce the trash issue in Glenwood, he believes it would help.

Commissioner Houpt said we need to figure out if they want to do a countywide ordinance, or spots around the county, and then how we would enforce.

Commissioner Samson said he did not think they have the personnel to enforce it county wide.

Commissioner Martin said no, and that is why he thinks they need educational programs. Working with the Sheriff along with the Division of Wildlife, as well as BLM.

Commissioner Houpt stated; if you put an ordinance in place and people know if you live in Garfield County you will have to have a bear proof trash containers; you will have more compliance than if you have nothing.

Commissioner Samson asked; what about all people who have never had problems with bears and they are forced to buy a bear proof container.

Commissioner Houpt asked where that would be.

Commissioner Samson stated he has lived in west Rifle all his life and has never seen or heard of anyone complaining about a bear getting into any garbage.

Commissioner Houpt asked if there were sections of the county that Dan would recommend.

Dan stated he covers Glenwood Springs, No Name, and into the flat tops and he knows Glenwood is a busy area for bears, Aspen, Eagle; but really, Glenwood and Aspen are the heart of the bear problems.

Chairman Martin explained how people have fed them and actually allowed bears in their houses; but that ruins many bears. We also allow bears to live off garbage, then we invite them into our kitchens and our cars, and that is what destroys bears also. We are the ones who really destroy the bear's lifestyles.

Commissioner Houpt stated that is why if you put an ordinance in place; she asked if New Castle was a problem.

Dan said he does not think they have had a ton of issues there. Occasionally they do and Carbondale has issues from time to time.

Commissioner Samson stated; why don't you come back to us with a plan of certain areas.

Carolyn stated counties could only do what they are allowed to do under statute; we are limited governments. There is no ordinance authority for you to control wildlife and in particular bears. Your authority to deal with those kinds of issues is under your land use authority and you do very often require that new subdivisions have to have bear proof containers.

Commissioner Houpt stated Pitkin County is home rule and that is why they can do it.

Carolyn said she could not answer that question.

Commissioner Houpt said there has to be a way to get around this.

Chairman Martin stated we have to work together as a community.

Commissioner Houpt asked if the sheriff's department has the authority and she stated no.

Mr. Liston stated as just an observation; he has lived on west Elk for many years. Just a little common sense; education and he agrees with what they have done with the new subdivisions; but helping people understand. All the years he has lived there, he has never had bears, no tracks, and no damage. Two things they have a large dog and we did not put stuff out.

Commissioner Houpt said you know because of the business you are in; there are many people moving into this area who either are not engaged in the area, have never dealt with issues in wildlife areas.

Mr. Liston said the education effort could help some.

Commissioner Martin said we could go further; what you are actually putting in your front yard, backyard, your common areas, are you creating something that is drawing the bears. He stated they need to work with the planning department and come up with the proper landscapes.

Commissioner Houpt asked Dan if they had the authority to put restrictions on people.

Dan stated in terms of land use; they make comments/recommendations. They will recommend for people to avoid planting fruit trees in their yards; that is a huge draw for bears.

Commissioner Houpt said it makes no sense that there is no one who has that authority.

Dan said there would always be bear issues; people feeding the bears. They have done bear aware programs in their problem areas in West Glenwood. You just have people who do not care and then you have people who will go out and buy a bear proof trash container. Some people just cannot afford them. If we could eliminate some of the trash, that is attracting them, he thinks it will help.

Commissioner Houpt knows that some communities have established programs where they make bear proof containers more affordable.

Chairman Martin stated; let's see if we can get Perry to come along with the sheriff, the planning department, landscapers, and then come up with an idea to work on this. He thinks it needs to be an active program.

PUBLIC MEETINGS

CONSIDER A REQUEST TO EXTEND THE PRELIMINARY PLAN FOR OAK MEADOWS RANCH PUD, FILING 4, PHASE III. THE PRELIMINARY PLAN WAS APPROVED ON JULY 21, 2008 AND A REQUEST FOR EXTENSION WAS RECEIVED ON JULY 16, 2009 – APPLICANT; OAK MEADOWS III, LLC – KATHY EASTLEY

Ron Liston was present.

Commissioner Houpt said she had recused herself last time and will again.

Planner Kathy Eastley submitted the following exhibits: Exhibit A –Garfield County Land Use Resolution of 2008, as amended; Exhibit B – Garfield county Comprehensive Plan of 2000; Exhibit C – Letter of Request from Owner; Exhibit D –Resolution 2008-95, Preliminary Plan Approval; Exhibit E Staff Memorandum and Exhibit F –Proposed Resolution

Chairman Martin entered Exhibits A – F into the record.

Planner Kathy Eastley explained:

BACKGROUND

As you may recall, on Monday, July 21, 2008, the Board of County Commissioners (the Board) approved the Preliminary Plan Application for the Oak Meadows Ranch PUD, Filing 4, Phase III (See Resolution 2008-95, Exhibit D). The Preliminary Plan approval was granted to subdivide a 44.67-acre property within the Oak Meadows PUD into 25 residential lots, common area and quasi-public area. This approval provided the Applicant, Oak Meadows III, LLC, 1 year to file a final plat application to Garfield County, which was to expire on July 21, 2009.

The property owner requests the Board grant a 1-year extension to file the Final Plat, which would expire on July 21, 2010. (Exhibit C)

STAFF RECOMMENDATION

Section 4-103(8)(a)(1) of the Land Use Resolution of 2008, as amended, states that "the applicant may make a onetime request for an extension of up to one year, upon a demonstration of why the original conditions of approval cannot be met." The Applicant has noted that current economic conditions have dramatically affected the financing

opportunities and the market for new homes (Exhibit C) is the reason for requesting the extension. Staff recommends the Board grant a 1-year extension to the property owner to file the Final Plat prior to July 21, 2010. Conditions of approval include the requirement to obtain a “technically complete” final plat application prior to date of expiration, and that no further extensions to the file shall be granted.

Ron Liston wanted to re-enforce that they actually have proceeded in a lot of work, in the final plat, in trying to move this forward. Because of the economy and economic conditions, they want another year to see this come back and actually finish out that last phase of the development.

Commissioner Samson stated that he sees in the recommendations; you say conditions of approval include the requirement to obtain a technically complete final plat application prior to date of expiration and that no further extensions to the file shall be granted.

Kathy stated that is specified in the land use resolution that only one extension of one a year period shall be granted. Commissioner Samson – I move we grant the applicant Oak Meadows Ranch PUD, Filing 4, Phase III, be granted a one year extension and that the final plat needs to be filed prior to July 21, 2010 and no further extensions to the file will be granted after that time.

Chairman Martin said he doesn’t like that portion because he feels there will be worse economic times coming up and we may have to revisit that one. Second.

In favor: Samson – aye Martin - aye Recused - Hought

Executive Session

Don stated he needs to provide an update on the Vezzoso code enforcement litigation; the Powerline Park Subdivision improvements litigation; a status update on Amendment 54 application of county contracts, and Carolyn needs to talk about Barron Lane condemnation case.

Commissioner Samson said he wanted to add; questions on the Thompson Divide Coalition. He also asked when it would be appropriate to talk about the Sheriffs item. It is not legal advice; it needs some research, ask some questions on that.

Don said it sounds like a public discussion. You might want Ed and/or other administrative staff members to receive your questions so they can address them.

Commissioner Samson wanted Chairman Martin and Commissioner Hought to know that Thursday August 27; he asked if they received anything in the mail concerning AGNC’s strategic planning. He wanted them to know he will be there and it starts at 9:00 a.m. at the Meeker Town Hall and is set until 5:00 p.m.

Commissioner Hought said she would like to be there, she has a meeting in the evening.

Commissioner Samson said they would like to have all three of us there.

Don asked if this should be posted and Chairman Martin stated it would have to be.

Commissioner Hought also wanted them to know she will not be able to be at the August 17 board meeting.

Don asked if they needed to give Ed and/or his staff a heads up to be available this afternoon.

Commissioner Hought said it would be a good idea.

Commissioner Martin asked if they had a motion to go into in to executive session.

Commissioner Samson – So moved.

Commissioner Hought - Second.

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

A motion was made by Commissioner Samson and seconded by Commissioner Hought to come out of Executive Session

In favor: Hought – aye Samson – aye Martin – aye

PAY STRUCTURE:

Don asked if there was any need to pose questions to the administrative staff so they can be prepared for discussion on pay policy for Monday.

Commissioner Hought stated they had talked earlier about discussing salary structure policies. She would like to understand the implications of having two different pay structures in this county. How that impacts our budget and what kind of fiscal concerns we are going to have in 2011 and forward, given the down turn in revenue that we are seeing right now. As a part of that; she would like Lisa, this may take a while; she would like to understand what the expenses across the board are going to look like in relation to our anticipated revenue. What of those items can be adjusted and what can’t be adjusted. We know that salaries are not typically adjusted down; although we have seen some counties do that this year; but just a picture of what we anticipate seeing in a couple of years so we can prepare for that.

Commissioner Samson said if Don and Lisa had time right now; could you answer some questions for me.

Chairman Martin stated we would go into recess and Commissioner Samson could ask his questions; we will return at 2:45 for the Board of Equalization.

COUNTY COMMISSIONERS SITTING AS THE BOARD OF EQUALIZATION

A motion was made by Commissioner Hought and seconded by Commissioner Samson to go into the Board of Equalization

In favor: Hought – aye Samson – aye Martin – aye

• Final Decision Regarding Appeal of Sundog Enterprises, LLC – Schedule No. R081005 and R081008

Chairman Martin stated the majority of the Board disagreed with the finding of the hearings officer. It comes to this Board to see if there is a change agreement, or if we stand firm, or set a hearing with the taxpayer in front of us.

Commissioner Hought said since she was not the one who disagreed with the hearing officer; she thought his explanation made a great deal of sense.

Chairman Martin said under the circumstances there was a change in classification back to agricultural, based upon a conservation easement that was placed on the original ranch. Under that original ranch there were 5-acre parcels split off for a building envelope on those 5-acre parcels. After that was done, the 5-acre parcels were no longer used as agricultural land; at which time you have a developable parcel, identified separately, no ag, and even though you have a conservation easement on there, does that hold in perpetuity that land, with the potential development as agriculture. One of the first questions, in the training class, which he raised in reference to open space and agricultural nonproduction land to the State Assessor; the answer was, if it doesn’t keep it’s records and they can’t produce records that they are staying in ag., it reverts to vacant land. Therefore, the classification should be vacant land and not agricultural land because it is not being used as agricultural even though a conservation easement was placed on the ranch.

Commissioner Houpt said although this says the statute provides agricultural classification without continuing proof of intent to make a profit from the land for properties that are qualified as agricultural lands at the time they are subjected to a perpetual conservation easement as defined by Statute.

Chairman Martin stated it is a catch 22.

Commissioner Houpt said specific to conservation easements, it has been represented in this packet that Statute does not require the continuing proof of intent.

Chairman Martin said except the tax laws do and that was one of the training sessions they did have, saying if it was not records keeping, and it did not continue in active agricultural land, it will revert to vacant land.

Commissioner Houpt stated he also talks about; this has the effect of freezing the agricultural classification in place for all the property covered by the easement without further farming or ranching required so long as the property is used in accord with a qualifying easement as defined by IRC, Section 170...

Chairman Martin stated it also says it goes around the requirement that it does not have to keep that. He said he disagrees with that. It also says it created parcels for development and a parcel for development, away from the ranch, is not agricultural land. That parcel is a residential parcel-building envelope; therefore, it does not qualify as agricultural.

Commissioner Houpt asked where it says that it is separate from the land.

Chairman Martin stated in easements prohibits; the construction of any more than one single family residence, one guest house and any other use of structure typically accessory to residential use in the building envelope of each parcel.

Commissioner Houpt stated it prohibits that.

Chairman Martin stated except for that it only allows that particular one, now it is also in his opinion, a developer has taken a ranch, put a conservation easement on it, and then splitting out the different parcels he wishes to sell to cover the cost of whatever, and sell those individual parcels after creating with his master plan, and trying to protect that vacant land, as agricultural until he can market it. Even though he has taken it out of the active agricultural production; therefore, he thinks the classification is right, that it needs to be vacant land.

Commissioner Houpt does not see where he is splitting it up.

Chairman Martin said look at the map; the map has numerous parcels.

Commissioner Houpt asked what his testimony was.

Chairman Martin stated it was the vacant lots; he classified them, vacant lots 5 and 8, located approximately 3 miles from there. The subdivision consists of 12 parcels ranging from 35-acres to 41-acres; all 12 are in conservation easements. There is an unrestricted 5-acre building site, which is not part of the easement. At that point, they need to be vacant land.

Commissioner Houpt said the lots that are not part of the easement...

Chairman Martin stated the whole thing has been classified as agricultural land and his point is why he disagrees, those lots are not agricultural.

Commissioner Houpt said; but in his discussion, he is discussing lands that are covered by the conservation easement, not that are separate from the conservation easement.

Chairman Martin said we are looking at lots 5 and 8 and those are the ones not in there. We are looking at those ones. We also have a list of the parcels on here; 35-acre parcels as of January 7 to June 8.

Commissioner Houpt stated; parties agree that the parcels in question were part of a ranch that was placed under a perpetual conservation easement. The easement covered the entire parcel and has since the recordation of the easement on December 30, 1996. The whole parcel....

Chairman Martin asked which parcel; there are 13.

Commissioner Houpt stated the way this is written it sounded to her all parcels fall into the conservation easement.

Chairman Martin stated; even in this whole document, he has read, it says they do not.

Commissioner Houpt asked Chairman Martin to show here where and she asked Commissioner Samson if he had a question.

Commissioner Samson agreed with John, he remembered specifically he asked that question when they were in class; the State Appraiser specifically said it should be taxed as vacant land.

Commissioner Houpt said she did not remember it being asked specifically with the conservation easement; conservation easements are treated differently.

Chairman Martin said he would go back to the statement in the report; this specified exemption is a two edged sword, because it relates that the owner has the burden of continuing to meet the use and intent of profitable requirements so long as the easement is in effect, and the property is in compliance with the easement for conservation purposes. It also varies from the statutory protection given to residential uses on agriculturally classified land. It goes on to say that the easement prohibits such and such; the statutory requirement and it still has to meet the statutory requirement of agricultural land. That means you have to keep the records and you have to show that it is an active production.

Commissioner Houpt stated that is not what he says in the paragraph above what you are reading.

Chairman Martin said he understood; but he is reading the statute that says you have to keep your records, keep in production, you cannot just create parcels, do away with them, let them sit there and get agricultural classification especially when you split off the ranch.

Commissioner Houpt read; the subject property, vacant lots 5 and 8, located in Farnhill Ranch Subdivision, located 3 miles south of Glenwood off County Road 117, the subdivision consists of 12 parcels ranging in size from 35 to 41-acres, all 12 parcels are in a conservation easement.

Chairman Martin stated; except for the building envelope, which is not in the easement.

Commissioner Houpt stated it says each parcel has an unrestricted 5-acre building site.

Chairman Martin stated; that 5-acre and building site should not be classified as agricultural; it should be classified as market, which is vacant land. The rest of it can be.

Commissioner Houpt asked if they wanted to have a hearing on this.

Commissioner Samson stated; we have to if we disagree.

Chairman Martin said we have not disagreed; we are just having a discussion. If we do not support the finding of the hearing officer, we need to schedule a hearing.

Commissioner Samson said he thinks they need to schedule a hearing.

Chairman Martin asked Commissioner Samson; you have finding that you disagree with the hearing officer and you would like to schedule this before the Board and have a full discussion with the taxpayer, the assessor and any information we need to make a final determination.

Commissioner Samson felt that was the only way we will finish the discussion.

Chairman Martin agreed.

Commissioner Samson asked if this requires a motion.

Chairman Martin stated yes and we will have to set a hearing.

Commissioner Samson asked when an appropriate time would be to set the hearing. He asked if this had to be done before the fifth and Don stated yes.

Commissioner Houpt read; the Assessor may not classify any portion of an agriculturally classified parcel as residential simply because the owner has a residence on the parcel.

Don stated; however, if the classification for conservation easement is agriculture it is based on the conservation easement. There are specific provisions regarding use of that conservation easement for residential purposes it takes it out of the agricultural classification. Don read the statute as it relates to the conservation easement. “Agricultural land means one of the following: For purposes of this sub-paragraph one, a parcel land shall be in the process of being restored through conservation practices if the land has been placed in a conservation reserve program established by the natural resource conservation service pursuant to seven United States Code 1-55-106; or conservation plan approved by the appropriate conservation district has been implemented”. Don said he does not think that applies.

Chairman Martin stated no, that is in the soil conservation.

Don continued; a parcel of land that consists of 80-acres or less, if such parcel does not contain any residential improvements, and it is subject to a perpetual conservation easement, if such land was classified by the Assessor as agricultural at the time such easement was granted, if the easement was to a qualified organization, if the easement was granted exclusively for conservation purposes, and if all current and contemplated future uses of the land are described in the conservation easement. Agricultural land under this sub-paragraph does not include any portion of such land that is actually used for non-agricultural commercial or residential purposes.

Commissioner Houpt said so you would cut out that portion, where the building envelope is.

Chairman Martin said the building envelope that has been established as a 5-acre parcel of those 35-acres. At that point, it should be classified as either vacant land or residential.

Commissioner Samson asked if the taxpayer has to come before the Board.

MaryLynn stated she thought it was just for a final decision on the information provided.

Chairman Martin stated they needed to decide if we agree or disagree with the hearing officer. If we disagree, we can overturn that and the classification then would be denied.

MaryLynn stated she has given them all of the information that was submitted to the hearing officer for your consideration, right now, to make a determination.

Commissioner Houpt as she understands it what we have been given, the assessor assessed the building envelope as vacant land and the rest of the property on each parcel as agricultural. Is that correct?

Chairman Martin and Commissioner Samson both stated that is correct.

Commissioner Houpt – I make a motion to support the Assessors determination on Schedule Number R081005.

Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Houpt –I make a motion that we support the Assessors finding on Schedule Number R081008 understanding that the determination assessed the building envelope as vacant land and the rest of the parcel as agricultural land as indicated under the conservation easement for both of these schedule numbers.

Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Commissioner Houpt stated she wanted to add to her first motion about the clarification.

Both Chairman Martin and Commissioner Samson stated yes.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

AUGUST 10, 2009
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 10, 2009 with Chairman John Chairman Martin and Commissioners Commissioner Houpt and Mike Commissioner Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder

CALL TO ORDER

Chairman Martin called the meeting to order.

COUNTY MANAGER UPDATE: ED GREEN

Ed mentioned the Air Fair this Friday and Saturday. On Friday the gates will open at 1:00 pm and close at 11:00 pm. Performances will be at 2:00, 4:00, 5:30 and 9:40 on Friday the 14th and on Saturday the 15th the gates open at 9:30 am and close at 7:15 pm – we will have performances at 11:00 am and 3:30 pm that day; two very long days.

Performance Increases

Ed also mentioned that in the flap of the Board’s packet, you have a memo from Lisa Dawson and Theresa Wageman providing you the revised budget forecast for the next 3-years. We did that in order to provide you the information you need to come to a decision about performance pay increases. Usually we have a number in June – we do not have it yet. We need that by the 17th of August, next Monday. You need to make a decision on what that

number should be. Commissioner Houpt will be out of town next week; however, she will submit a memorandum explaining her views.

REQUEST FOR APPROVAL OF A NEW BOARD MEMBER FOR THE GARFIELD COUNTY HOUSING AUTHORITY

Ed submitted a letter from Geneva Powell, Executive Director of the Garfield County Housing Authority requesting that Dave Roberts be appointed to a 5-year term on the board. Mr. Roberts will replace Shelly Burton who resigned in March.

Commissioner Houpt made a motion to approve Dave Roberts to the Garfield County Housing authority as requested. Commissioner Samson seconded the motion.

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

SELECTION REPORT FOR DESIGN/BUILD OF HUMAN SERVICES ANNEX – RANDY WITHEE

Randy stated that a request for proposals (RFP) was prepared and solicited through the Rocky Mountain Online Bid System. Eleven proposals were received. An evaluation team made up of personnel from Human Services, Purchasing and Engineering scored and tabulated the points. Following the review of the evaluations, two firms were brought in for interviews: CMC and Neenan. Upon review of the proposals and interview process, staff recommends the Board authorize staff to proceed with scope and price negotiations with Neenan.

Commissioner Houpt made a motion to move forward with the scope of services and price negotiations with Neenan for the Human Service Annex. Commissioner Samson seconded the motion.

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

CHANGE ORDER FOR THE ALL HAZARDS RESPONSE TEAM (AHRT) BUILDING – RANDY WITHEE

Randy stated at a previous BOCC meeting, the Sheriff requested the Board entertain the idea of proceeding with the design and construction of the AHRT building in conjunction with the Sheriff Annex Building. The budget was for \$3,500,000 however, the total came in at \$3,020,000 leaving a surplus of \$139,505. Randy submitted a recommendation to the BOCC to consider a change order to CMC for design and construction of the AHRT building for a not-to-exceed amount of \$325,995.00.

Commissioner Samson made a motion to approve the change of the Sheriff Annex with AHRT for a not to exceed amount of \$325,995. Commissioner Houpt seconded the motion.

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

OUTDOOR TRAINING FACILITY FOR THE SHERIFF – RANDY WITHEE

Randy stated an outdoor training facility for the sheriff department was budgeted for 2009. The training facility provides the following opportunities:

- Provides an area for current sheriff and county personnel to train and/or exercise;
- Provides an area for the sheriff department to conduct the physical fitness test of new applicants.

The funding budget was for \$150,000 and the bid came in at \$148,868 leaving a surplus of \$1,132. The recommendation is for the BOCC to consider a change order to CMC for design and construction of the training facility not-to-exceed the amount of \$148,868.00.

Ed said that in the worker’s compensation area the Sheriff had the most claims so this should provide a better opportunity for physical fitness.

Commissioner Samson made a motion to approve the outdoor training facility to the Sheriff in the not to exceed amount of \$148,868.00. Commissioner Houpt seconded the motion.

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

ENERGY ALTERNATIVES – RANDY WITHEE

Randy submitted that an energy analysis was performed on the Sheriff Annex Building using several alternatives and combinations thereof to compare to a “base” case building and system as defined by ASHRAE 90.1 and IECC. Several alternatives were reviewed and considered. After review of the initial analysis and consultation with Jeff Dickinson, SDI, the following combinations warranted further evaluation:

- Alternative one – VAV System, 10Kw PV system, Increase insulation and window upgrade, Solar Thermo for DHW.
- Alternative 2 – Higher Efficiency Rated VAV system, Increase insulation and window upgrade, Solar Thermo for DHW.

The budget was for \$500,000; the use of funds for energy alternatives was \$160,000 and the remaining to be allocated was \$340,000. Randy recommended the BOCC consider a change order to CMC for design and installation of the various energy alternatives as indicated in Alternative 2 for the Sheriff Annex for a not-to-exceed amount of \$160,000.00.

Therefore, the total project cost for the Sheriff Annex is as follows:

Base –	\$2,820,000 from Capital Funds
AHRT -	\$ 340,495 from Capital Funds
Outdoor Training -	\$ 148,868 from General Funds
Energy -	\$ 160,000 from General Funds
Total -	\$3,469,363

Commissioner Houpt made a motion to approve Alternative 2 in a not to exceed amount of \$160,000.00 and a grand total not to exceed \$3,469,363.00. Commissioner Samson seconded the motion.

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

NOMINATION FOR RAC APPOINTMENT – MIKE SAMSON

Nothing was submitted and will be on a later agenda.

FURTHER DISCUSSION ON THE RESOLUTION OF THE BOARD OF COUNTY COMMISSIONER OF GARFIELD COUNTY, STATE OF COLORADO IN SUPPORT OF THE DIVIDE CREEK COALITION – MIKE SAMSON

Mike stated he was not very much luck in finding people who want to serve.

Commissioner Houpt has had several interested citizens. Commissioner Samson asked to table this and he will meet with Commissioner Houpt and review her list with his list. This was tabled until September 8.

COUNTY ATTORNEY UPDATE: DON DEFORD

DIRECTION TO STAFF REGARDING AMENDMENT 54

Don DeFord presented a letter from Bechtel & Santo, LLP regarding a demand for payment of grant funds to Mountain Valley Developmental Services, Inc regarding the matter of the County's refusal to pay \$32,500 owed to Mountain Valley under its 2009 Human Services Grant.

The County Attorney's office prepared a draft letter stating that to date, our office has not been able to locate a written decision from the District Court that would confirm the newspaper report that a preliminary injunction was issued on July 17, 2009 by District Court Judge Catherine A. Lemon declaring Amendment 54 unconstitutional. Therefore, until a review of the opinion has been determined on our Amendment 54 contract requirements must remain in place.

The question is what should we do now and as you can see from the correspondence included in the packet we have received some forceful requests that we amend our contract language amounting to threats to Garfield County. While I do not believe it is appropriate to respond to that type of threatening correspondence literally, it is appropriate to adjust our position if that is what the Board would like to do as it regards contracting with the County. With this discussion in mind, Don sent out correspondence to county attorneys around the state to see what other counties are doing. Wednesday responses were received from Jefferson County and Boulder County. Don handed out information not included in the packet. Jefferson and Boulder counties are taking an identical approach and this is what Don is recommending to the Board. He explained how he suggested Garfield County implement this. Don included the standard contract language from our form purchases services agreement and identical language in our contracting provisions and in our purchasing order form, which now forms the bulk of our contracting operations. On page 8, paragraph 10 and running for the next 2 pages and top of the third page are the provisions that are taken literally out of the constitution and the recommendations of the State Department of Personnel and Administration. Don is recommending that the Board take the language that Ellen Wakeman of Jefferson County has provided with the following changes: Insert immediately after the introductory title on Item 10, page 8 so it would read - "Sole source contracting, campaign compliance." Then insert the language that would read, "The following provisions shall not apply to the extent they have been adjoined or invalidated by a decision of a court of competent jurisdiction and that decision has not been stayed." The reason I would add that to Ellen Wakeman's language is because, technically the order of the Denver District Court could be stayed or held in abeyance by an appellate court pending an appeal in this matter. If that were to occur, Don would not ask for a change in your forms once again. I think the language I just stated to the Board will cover that circumstance and the language therein would not be affective nor be of force pending a final decision by the appellate court.

The risk to the Board as I noted, when the Amendment passed it was very high to the extent that the state of Colorado through its Department of Personnel and Administration issued guidelines, not only for its role as the receiving agency but also on sole source contracting. In addition, the direction to all state agencies and institutions of higher learning regarding such was the language that they were to include in their contracts. I have already told the Board what I have placed in your contracts to a large degree is what the state recommends. There are a few applications added, but not very many. As of this morning, the state has still not changed its direction on its website to its own state agencies. I will concede that is a bit of a mystery to me because the state is actually the party to that case. However, apparently the state feels that this risk is sufficiently high to be concerned. This is the state's public information site and noted it includes a copy of the decision now actually on their website with a statement underneath it that amendments to technical guidance will follow. That has not yet occurred. With all of that said, it is ultimately up to Board of Commissioner, not the County Attorney office or County Manager to determine what is an appropriate risk for this Board to take. If you add the language that I have suggested, the compliance with Amendment 54 will not be required by our contracts. As a technical matter, you are not parties to that case - the Denver District Court case; it does appear to me that the risk that someone would actually challenge your failure to require compliance at this juncture is very low. It would take real fortitude to go forward against you in the face of that court opinion right now. If you want us to change the language as I have suggested we will do that and we will do it in all of our contracts. If there are any changes, we will bring it back to you.

Commissioner Houpt asked Don if he would be able to do it in existing contracts.

Don - I will do that - right now the contracts that have been signed and are in place and actually in effect, I would suggest we probably should not do that because that would mean we would have to reopen those contracts. We have a few in the Human Service Agency area that have not been fully executed; therefore, in actuality they are not contracts yet. It would not be difficult to change those. What occurred at the end of last year, so you will understand some of the statements from Mountain Valley Developmental Services, this Amendment passed right in the period in the end of 2008 when we were in the process of sending out those contracts for signature. We had to issue amendments to the contracts we had sent out since the effective date was the first of the year 2009. The contracts were sent in September and October and did not include the required language. What we would do now, if you want to go forward, is change the proposed amendment to that contract adding qualifying language, which I do not see as presenting a difficulty for them since it says, "We do not have to comply so long as this decision is in place."

Commissioner Houpt - I think this is an important change; it appears that it still protects us if indeed Amendment 54 is not deemed unconstitutional; however, it is a very difficult amendment for anyone who wants to work with the County or with any government. I would make a motion so we can have a discussion that we support the language recommended to us by our county attorney that changes the language in contracting on sole source contracts to these provisions that shall not apply to the extent they have been enjoined or validated by a decision of competent jurisdiction and an injunction has not been stayed. Commissioner Samson - Seconded, but had some questions. Commissioner Samson - How long will this mess go on.

Don - If the state pursues a final hearing that is likely to be three months. Assuming for a moment at the final hearing the district court does not change its position fundamentally; its final decision is the one now for preliminary injunction. You are looking at 30-45 days for the state to decide if it wants to appeal and ask for a stay of that final order. They can appeal to the Court of Appeals, which is an appeal of right, and the Court of Appeals has to consider it. The state could also appeal directly to the Supreme Court and that is discretionary with the Supreme Court as to whether or not they will accept it. However, when a similar process was followed with Amendment 41, the Supreme Court accepted jurisdiction, expedited the process, and rendered a decision about 6-months after it was accepted. You are looking at approximately nine months to one year, if the Supreme Court were to expedite the process. If the full gamut had to be followed by the state, i.e. going through the Court of Appeals and then going to the Supreme Court, that could easily take two to three years. I do not think that is likely to occur; I think either it will go directly to the Supreme Court or the state will not pursue an appeal. It is an issue of wait and see what occurs.

Don said overall this ruling has to be based on a court of confident jurisdiction - the Denver Court is confident within its jurisdiction and a statewide basis as to the parties in front of it. While this County is not a party to that case that is a technical issue because this County could easily be made a party. Any court would recognize that finding. Secondly, the language Don is recommending with the modification to Jefferson County allows this language to be put back in place if one of the appellate courts says, "we're going to put a hold on the Denver District Court decision pending appearance." Normally, when the Court of Appeals or Supreme Court is concerning the efficiency of an opinion they will issue a stay of that opinion while they are considering the appeal. If they decline to issue that stay that is a good indication that they think that decision is substantially on the mark. We should know of the position of the appellate court at least in a general sense when it is before them in three to four months. During this process, this County will need to go forward with a full series of contracting including all of the Human Services Grants and if you approve this language, it will be in those contracts for 2010.

Chairman Martin – The citizens put an initiative out; it passed and was approved, put into place, signed by Governor Ritter. The Denver District decided to overturn, however, this needs to go to the Supreme Court and leave it in place until that Supreme Court rules it is unconstitutional and not the Denver District Court. Leave it the way it is. It is a hardship but this initiative passed, like it or not – it is in the Constitution.

Commissioner Houpt – It still leaves the language in there it just recognizes that there is a decision out there made by a court that very well could change this, so I think this is important language for us to adopt for these contracts. It really will help those people who want to work with the County.

Chairman Martin – Understands, but it is also the same court that was overturned on Amendment 41 and the courts said Amendment 41 was constitutional. On that record of accomplishment, I would say just leave it the way it is. It is very difficult for some people to live up to – it is there and needs to be upheld with no change.

Commissioner Samson – Go back to the original question, what if the court rules that Amendment 54 stayed in place and we have adopted the language Don proposed, what happens to all those contracts?

Don – The decision is invalidated and hence there will be no decision of a confident court enjoining enforcement of Amendment 54 that tracks the language put in front of this Board today. Therefore, if an appellate court or Supreme Court reverses the Denver District Court it automatically validates the language that we are using today. It becomes effective once again.

Chairman Martin – The question is will they have to apply to that rule under the already extended contracts or would they would have to come back to us and verify their sole source retroactively. That answer is yes they will have to and then we would have to redo those contracts as well. That is my point.

Ed – And that is why it is important for the Amendment 54 to stay in effect.

Chairman Martin – Yes, correct because then we would have it in our contracts.

Commissioner Houpt – They know that is the risk.

Don – Technically, I can see why Chairman Martin is saying this, if nothing else intervenes that would be the case and it would go back in effect. Don expects what would occur is that the appellate court will address that issue and say whether it will apply. Their opinion would be retroactive back to the date of the Denver District Court decision or the prospective from the date of the appellate court. Normally, the appellate court will address that although it does not have to but normally the court would do so.

Commissioner Samson – No one on the County level is going to be held liable for any of this; it will be just be heartache for those that have entered into the contracts, the time wasted and the hassle.

Don – I think it is unlikely that anyone at the County level would be held culpable. In fact, it is very unlikely. It is theoretically possible because the language of the Constitutional Amendment 54 says a "knowing violation" and if you sanction a knowing violation of Amendment 54, you are out of office and you will not hold a public office or job again.

Commissioner Samson – We open ourselves up to a small risk.

Don – That small risk is why I have to use those qualifying words. I cannot automatically say no it cannot possibly happen.

Commissioner Samson - Jefferson and Boulder County have looked at and said no big deal.

Don – They did not say no big deal. They used the same language essentially that I am recommending without the added part about "staying on a court opinion" but the rest is substantively the same. They are saying: let's go ahead because we have to keep the contracting world moving forward too. I think the language for most of the counties is important because of the volume of work that Jefferson County and Boulder undertake in this area. However, their risk, if any, will be higher than this County.

Commissioner Houpt – It is saying this contract can move forward and the Amendment 54 will apply if it is found to be constitutional. If not found to be constitutional, it will not apply, so it could be on this court's decision rather than on the amendment that could be thrown out during this process. To me that makes a great deal more sense than to rely on something that is a target right now. Obviously, it is serious enough that the Denver District Court would formulate an opinion on it.

Chairman Martin – We all have an opinion but I am taking the opposite view. It needs to be proven unconstitutional because it went through the review and it was signed by the Governor, approved by the voters and it is constitutional until proven unconstitutional. Thus far, it has not yet been a matter other than the court feels it does not apply. It is a Denver District Court; we need to have it into the State Supreme Court or Court of Appeals. That is why I say it is constitutional; it is on the books; it is in the Constitution and it needs to be upheld until the higher courts as identified say it is unconstitutional and it does not apply. I am erring on the side of caution. I do understand it is a hardship on those who contract with the County, but I think we need to stand up to what the citizens voted in during a valid election process.

Commissioner Houpt – I think we are all erring on the side of caution.

Commissioner Samson – If we do what Chairman Martin wants us to do are we talking about a whole slew of Human Services Contracts.

Don – Yes.

Commissioner Houpt – Not just Human Service Contracts.

Don – Commissioner Houpt is correct; it does go beyond Human Service Contracts. We have any number of Human Service Contracts but this applies to every contract that we have at issue. By way of example, earlier this year when we were acting on behalf of Valley View Hospital they had to sign a contract for a bond service agent, which was Wells Fargo Bank. They had to jump through a multitude of hoops to meet this requirement. They eventually

complied literally with the amendment but it was not an easy process getting a bank out of New York to comply with the Colorado Constitution; but we did.

Chairman Martin – However, you also have in other Human Service Contracts and those who have received their grants that have gone through all of that process. There is only one or two who have refused to go through it that have not received their money. Of all of the ones issued and of all those who have received funds, they went through the process and found that it was not that onerous. They followed through and I think they are willing to follow that Constitutional Amendment 54, like it or not. I personally do not like it either, but it needs to be there until the Supreme Court says it is unconstitutional.

Commissioner Houpt – It is very onerous.

Don – I should give one other potential downside, which we have not discussed. If you decline to change your contracts, then there is the option for one or more of our contractors to follow through on the threats that were set out in your packet today alleging breach of contract against the County and failure to comply with a court order. Now the latter circumstance, while this County is not a party to the case, we can be made a party and that might be one of the solutions as to bring this County into that state litigation. At that point should it occur, we are literally bound in every sense by that court order. I do not know that they would do that but they could. The other alternative is to pursue a breach of contract case against Garfield County, which I think is much more unlikely. I think the cost of doing that alone would probably not justify that action but it is possible. There are a few negative ramifications from failure to follow through as well. Lastly, I have already stated that this opinion is well reasoned and comprehensive but I have to emphasize the facts put in front of the Denver District Court support the decision clearly; however, the state may have another set of facts they have not presented since they reserve the right to do that later. Essentially, the Denver District Court found it unconstitutional for a number of reasons: The two primary reasons were that the sanctions imposed were grossly disparate to the potential violation. We have already discussed the penalties on this County and they are even more severe on the contractor and because of those severities of the penalties, it was an overbroad impingement of the First Amendment Right of those organizations and entities. The court determined that the sanctions and requirements of the amendment were not properly narrowly directed to the reported wrongdoing or evil that was to be addressed by amendment, i.e. sole source contracting to benefit a campaign contributor. Because the prohibitions on campaign contributions are not limited to the entity, for which you are contracting. For example, someone enters into a sole source contract with Garfield County; they are prohibited from making campaign contributions to anyone in the state such as Mesa County, any city, or state office. It matters not that they have a contract with them. The court spent a great deal of time in discussion how over breathe of that provision was a violation of the First Amendment. It went through this explanation because it is hard to predict appellate opinions. In this case, there is a lot of support for what the Denver District Court did.

Commissioner Samson – One thing that concerns me is the point Chairman Martin brought up about this district court being the one that was overturned with Amendment 41.

Don – It is not the same judge, but it is the same court.

Commissioner Samson – I want to protect the County as much as I can.

Commissioner Houpt – I think the provision Don has suggested accomplishes that concern.

Chairman Martin – It goes back to my old philosophy in reference to contributions and the way they come in and how they are used through their PACs and everything else. If you are willing to run for office, pay for it yourself and not contribute to anyone else. That is the premise in which this amendment was regarding. Do not be take money and then issue contracts for those who contributed for your personal gain. If you are interested in running for office, then pay for it yourself out of your own pocket. This country is in grave danger in reference to buying votes and seats in houses and congress. That is what the entire Amendment 54 is attempting to do. We contribute to unions and unions purchase commercials, etc on and on. What we do is select the people that support those unions and the people that have the largest amount of money. They are elected simply because they bought the seat. I think it is wrong. Let Amendment 54 stand the way it is and go on with life. If you do not want to contribute that is fine.

Commissioner Houpt asked the Chairman to call for the question.

Commissioner Samson – When would you Don, have to have an answer on this?

Don – There is no set timeline. It is the Board's decision whether to change the language in our contracts or not. As you can see from the correspondence in your packet, obviously there are a couple of our Human Service contractors that do have issues. There is one in particular who is very anxious to get a decision on this issue.

Chairman Martin – It needs to be the Board's decision and not a staff decision neither the information directed by any individual that is not from this Board. It is up to this Board whether or not we going to apply it. That is also one of the issues in that letter. We can call for the question, the question is to go ahead and modify the language in the contracts as presented by the legal department. All in favor?

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

It will remain the same.

DISCUSSION OF MODEL TRAFFIC CODE – ORDINANCE NO. 2009-01

ORDINANCE FOR THE REGULATION OF TRAFFIC AND PARKING; REPEALING ALL ORDINANCES AND RESOLUTION IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEROF.

Don DeFord and Cassie Coleman were present.

Don asked Cassie to place this before the Board and added the documents were submitted. This is an ordinance and it is included for your discussion and direction. It is a long document and the Board wanted to have a separate meeting inviting the Legal staff, Finance, Road and Bridge, District Attorney Martin Beeson, Sheriff Lou Vallario, Court Administrator Jim Bradford, District Court Administrator and Oil and Gas Liaison Judy Jordan. Judy asked to be included as this issue has been one of discussion before the Energy Advisory Board. A workshop was scheduled for Thursday, August 20, 2009 at 1:00 pm as a Special Meeting.

COMMISSIONER REPORT:

There were no reports given.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List

- e. Authorize the Chairman to sign a resolution approving a one-year extension for the Preliminary Plan for Oak Meadows Ranch PUD, Filing 4, Phase III. Applicant is Oak Meadows III, LLC – Kathy Eastley
- f. Authorize the Chairman to sign the Tybar Ranch Rural Land Development Exemption. Applicant is Davies Mesa Ranch Estates, LLC, A Colorado Limited Liability Company and David K. Danciger Special Power of Appointment Trust, A Texas Trust – Fred Jarman

Commissioner Houpt made a motion to approve the consent agenda items a – f. Commissioner Samson seconded the motion. In favor: Houpt – aye– Martin - aye Samson - aye

BOARD OF EQUALIZATION RESOLUTION

Don added a Board of Equalization Resolution that needs to be ratified of the Chair’s signature, which is No. 09-0180, Robinson Urban Farms in which there was a denial in part and an approval in part. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE - LEGAL ADVICE ON THE EMPTY ENTERPRISES AND LAND NEGOTIATION REQUESTED BY MIKE SAMSON

Commissioner Houpt made a motion to go into an Executive Session. Commissioner Samson seconded the motion.

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

Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt seconded the motion. In favor: Houpt – aye– Martin - aye Samson – aye

No action was taken, only advice.

INFORMATION REGARDING FRACING – KATHY HALL

Kathy Hall – Colorado Oil and Gas Association and from Mesa County in Grand Junction and Chad Opergard, who is the completion manager for Williams Production and resides in Denver, Colorado and is out here this morning to answer any questions the Board may have.

Kathy Hall gave several handouts including: An article from the Denver Post written by Vincent Carrol on ***Fracturing scare tactics***; Grand Junction Sentinel – ***Cities, counties opposed legislation on gas fracturing; Bill sponsored by Colorado Democrats draws little support in drilling areas*** by Gary Harmon; Energy In-depth ***Safe Use of Hydraulic Fracturing, Effective State Regulations, Tied to 58% Expansion in US Natural Gas Reserves*** - Report by Potential Gas Companies underscores critical role in hydraulic fracturing plays in delivering future energy security; Energy In-depth – ***New Study Attaches Real-World Numbers to Real-World Consequences of DeGette/Casey*** – HIS study finds elimination of hydraulic fracturing could cost 346K jobs in Texas, 292 K in California, 250K in Pennsylvania and New York; Energy In-depth – ***PSU Report Credits Hydraulic Fracturing, Marcellus Shale with 30K PA Jobs in ’08 , Openly Questions Sen. Casey’s Anti-Frac Bill*** – Penn State researches call DeGette/Casey “ominous,” say it “**would accomplish little in terms of protecting potable freshwater.**” *Voice of the Western Slope Since 1953*” - Club 20 urges you to OPPOSE H.R. 2766, “**Fracturing Responsibility and Awareness for Chemicals Act of 2009 (FRAC ACT)**” by Congresswoman DeGette and Congressman Polis. ***“Hydraulic Fracturing” Fact Sheet - Example of a Typical Fayetteville Shale Frac Fluid Makeup. Bloomberg.com*** – ***“Oil Price to Match Record \$147 in Three Years, T. Boone Pickens says.*** Natural Gas Expansion Forum – Panelist from: The Governor’s Energy Office, Clean Energy, Fueltek Conversion Corporation, Westport Innovations and Denver Metro Clean Cities – Meetings in Rifle and a ***Resolution urging Congress to preserve the exemption for hydraulic fracturing in Safe Drinking Water Act.***

Kathy stated we are going around to counties who are affected with the fracing process because as you are well aware, Congressman Diane DeGette has put forth legislation in an attempt to give authority to the federal government to regulate a widely used and a very safe process, which has been used in the state level for decades. There has not been a single case of contamination of hydraulic fracturing fluid in the course of over 60-years and more than a million wells. On a radio show called Public Matters in June, Congressman DeGette acknowledged there is no proof that hydraulic fracturing is an unsafe practice. There is no proof and she readily admitted that her legislation is based on anecdotal evidence. We think it is important as much as we can to be here to educate and make sure that all of you understand that the fracing process is safe and for the record to make certain each piece is delivered to everyone. To get started, a couple of newspaper articles from the Denver post, Vincent Carroll takes the fracing as scare tactics and that had been in one of the anecdotal information and it is scare tactics. We would like every opportunity to make a case that it is nothing in which to be frightened. In fact, the fracturing process has made it very possible to have fewer wells to increase the tremendous production. Gary Harman’s article talks about the fact that Delta, Moffat, Rio Blanco and Mesa counties on the Western Slope as well as Morgan and Weld Counties, which are all counties in the middle of production have already signed a Resolution in opposition to allowing federal authority over a state regulated process. LaPlata County was asked to support this legislation and they voted not to support this legislation. Then the oil and gas companies, in order to deal with this issue on fracturing on what has become a nationwide issue, they have an organization that is called Energy In-Depth. This is an organization with a world of information and Kathy uses it all the time. Safe use of hydraulic fracturing is tied to 58% expansion in natural gas reserves. This coalition was put together so that it would be a resource so the public and policy makers would have a resource to go to find the research and find the information that is accurate on fracturing. It is reported in this article that potential gas companies use critical hydraulic fracturing in delivering future energy security. That is what we are talking about and as we go through this material, we all talk a lot about how we want energy security and not keep depending on foreign sources. Well, hydraulic fracturing is a very important component in that particular issue. The safe and responsible use of critical energy technology known as hydraulic fracturing has helped expand US natural gas reserves by 58% in just four years. This is a report released by the Colorado School of Mines. We have always known that the American shale regions hold enormous energy potential without the proper tools in place, therefore the coalition was formed. It is the real information about how this does increase the flow of natural gas. Fracturing is not just a side issue; it is an important issue. It is an issue that has been using scare tactics in order to attempt to stop a process that will really have a huge affect on our energy independence. The next handout from Energy InDepth shows the real number of consequences of not allowing hydraulic fracturing in resource developing natural gas and also in the amount of jobs and....

Commissioner Houpt asked Kathy, as I am frustrated because I do not see anywhere anyone is saying let’s shut fracing down and even if the oil and gas

Kathy – I’m not finished.....

Commissioner Houpt – I know you are not finished but let me finish my thought here because you keep talking about shutting fracking down – there was a speaker at your conference in Denver last month, “no, this language will not shut fracking down”...

Kathy – No, but it puts a federal regulation on and what is important about this and you as a member of the COGCC who has been writing the rules for Colorado, should be the one most offended by the federal regulation to take away the power that you have as a regulator for Colorado.

Commissioner Houpt said she was not offended because it is complimentary....

Kathy Hall – No, it is not complimentary and one size does not fit nationwide. There has not ever been any evidence anywhere in this country.... In Pennsylvania as this information will show you where fracturing has been going on for all these years and there has never been any case of contamination. If you will read the information that I am putting forward, because I know that you will make that argument; and, as I finish through this and comments from David Neslin before I am done, you will see that the state regulates this and it does not need a federal regulation. This is strictly about each state needs to regulate their own industry, their own water, because it is not the same in Pennsylvania as it is in Colorado. You as a state regulator and a COGCC member should be most supportive of opposing this particular piece of legislation.

Commissioner Houpt – Well, I do not agree with that.

Kathy Hall – Of course you do not but I want to finish before we are done here because that is the case – it is not complimentary – you have to show me where it is complimentary that there is any cases that there needs to be. In the Clinton administration as well as the Bush administration, the EPA found that there was no reason for that nationwide regulation. Therefore, it is not just – I will show it to you before we finish here. The next handout is informational – this is from Penn State researches called the DeGette proposal ominous and would accomplish little in terms of protecting potable freshwater because the state again reversed back to the fact that the states do protect their own water and that is where it should be – at the state level. That is what the Resolution says – it needs to be regulated by the state; it is regulated by the state and it needs to be continued to be regulated by the state. Once more, Kathy handed the letter and she is hoping you will read this information because it is important to this entire subject – a letter extremely well-written by Club 20 based on probably 20-years of resolutions put forward by Club 20 to deal with regulating Colorado waters within the State of Colorado. This is important. Colorado water belongs to Colorado and that is where it should be regulated. This is out of the congressional record of 2002 when this was brought up before and it says, “in fact the previous administration - EPA argued in federal court and this was the Clinton administration –Alabama is appropriately regulating production of methane by hydraulic fracturing and there is no need for EPA to supplant these efforts.” That is out of the Clinton administration. We go back to the Bush administration all the time but this is right out of the Clinton administration and that is in the Congressional record. Kathy offered to give a copy if the Board so chose. The Mesa County Resolution is here, they are further along than other counties and she handed this out for the Board for their information. Next, the most important piece that will they will see today. This is the hydraulic fracturing fact sheet and it is something she suggested the Board go over and carefully look at because of all the talk about the chemicals that are going into the ground. Chad will talk about all the things in place and show the Board there is no contamination whatsoever. The key points in here is hydraulic fracturing is essential for the production of natural gas from shale formation from which today we are producing a new ocean of natural gas. Fracturing fluids are at least 98% water and sand and are handled in a self-contained system, fresh water aquifers protected by state regulations and by thick barriers of rock between the producing zones of fresh water aquifers. Like any other natural gas sources such as coal bed methane, deep shale gas formation exists many thousands of feet underground. On the second page of the handout, Kathy submitted a chart – fact sheet and it talks about the fluid make-up because that is of discussion and there are many accusations of what is in the fracturing fluid. The State of Colorado should be the one who regulates our waters of Colorado. Chad will talk to you about those protections that are in place. People are consistently asking for the chemicals used in the hydraulic fracturing – so here it is. This chart shows some of the fluids that may be in that fracturing fluid. The reason it is not stated as the formulas is that each company – many companies do fracturing and Kathy proceeded to name them saying that each company has their own formula and it’s proprietary. If we will look at what some of the additives are, example you will see what a small percentage of Hydrochloric acid – a swimming pool chemical and cleaner. Biocide, a disinfectant sterilizer for medical and dental equipment. Breaker – table salt; Corrosion inhibitor – used in pharmaceuticals, acrylic fibers and plastic – that is used to prevent corrosion of the pipes. Crosslinker – used in laundry detergents, hand soaps and cosmetics; Friction reducer – used in cosmetics including hair, make-up, nail and skin products; Gel – Thickener used in cosmetics, baked goods, ice cream, toothpaste, sauces, and salad dressing; Iron control – food additive, food and beverages, lemon juice – 7% citric acid; KCI – used in low-sodium table salt substitute, medicines and IV fluids; Oxygen scavenger – used in cosmetics, food and beverage processing and water treatment; pH adjusting agent – used in laundry detergents, water softener and dish washers; Proppant – drinking water filtration, play sand, concrete and brick mortar; Scale inhibitor – used in household cleansers, de-icer, paints and caulk; and Surfactant – used in glass cleaner, multi-surface cleansers, antiperspirant, deodorants and hair color. You can see these are products we use in our everyday lives. The chart shows the percentage going into the ground is 99.51% water and sand. This is a very important piece of information. Kathy explained that the State oil and gas regulatory programs place great emphasis on protecting groundwater. Current well construction requirements consist of installing multiple layers of protective steel casing surrounded by cement that are specifically designed and installed to protect freshwater aquifers by preventing the migration of fracturing fluids into overlying aquifers.

Chad spoke about the protections in place. This is in order to have an economic well that is mandatory for our fracturing process to produce economic gas quantities. Mechanically how do we protect and ensure the frac water that we pump never comes into contact with the aquifers. Chad explained that the State oil and gas regulatory programs (317 rules) place great emphasis on protecting groundwater. Current well construction requirements consist of installing multiple layers of protective steel casing surrounded by cement that are specifically designed and installed to protect freshwater aquifers by preventing the migration of fracturing fluids into overlying aquifers. The first rule particularly in Garfield County 10% or 1100 foot surface casing, which covers existing aquifers, the deepest aquifer URS is about 300 foot or less. So between the casings in the ground they are required to cement that back to surface; the quality of the cement is regulated. That is our main protection and last line of defense. Blow out preventers as we are drilling the production stream; they require us to have blow out preventers that will protect everything from any kind of pressure control. The production casing and the cementing of it is required specifically

so it does not deteriorate at all. We are required to be 200 feet above any producing interval so it is always covered across the entire interval itself. Casing pressure tests so the integrity of the test has to be tested before we apply any fracturing pressure onto the casing. While doing our fracturing process we monitor the hind production casing – the pressure in case we would encounter any leaks in the production casing. During our fracturing process, we can shut down the equipment and alleviate the pressure so there is no pressure associated getting into the annulus. The surface casing covers the aquifers to almost three times the depth of the deepest aquifer that we have in Garfield County. We try to keep that pressure and eliminate contact of the pressure to the aquifers i.e. either the frac water contact with any of that.

The comment on the handout presented on the frac chemicals are typically in the Piceance. There is quite a few less chemicals that this, still around a half percent is what the entire fluid volume is pumped in the ground every day. To us the most important thing is the mechanical integrity of the system so that this frac water never comes into contact with the production casing. How we keep the integrity of that and the surface casing can back that up. Then we could go into fracturing geometry but as mentioned before, this sand shale sequence, the mechanical properties of the reservoir containing the fracture as we prorogate it during our frac job of coming up thousands of feet into the aquifers just does not occur.

Commissioner Samson – Question – In a typical well, how many gallons of water do you put down in there?

Chat – Typically about 150,000 gallons per frac job that we pump.

Commissioner Houpt – So how much of the chemicals is a part of that?

Chat – If you use that half of one percent that would be around 800 gallons out of the 150,000 gallons.

Commissioner Houpt – 800 gallons and is this list complete of what is used in fracturing?

Chat – This is the Chesapeake document – there are some chemicals that we use within this list but we use fewer chemicals than is what is in this list.

Commissioner Houpt – But is this illustrated, are all of the chemicals that are ever used in the fracturing process listed.

Chad – For our particular fracs – yes.

Commissioner Houpt – What about for other people fracs?

Chad – Across the state?

Commissioner Houpt – Yes.

Chad – I am speaking of Williams Production.

Commissioner Houpt – So, you are just representing these would be all the chemicals that would be used for Williams and not all of them necessarily....

Kathy Hall – There are different frac jobs and different chemicals used in different frac jobs.

Commissioner Houpt – No, that is not what I am exactly asking.

Chairman Martin – This is an all inclusive list is what she is asking, there is nothing else that is used in fracturing. And, the answer is there are some proprietary issues and formulas that are used – those are within that small percentage that you are talking about.

Commissioner Houpt – Is that your answer?

Chad – If you are looking off this list here, this is not a Williams's represented list. These types of chemicals that are listed here yes, we do use some of these types of chemicals in our fracturing in Garfield County.

Commissioner Houpt – Do you use other chemicals that are not on this list?

Chat – There is probably one that would not be on this list. I am not sure; Chesapeake is in accordance with all the areas or this particular area for their stuff.

Commissioner Houpt – And, is that a chemical that was intentionally left off the list.

Chat – No, this is a Chesapeake document; it was not a Williams's document at all.

Commissioner Houpt – I want to say a couple of things. First of all, I did not know this was going to be a presentation to have us contemplate a Resolution, otherwise, I think we should have had both sides....

Commissioner Samson – I do not think they were here to get us to do a resolution necessarily. But, I think what it is, is Judy Jordan gave a presentation on fracing and I was approached by some individuals who said we would like to have our say – and I said I think you have every right to come to the Board and present to us.

Commissioner Houpt – I do not disagree with that – I just.... We know that Williams has a good comprehensive reputation and have put many resources into the work that you do – regulations are put in place to cover everyone. However, there are some folks who do not have the same level of care. Activity has been going on in Garfield County for a very long time. We have seen a lot of human error and there will be accidents and problems. One of the focuses as we were at the state level putting together rule making was to make sure we had a chemical inventory so when there were some problems we could identify what those chemical areas and there have been some chemicals used that are not as benign as one you would like to represent. What I am really wondering because Williams follows the regulations, you do your very best to put the resource in place that you can to make sure fracturing is safe, and one half of one percent sounds like a small amount, but it is a large volume anyway. I do not think there is a fear-thing going on – what is going on is a lack of knowledge in what is being pumped into these fracing jobs and it is a concern to people. It is especially a concern in rural areas where people rely on water wells. What are the main problems that you see individually with respect to the job that is in the language that Congresswoman DeGette is trying to bring forward?

Chad – I go back to our focus, which is the integrity of the system of the pipe and everything that goes into the ground. In some rural areas, it is an education of understanding what it is in the ground. How we are protecting the current aquifers and water that we have out there. We feel the regulations we have in place today with the state is more than sufficient to protect from fracturing fluids that do not come into contact with aquifers during the fracturing process or the piping that goes down into the ground.

Kathy – What is important is there is no proof that there has been in 60-years and over a million wells – there have never been any problems from fracturing wells. Let me finish my presentation.

The next handout is because the entire picture is important. We are carried away on emotions and we get misinformation. There is no proof and never has been in this country; it is working of emotions and when you have the sponsor of the bill, Diane DeGette saying that her information is anecdotal with no science behind it, then, we need to talk about this as an issue. We would like the counties that actually have fracturing to say that their state, which you are a part of that regulator Commissioner Houpt, can regulate their own industry. That is what I am talking about. Kathy handed out so the Board can see how this Resolution ties into what she is talking about here

today. This is more than just the picture over scare tactics or fracturing, it is more a picture of how we are going to become strong and independent on the national level. For example, oilman T. Boone Pickens, founder and chairman of Dallas-based BP Capital LLC, has predicted that oil will once again reach \$147.00 a barrel because it is flat market. He has gone into natural gas. Another handout where Governor Ritter spoke to the Rocky Mountain Energy Expo Conference and Kathy gave some direct quotes to tie in this entire picture about fracturing and producing an enormous amount of natural gas for clean emissions and for security for this country as well as good jobs. These are Governor Ritter's exact words, "Natural gas is a vital part of the new energy economy just so there is no mistake, let me say this very clear – it is a permanent part of the new energy economy, it's not bridge field, it's not a transitional fuel – it is an mission critical fuel for us to get where we need to get to in meeting increasing energy demands; and, decreasing emissions at the same time. For us as a state and for us as a country, I believe it is a mission critical that natural gas be a part of that. A greater use of natural gas lessens our energy dependence and increases our national security at the same time. We certainly cannot meet Colorado's future needs without producing more Colorado natural gas; so, natural gas is an essential part of the state regional and the national new energy economy. At the federal level, there has been a great deal of discussion about the regulation of hydraulic fracturing, which you know is essential to the development of Colorado's gas resources. Colorado rules are an excellent example of how states can and should act. I do not for a moment discount the concerns that worry people about the protection of drinking water supplies. However, I also know we have to understand the problems and the risks. That is why I have encouraged Congressman DeGette to consider authorizing a comprehensive study of this issue instead of going directly to a new and potential intrusive regulatory program. Natural gas is a part of our strategy to build a strong economic future for Colorado and I want to work as a close-knit team to get there. Low carbon natural gas is a big part of the national strategy for addressing climate change while securing our economic future. If you are going to have our energy portfolio be clean, you are going to need energy needs and natural gas is one of the ways and one of the most significant ways we can get to this place with clean energy future and at the same time use American resources to do it."

Then here in Garfield County Kathy attended last week a very exciting and important program – Natural Gas Expansion Forum – another handout. The panel was from the Governor's Energy Office – Clean Energy Fuel Tech Conversion Corporation, West Port Innovations in Denver Metro Clean City. This was brought forward and Governor Ritter has put forward approximately \$10 million dollars for this Denver Metro and Southern Colorado Clean Cities Coalition. The American Lung Association and EnCana sponsored this and the grant will request stimulus money to transfer fleet vehicles to natural gas. The speakers were companies regarding the conversion of vehicles and how they can be converted to clean natural gas. This is not oil versus gas or any of those kinds of things – this is one way as with the fracturing process shown in this country. There is lots of natural gas all over the country and it does not even have to be transported that far. In the east, there is an enormous amount of natural gas in Pennsylvania and New York. EnCana has some vehicles that they are using to have people move back and forth to work to just try and monitor the amount of emissions from those particular vehicles, which are very clean burning – in fact cleaner than the air on the outside. This is a resolution that we have asked this Board to consider at some point, to sign to support the other counties in Western Colorado that rely on the economic opportunities – we love our beautiful blue skies and our clean environment out here and natural gas is one of the ways to assist us to get there with the vehicles. We have a number of other counties who have already signed this resolution and we would like to have this Board's support in signing either a letter or a resolution as well. It is what Governor Ritter has asked from Congresswoman DeGette and we are asking it as well.

Commissioner Samson asked for a run down – you said Rio Blanco, Moffat, Mesa and Delta.

Chairman Martin said, 13 out of the 22 organizations and Club 20.

Kathy - Many of Chambers of Commerce, Economic Development groups have also signed letters or resolutions in support of allowing Colorado – this is what this is about – Colorado went through 18 months or more of rewriting the regulations for oil and gas production in Colorado and this is part of allowing Colorado to regulate its own waters.

Commissioner Houpt – Is your organization suing us over those regulations? I have not heard the industry sing praises of the oil and gas regulations.

Kathy – That is not the issue Tresi.

Commissioner Houpt – It is and it is not. My problem is that we have a Safe Drinking Water Act and I do not care if this hydraulic fracing or any other kind of heavy industrial use – I do not think any kind of industry should be exempted from a Safe Drinking Water Act. I did not come today prepared to debate this, I thought we were getting an informational session on fracing. I heard at the Oil and Gas Investment Conference when the question was asked from a woman from DC if Congresswoman DeGette's language would shut down fracing – she said no, it would not shut down fracing. Then it was asked, should we fight this. The lady from DC said I do not think you should spend your time fighting it, I think you should just spend your time educating people on the procedures of fracing and if we have to

Kathy – That was just one woman's opinion. Tresi, this is unfortunately where you, as a County Commissioner you have this really direct conflict over whether do you support your County or whether you support the COGCC rules and that is a tough place to be in.

Commissioner Houpt – I support my County. I received in excess of 70 calls in the last two weeks saying close the loophole – get rid of the exemption with the Safe Drinking Water Act. We have as County Commissioners, people who are concerned about this discussion on the other side as well. As County Commissioners, we absolutely have to look at both sides of those concerns. I still have not heard from the Board in this presentation – we always know there has been debate of whether it should be County controlled, state controlled or federal control. I do not see a huge conflict between what would happen at the federal level, but I am not understanding what would be very difficult for companies to say what actually would be the greatest stumbling block and obstacle if this action occurred that Congresswoman DeGette is bringing forward.

Chairman Martin – The rest of the Board would like to talk too on that particular issue.

Kathy – Before Chairman Martin answers, I think again, over and over as states in the west, we try really hard to regulate our own lives. Show me one time, one incidence, anytime, anywhere where you go to federal regulation over our state that improves it.

Welfare Reform: That is one of the things talking about welfare reform and go back to that – when welfare reform and welfare was turned over to the states how much more effective it was. You can never show me when Colorado

has had the most incredible state water laws going back into the first 1900's – I have the entire series of books on water law and how it is established in Colorado. Those were all written for the protection of the Colorado waters. Waters belong to the State of Colorado; State of Colorado should be who regulates Colorado water not a federal agency. It is not an exemption from any regulations that we are under. It is showing this has been through the Clinton administration where it was studied; it was studied under the Bush administration and the EPA in both administrations they stated that there has never been shown any incident anywhere ever at this point that there was any damage to potable water from hydraulic fracturing. There is no history anywhere. In addition, after serving on the Colorado River District Board for 9-years Colorado Water Law is one of the strongest laws in the nation and it should be respected. I think a Congresswoman from Colorado should be the first to respect Colorado Water Law and should be the first to respect the entire incredible effort and political difficulties that the Governor has gone through to rewrite the regulations and should not be writing legislation based on anecdotal information, according to her own words.

Commissioner Houpt – There is a difference in quantity versus quality and I know my colleagues have some questions as well. I do not want to get into a political debate.

Commissioner Samson – The last thing I want is a debate I did not anticipate or want that, but I do want to thank you Kathy and Chad because there is a lot of good information you have given us today. I think you have made some very good points and I would like to have some time to study the resolution and if appropriate receive and pass it along with our neighboring counties as well as other organizations. Thank you very much. If Commissioner Houpt feels like as though maybe that one side has been overly represented with Kathy and Chad coming and presenting their side, which I think they have every right to do so, and if you feel we need someone else to come in and give a different side, I know that this side is not exactly the same as Judy Jordan had and that's why they were a little concerned and asked to have their day in court.

Commissioner Houpt – I would like to remind everyone that Judy came forward not with a position.

Commissioner Samson – Absolutely, as you know the industry felt as though we have some pertinent facts and want to present too.

Chairman Martin – Reviewing the bill, now I am making my comments and then we will close it up. Reviewing the bill when it first came out, it does not change any of the standards, not any of the requirements that are not already in place. It also actually removes the EPA request to each state to take over, regulate, and permit the standards that are in place. This bill would then take it back and put under the federal control of EPA, which does not have the manpower and is why they went to each state and asked to do this. What it amounts to is that if you want more federal regulation and more federal control of an individual and an industry and less local control as we see it, then you would be in favor of the bill. Because, again it does not change standards, it does not change any of the formulas or the requirements, etc it only puts more federal government in your life. Moreover, as it did in the Clean Water Act, it is federalizing everything and the answer to me is no. If we have the responsibility and the permitting requirements then it is up to the State of Colorado to honor and enforce those; if they are not enforcing them and they feel they cannot enforce them, and then maybe we should have another conversation of who in the state should be regulating it. The state issues the permits, they have the formulas, they have everything in place and they are required to do the inspections and investigations. That is where the responsibility is and then you need to be responsible for it and not turn to the federal government and say, come bail us out.

Commissioner Houpt – Nobody is asking the federal government to bail the state out.

Chairman Martin – I see this bill as doing just that. That is my opinion and you had yours, Mr. Samson had his, Kathy has hers – everybody else in this room has their own opinion. However, I do not want any more federal government in my life. We will consider the Resolution and let you know one way or the other.

NWRETAC REPORT – CARL SMITH, NANCY FRIZELL, TIM HOHON, ERIC SCHMIDT AND MATT OLIVE

Tim Hohon – Trauma Coordinator for Grand River Hospital; Nancy Frizell – Trauma Coordinator for Valley View Hospital; Carl Smith – Deputy Fire Chief for the Carbondale Fire Department; and Eric Schmidt – RETAC Coordinator; and Matt Olive – EMS Coordinator for Carbondale Fire.

Carl Smith submitted a letter from Ann Hause, Director of the Office of Legal and Regulatory Affairs stating that Tom Soos, Chairman was seeking clarification from the Colorado Department of Public Health and Environment concerning the ability of regional emergency medical and trauma services advisory councils (RETACs) to form and operate as not-for-profit organization or other appropriately recognized business models. We have reviewed the applicable statutes and rules regarding this issue and we think it is within the authority of the counties participating in a given RETAC to decide to establish a RETAC in an appropriate manner of their choosing, such as a not-for-profit organization.

Carl submitted the RETAC Update/Overview in the Board's packet for review.

Carl started the conversation saying Eric Schmidt was hired as the RETAC Coordinator about one year ago and they were very excited to get Eric. He has a neat set of circumstances in his life that make him very advantageous to us – he is volunteer fire fighter, he is an EMT intermediate, he has a Bachelors Degree as an RN and a Master's Degree in Business Management and Administration. He brings a number of various aspects. I will talk about what we have done in the past year with the RETAC and then Eric will talk about our plans in the future. One of the critical things with the RETAC is the provider grants that come from of the State EMS Division. In the last year, Carbondale Fire has received \$65,000 for an ambulance. Burning Mountain Fire received \$88,000 for an ambulance. Burning Mountain Fire received almost \$14,000 for EMS equipment. Carbondale Fire has received \$4,000 for data collection and about \$5,500 for a cardiac monitor upgrade. The GARCO EMTAC received a \$2500 grant for an MCI Trailer (mass casualty trailer) for the last three to four years and this last grant allowed us to complete them. We now have two trailers – one in Silt and one in Glenwood Springs. This is for a significant event incident where we can bring equipment to the scene in view of that occurrence. We just had the oil and gas people here and the RETAC has been dealing with this industry on EMS issues. There are many accidents and we are trying to enhance response in particularly in the Piceance Basin that impacts the Grand River Fire Protection District, Rifle, etc. We have revised the By-Laws of the RETAC; it was just signed. We have participated in a survey performed by the American Insurance for a statewide assessment of what is going on in the State of Colorado for trauma and what could be done to improve it. We have been working with the hospitals on an inter-facility transfer of patients. When a patient goes to Valley View Hospital and then needs to be treated and moved onto St. Mary's or wherever, there are policies. We have to deal with the EMTs issues and enhance response. Grand Valley, Rifle and Silt, working with hospitals

transfers, moved to St. Mary's policies and procedures that needed to go along. The hospitals have to coordinate because each hospital has different strengths and different needs so they go back and forth. Those are some of the kinds of things we have been working on. We have developed our bi-annual plan.

Eric mentioned on the American College Surgeons Assessment saying that is a consultative review. What it does is look at each state's emergency and medical trauma system. They identify things that are working well, those needing improvement and then they make recommendations to each state. Colorado is one of the few states that have had this done. They have not provided their final plan yet but one of the issues that came out of their verbal report at the end of the consultation was they think it is appropriate for Colorado to revise the way they regulate emergency medical services. Now, the Colorado Department of Health, Colorado Department of Public Safety, Colorado Board of Medical Examinators and the Boards of County Commissioners for the 64-counties regulate the EMS. They think that it should be brought under one roof and be done at a statewide level. At our last presentation about local control, that will be an issue coming forward to this Board within the next year as that final written report is brought forward. We have the opportunity to see what their recommendations are specifically. Eric said I am a resource to you as well as the provider agencies so that you are aware of these things going on in the state.

Bi-Annual Plan – This Board received a copy in the meeting packet. This is just a compilation of what we can address as a region as the most pressing issues identified by the emergency medical and trauma services providers in our area. The NWRETAC serves five counties: Garfield, Mesa, Moffat, Rio Blanco and Routt. One of the biggest things was the inter-facility transfers and we actually received a grant so we can work on a way to address those to make sure that we have appropriate people and resources so that patients are receiving the optimal care during those inter-facility transfers. This is a critical issue in Garfield County as there is only one agency that provides inter-facility transfers outside the County and by some having some hard facts and information we can make better judgments. This Board can make better judgments on how to approach that problem and make it work better in the future.

Other projects: A statewide needs assessment project, which is each of the eleven RETACs in the state are being evaluated to see how their emergency and medical system works. Then, those evaluations are going to be compiled to make a statewide needs assessment. This is different from the Americans College of Surgeons in that they are looking at it retrospectively to see how it works. This is a prospective to see about things we could be doing better, in terms of the entire emergency medical system, as well as the trauma system. Those are two different things Statewide. There are 11 RETAC in the State of Colorado and are organized as 5013C's. One is a separate government authority, another one operates through a county that is a part of an IGA. Northwest is the only one that currently does not have a permanent organizational form. This is one of the goals that we need to achieve in the next year, which needs to be solidified so we can move forward. Then we would have the ability to contract with the state to receive the money that the state allocates to each region. Also to make sure that we can then be autonomous and make sure that the goals that we have as our region are paramount in our region instead of having to be subordinate to some other fiscal agent that we have to work with. One of the goals that I have found that is important is the way RETACs are funded today is each RETAC receives \$75,000 for general operations and then they are allocated \$15,000 per county. Many of the other RETACs in the state take that entire amount and use it for the common pool. We believe our RETAC is something that the counties should have the autonomy and the decision making process on how their \$15,000 is spent and the \$75,000 that comes to the RETAC as a whole would be the total amount that is used as common funding. These are the types of issues we would like to preserve, when we create a stable organization form. We want to make sure we do it in a way respectful of County Commissioners so they maintain the authority they have and we have an organization that works cooperatively with the counties instead of in competition. We really want to be seen as a partner versus someone who is working against you.

Chairman Martin – Currently the AGNC Council of Governments is the fiscal agent and all the members should distribute the money. I do believe that is where the money goes to isn't it?

Carl – No, that was changed a year ago at the request of the AGNC. Now, the Northwest RETAC contracts with the Western RETAC who is a 5013C to be our fiscal agent.

Commissioner Houpt – You need an organization. You came before the Board a few times to talk about becoming a 5013C. Where are the other counties on this issue?

Eric – I have only spoken with one of the other counties thus far, that was Routt County, and the bottom line is that they realize that the counties have to be involved in a RETAC and they want to do what is the most organizational form to operate. If the 5013C is the best organizational form they are willing to do it but they want to make sure that whatever organization comes forward would respect the authority of the counties and make sure things the things we want as counties collectively are preserved. In addition, the \$15,000 goes back to each county for a decision on how it would be spent.

Carl – One of the holdups has been a concern in the rest of the counties. Don DeFord wanted a legal opinion, as to whether or not it is legitimate or not to do the 5013C. We have obtained that opinion from the state legal services, we do have, and it is submitted.

Chairman Martin – It is solely up to the counties that are affected to decide one way or the other.

Carl – This is one of the things for which we have come back to you. According to the state it is permissible to proceed with the 5013C. Now the next step is can we start the process for a 5013C and obtain input from all five counties and make sure all of the issues we have discussed and any issues we are not aware of are all incorporated in that document.

Commissioner Houpt – It makes a great deal of sense because then it gives you the ability to collect funds and look at outside grants as well. If eight out of eleven are 5013C's, have they indicated any problems with that organizational structure?

Eric – None of the other regions has indicated problems with that organizational structure but just because that is a good organizational structure for them does not necessarily mean it is the best one for us. We have to look at the philosophy of the service in our areas and what we think is a governmental function or a function the government wants to delegate.

Chairman Martin – If there are taxpayer dollars, it is a governmental entity. The governmental entity comes to this Board for final decisions based upon expenditures. It also has to track and account for everyone for the audits. That is what you are asking us to do as well as create that 5013C. It still has to float through the County and be accountable. At that point, we have an expense and need to look at creating a new authority. At that point, what level of authority do you want or are you still advisory. Under that you are still advisory, not an authority. Authority

has the right to spent money; advisory does not. It is up to us to decide if we are going to spend the money one way or another. That is why I was surprised at the change because it has always been that the AGNC was able to administer those funds. You would go to them, ask for that and if it was \$15,000 how would it go, how would it flow, what you could use if for – they, acting as the fiscal agents said yea or nay and this Board had representation on that board. Now you want to change it just to have control over the money in Garfield County, if you do then it comes back to the Board legally for us then to approve the expenditures that you make recommendations.

Nancy – The County money, \$15,000 that comes back, the EMTAC as your advisory board within the County advises on how that money is spent and we share that information before the budget comes to this Board.

Chairman Martin – Then we authorize the expenditures.

Nancy – That would not be any different. We are talking at the regional level whether or not a 5013C could be formed and the \$15,000 would come though and there would be no change in the way the \$15,000 would flow.

Chairman Martin – Through grants it would affect you because they would still have to go through the authority of this Board. If it is an independent, you do not get to have a separate checkbook – we went through this with the Fairboard, the livestock fund, etc and you cannot do that according to our auditor.

Nancy – We are not asking for a change at the County level. What we are talking about is at the regional level and the \$75,000 that comes from the state for the Northwest RETAC and running it through the 5013C would be. The EMTAC would remain the same the budget coming to County Commissioners and this would not change.

Chairman Martin – Except you are taking it from advisory to authority the way I see it.

Nancy – Not on the County level, it would still be an advisory board.

Don – Chairman Martin is not in left field. Don did a memo to the Board in May of 2007 concerning an IGA, put some organizational structure in the RETAC and I do not really think my position has changed. I really do see some advantages to an IGA or a 501C3 if you want to form an organizational structure.

Commissioner Houpt – I am hearing that it would be very beneficial to have an organizational structure because they have no process to collect money directly. Wondering why are things that different in the Northwest part of this state, why would it be problematic to follow the organization as everyone else.

Don – What I noted in May 2007 is that the state statues does not provide for specific formation of an organization. The state had put local jurisdictions in this box by failing to set up with the statutory or regulatory provisions that specify the type of structure and at the same time require a contract. Nevertheless, as noted in that memo and it has been put to you today, these organizations whether it is by an IGA or 501C3 have been operating throughout the state without any great difficulty. This could be a form over substance issue given the position I am taking. This letter from the state does nothing other than say the same thing; other organizations do it. The advantage of an IGA, if you are going to form an organization is that you would still clearly enjoy governmental immunity. Particularly, since the state has chosen through some of its regulatory provisions rather than statutory provisions to require some specific decision making in terms of emergency medical care. That would provide better protection for that entity and ultimately for the county than a 501C3. In either case, it does not seem to be the subject of a great deal of litigation.

Nancy – Eric, are we still going to look at all versions, not just the 501C3 but the IGA or other versions on which way would be the best to proceed.

Don – At one point there was an IGA that was circulated among the various counties so there may be a start on that process.

Nancy said they still have the various versions.

Chairman Martin – It is dangerous when they are under your protocols in reference if you are going to follow Roberts Rule of Orders; no one can follow the way they are currently written. This has been a good discussion, it has been an uphill battle, and a challenge since the creation. The mission was to organize to make sure that you give good advice so this Board can make decisions on medical care working with the different agencies and not create an organization.

Carl – The sense I am getting is that you would prefer us to look at an IGA.

Commissioner Houpt – I would like you to look at the pros and cons for you as a RETAC between the different options. What I am hearing from our county attorney is there are more benefits with governmental immunity with an IGA and the general structure of the counties. John has a discomfort with the 501C3 but I would like to see what the thought process would be in determining which looks like the stronger organizational structure for you.

Nancy agreed this makes sense.

Commisisoner Houpt – A specific question: I know there are some real concerns about where service is going between New Castle and Silt, which structure helps those people out. Who steps in and talks to those folks to help them work it out.

Carl – Historically, the RETAC and EMTAC have both worked; it has been a long issue. The RETAC and EMTC have both supported and given technical advice on ambulance licensing, protocols, certifications, training groups the whole list of things that go on with the ambulance service. Who actually provides that service – that is the next step up between the County Commissioners and the Fire Districts and the towns? It is really beyond the scope of both the RETAC and the EMTAC – those are local decisions. Mr. Martin is very concerned about local decisions, I agree. It is beyond whichever idea comes forth the EMTAC, and RETAC will support them. We will say here is the grant process where you can get ambulances or here is the licensing requirement that you will have to do, your protocols, which you have to have to operate. Here are the things that as a medical advisory you need to have and all of those nuts and details things that all of us do as an ambulance service. We would provide advice on those kinds of things. Who does the ambulance service is an entirely different group of people.

Chairman Martin – Is it going to be funded through sales tax dollars or it will be a mill levy that will fund such and such; is it going to be generalized or countywide. Those are the kinds of questions this Board has to answer.

Eric – One of the things as RETAC coordinators, we get together periodically and when issues pop up like this in an area we have the ability to network and find out oh, this is similar to an issue that has occurred in Durango. How did they handle it there? This is similar to an issue that occurred in Stirling, how did they handle it there and we can put the people here in touch with those individuals to find out what avenues they took and what pitfalls and successes do they or do they not have to reinvent the wheel. They can learn from other's experiences.

Commissioner Samson requested Eric to call Frank Breslin, Mayor of New Castle and visit with him.

APPOINTMENT OF EMTAC ADVISORY BOARD MEMBERS – CARL SMITH

Carl Smith submitted an email to Carolyn Dahlgren asking to place Matt Mollenkamp Rifle Fire instead of Chad Harris, Rifle Fire. Matt will take the place of Chad. Matt Olive will remain as an alternative.

Carl read off the names:

RETAC – The regional group being recommended out of the EMTAC. Carl Smith – Carbondale and Rural Fire Protection District; Nancy Frizell – Valley View Hospital and Tim Hohon – Grand River Medical Center; and Matt Olive – Carbondale and Rural Fire Protection District as an alternative, Matt Mollenkamp from Rifle Fire Protection District as another alternate and Cleo Castle who is the Emergency Room Director for Grand River Medical for the 2009 year term. Then if possible to save time could we proceed to make it effective for 2010.

Carolyn did not have the Resolution setting up the RETAC; only involved at the EMTAC level.

Commissioner Houpt made a motion to approve the names as submitted. Commissioner Samson seconded the motion. If there is an issue, we will come back and reappoint for 2010 after January.

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

FINAL APPROVAL OF THE EMTAC BY-LAWS – CARL SMITH

Carl Smith submitted the draft August 2009 By-Laws for the Garfield County Emergency Medical and Trauma Advisory Committee in the Board's packet for review.

Commissioner Samson read off the names Captain Matt Olive, Captain Doug Gerald, Department Chief Rob Ferguson, Claudia Greddig, Matt Mollenkamp, Erin Taylor, Ken McCracken, and Garfield County Search and Rescue remains unfilled and unable to contact anyone. Lanny Grant is the one running that but Chairman Martin did not know if he is there or not and suggested they could always put an appointed member of Garfield County Search and Rescue.

Commissioner Samson –Larry Strohmeier, Nancy Frizell, and Tim Hohon. That is my motion to appoint them to EMTAC. Some are reappointed and some are new for the 2009.

The By-Laws state it has to be by the year.

Carolyn – The past resolution says specifically on an annual basis and it assumes this Board would be doing it at the end of the year for the next year.

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

BY-LAWS

Carolyn stated the major issue we have was on the language of the insurance. What we have done over several emails for way too many months, is use the same language that is in your appointing resolutions for all of your advisory committees. Article 12 talks about EMTAC members being authorized volunteers and thus become insured under your CTSI pool coverage. In Article 3, there is a general-purpose statement about promotion quality EMS but we also need to add a reference to your underlying resolutions that authorizes the EMTAC to do what they do.

This is to add in accordance with Garfield County Resolution 2008-59 and 2000-75 to that statement.

Carolyn said she would make the changes and give it to the Clerk.

Commissioner Houpt made a motion that we approve the By-Laws for the Garfield County Emergency Medical and Trauma Advisory Committee with the one change presented in Article 3.

Commissioner Samson verified the change in Article 12 is already reflected. Second.

In favor: Houpt – aye Samson – aye Martin – aye

COMMENTS NOT ON THE AGENDA

RAY HARPER – ILLEGAL IMMIGRATION - I have lived in Garfield County almost all my life. It is time to do something about this illegal immigration and understands our federal government controls this; it is always passed for enforcement for NSI. It has not worked very well. I am in construction and work mainly in Aspen as a subcontractor. Over the years in this business, our co-workers can see the Mexican illegal has come in larger and more numbers every year. We joked about sometime them taking our jobs over and there would not be any work for us who are legally in the United States. We are at that point today. Since January 1, 2009 and the economy took the spin, it really affected this area. The jobs that we bid as well as we bid jobs in Garfield County as well. We are out bid and we go back to check on those jobs and 90% of their employees are illegal immigrants or they cannot speak English. He offered to bring photographs to show the Commissioners and inform you of the job sites and can even give the contractor's names. I know sub-contractors that are in the painting and roofing business, drywall etc and the plumbing and electrical business contractor still hire mostly American citizens. I have seen they have greatly gained in numbers and a lot of the subcontractors working for the general contractors at times in their lives they used to hire mostly American citizens but they were forced to compete with the people who do not hire American citizens and their crews are pretty much all illegal's. It saddens me to see what has happened in this country and have been told it is occurring all over this nation. Three million illegal immigrants come across the border per year. Since the time of Reagan and now, I have been told there are fifteen million illegal immigrants in this nation currently. The math just does not add up. I believe there is far more than what they are saying. It is a concerning problem and I think it has done a lot of damage to this nation as far as our health care, food stamps and housing. According to some people I have talked to, these people do not get that but I am aware that they find loopholes to obtain this. It is very tough to compete with the people that hire all the illegals and all the illegal's they do hire they are paying them less money. Those illegal's that do stay here have free housing, free medical care, free food stamps and as US citizens we do not get that and we cannot compete with it. It has come to a time; I am not working today, so as Commissioners I feel like it has come in the near future if it continues to go in the direction it has the possibility of violence occurring and I would not like to see that happen. I have heard people say things and it was ridiculous things – like let's just go to the top. It has to be debated and it has to be discussed. Something has to be done other than passing the buck and shifting the blame. There was an article the Sheriff wrote in the newspaper or it was stated that he said he was not going to do anything about illegal immigration because he did not have the manpower. This is true but it is still an issue and if we are going to ignore the law and reward those who break the law, I am not sure where we are headed today. The law is supposed to be enforced and if I am pulled over by a law enforcement officer for a cracked windshield and he starts telling me or writes me up for a ticket and starts telling me it is the law. I have trouble with him picking and choosing which laws are enforced and which ones they do not enforce. It does start at the top. I think they have orders from their captains. Now I hear stories that I know of personally where illegal immigrants who worked on a crew as subcontractor or the job that I was on was arrested for driving under the influence; they had no valid license, no insurance and he was on ICE hold for 30-days. He was sent back to Mexico, came back, and started working for the same company later under a different name, no DUI classes. The system is not fair. This is such an incredible large issue – what do we do? Everyone is at that same place. At one point, we must start at the

local level and I believe we should say no, the federal government is not going to say it is illegal and we do not care. At some point, we must say as people, no, we are going to take our jobs back and this is illegal or we need to make it legal from them to come across the border. I do not know how much power the Commissioners have but as I look at you; I see you as the governors of Garfield County. Many of the issues I am talking about concerns this County and a majority of these people live in Garfield County. So many issues that are involved affect our way of life by having them here illegally. Going up Hwy 82 to get to work, if you ever drive it during the rush hour and it is not like it was before like in 2008 because it was still more of a boom; but, many of the cars are full of illegal's and they do not drive very well. They cannot read our signs. They drive slowly in the fast lane and they are so many other issues that are involved as our medical problems are tied to that, big portion at least. Safety issues on the job sites – if there is a bunch of people working about you that cannot speak English, I do not understand Spanish, am I required to learn Spanish because I am a US citizen for my safety on a job site; or, anyone that is working for me. There are so many issues that are involved in the illegal immigration that has been ignored or overlooked and it is all from greed from the rich. I see laws not being enforced and it is not enforced here in Garfield County/Pitkin/ Mesa, all of them. There has been an argument against that issue but there has to be a point when people in power either stand up and do something about it or step down. I know all of you are voted in and you have so many other issues. I am here by myself at this moment but there are things like, do you all know how many dollars are sent back to Mexico from Garfield County like the federal union.

Chairman Martin – There are estimates on that and how many there are and we do take precaution in reference to our contracts and our subcontractors with the burden of proof on them. If a question comes up, they have to do that, otherwise they are not eligible to be a subcontractor or even a bidder. We do have the federal mandate if someone is injured or whatever and has no insurance; there is a process to take care of them for immediate health care, etc. That is a requirement that we do not have any control over. Yes, many folks are here without documentation even though they do speak English.

Commissioner Houpt – There are many folks with documentation.

Chairman Martin – It is not the same, I understand.

Ray Harper – You go into the courthouse you have a thing in English and Spanish and sometimes in French. Our highway signs – is it coming to a place where we have to spend \$10.5 billion of dollars on our highway signs and have it is Spanish as well. That is where this country is headed. I understand you can only do so much here in Garfield County. I believe it is time not only a city level, but also a county level instead of having so much government control or federal control to say this is what we can and cannot do. The lady who mentioned federal control oversight of Colorado control; I remember Scott McInnis made a good example saying, “our national forest is mismanaged by our federal government and the biggest problem is we have people over in the White House who know nothing about it. The people here in Colorado should be managing our forests.” That was the same thing the lady was saying about the water and I agree with that. There are all kinds of politics involved.

Commissioner Samson – Here is the problem Ray and we struggle with things like this and I hate to be the one that passes the buck; but, in all honesty you have to understand our hands are tied pretty much. There are a few things we can do and we do those things. We as a County, as John Martin just said, insist that our contractors and subcontractors do not hire illegals. Now my question for Don DeFord is who enforces that on the County level. Who makes sure that this is actually the case when we bid out a job. The Sheriff's Annex is an example. Who makes sure that the contractors/subcontractors hire all the workers there are not illegal workers?

Don – I do not know the answer to that question. That is the administration and contract administration office and Ed may want to comment.

Ed – It has to be a day-to-day administration by Randy Withee and Jeff Nelson.

Commissioner Samson – Those are the two that actually and physically do that enforcement.

Ed – They do it on a day-to-day basis when they are in the area through our contract, but they do not have the authority to remove them.

Chairman Martin – They can report that and then through the chain of command we push it for enforcement at that state or federal level.

Commissioner Samson – So if there was a subcontractor who had ten illegal workers working on the Sheriff's Annex and Randy discovered them, he would report it to the federal authorities and then what would happen.

Commissioner Houpt – No, wait a minute.

Don – There are two provisions in our contract: 1) actually under state law and it is reported to the state first, so there is a statewide basis of a record of how the contractor is performing; 2) it is a breach of our contract and we can enforce our contract. I have never been asked to do that.

Commissioner Samson – If Randy finds that, he notifies Don and then Don you go through the breach of contract.

Don – I come to you ultimately.

Commissioner Samson – How long would it take and what would the process be?

Don – If we actually have to go through the breach of contract case, it could be a year. However, normally what would occur is the contractor would either agree with our statement that they were in breach for hiring people who are not citizens or we could actually terminate the contract and then charge full cost against the contractor for reconstructing that work. I doubt that would happen. It is a possibility.

Commissioner Samson – That is an avenue. With that being said, I do not know as a County Commissioner of anything else unless our legal counsel could instruct me that we could do as a County because as you know, those are state and even more so, federal issues. When you come before a governmental entity such as this governing board, we do not have jurisdiction over federal immigration laws.

Ray Harper – Yes, I am aware of that.

Commissioner Samson – My suggestions to you is you need to contact the representatives and senators from Colorado and say this is a major issue to many others and me and I encourage you to take that out on the US Senate and US Representatives floor and get something done about comprehensive reform.

Chairman Martin – If you know there is a subcontractor/contractor with the County you need to know who to contact so they can verify that and we can take immediate action on that contractor. The other one, if you are asking me to go across the street and tell Lou that he better start enforcing the ICE regulations, I do not have that authority. I can ask him.

Ray Harper – That is what I would like to see – the law being enforced.

Chairman Martin – I cannot tell the Sheriff what to do because he is not an employee of mine.

Ray understands Lou is elected as well.

Chairman Martin – As Sheriff he has to answer to the citizens on that particular issue.

Ray – I feel we can all work together here too. Maybe we need to build a prison for that purpose and normally if they are caught here in Garfield County, they are going to spend some time.

Chairman Martin – Then we are responsible for their housing, food and medical expenses and instead of being on the outside getting services they are getting it on the inside plus when you have them incarcerated, everyone that is from the family gets the same benefit basically. Therefore, you have created another monster in that respect.

Ray – I understand but there still has to be – if it keeps this going on, we will have three Spanish-speaking people sitting on the Board of County Commissioners.

Commissioner Samson – What Ray is saying; they are not citizens.

Chairman Martin – Yes, we need to work together and if we have contractors and businesses that are hiring illegal's, then we need to follow the chain of command within the state and have enforcement there. That starts with knowledge and if that knowledge is passed to the correct people and not just forgotten but also acted upon – that is our true strength. If we just complain about it without any facts, we need the facts, we need to get it to the correct person and if you have it you need to find the correct person, come to us and give us that information. We will find a way to the correct person with you and send it along.

Ray – Too many times, it has been reported to the Sheriff or like the Snowmass police and they say there is nothing that we can to and then it is forgotten.

Commissioner Houpt – There is an ICE office in town too.

Ray – Is that a place paid by taxpayers money?

Commissioner Houpt – They are the ones who are supposed to be the ones who are enforcing...

Ray – Typical federal taxpayer funded programs are a waste of our money. You call Colorado Workforce and ask them to send some people down for you right now and they will send three illegal workers from the Colorado Workforce Center. It is totally out of control. I am not prepared with all of the information. I know there are many steps I could go to, to have more information to know exactly what the federal law says the Colorado law and try to pinpoint who is more in charge and who is shifting the blame and who is not doing their job.

Commissioner Houpt – Everyone is passing the buck right now because we do not have a good solution and the federal government is supposed to come up with something but we have not seen a good resolution on this yet.

Ray had an illegal tell him one day on the job and he was mad over it – he said, “Mexico was going to take back over this country.” I laughed at him. No “we are going to do it not with bombs and guns, we’re going to breed it out of your women.” If I was a lawbreaker and wanted in Mexico for rape, theft, whatever, and this is the first place I would come. I am appalled.

Chairman Martin – There are also solutions and that is the information we have and you have to share that and we have to put it in the right channels to get the right results. It is frustrating but you cannot give up.

Ray – What you said, when I find them, write their names down, and talk to the companies.

Chairman Martin – What needs to be done is go to the companies, not the individuals.

Ray – I heard a Congressman just say on the news the other day about health reform and he said in the bill they want to have it to have insurance for the illegals as well. The Congressman said, well they are doing our work here – they should get the program as well. I am thinking, what is he talking about they are here illegally. We have to elect Congressman who are on this issue or the end of it is they just miss the whole boat.

CONSIDER A REQUEST FOR A MAJOR IMPACT REVIEW FOR A CAMPGROUND/RV PARK ON A 36.637-ACRE PARCEL SOUTH OF BATTLEMENT MESA AND PARACHUTE OFF CR300 IN THE RURAL (R) ZONE DISTRICT – APPLICANT: HIGH MESA PARTNERS, LLC. – DUSTY DUNBAR

Dusty Dunbar, Don DeFord, Jerry Rush from High Mesa Partners RV Park were present.

Jerry Rush requested a continuance for this Public Hearing. He stated he would renote everyone within the 200 feet requirements.

The Commissioners schedule a date certain for September 21, 2009.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY WHICH INCLUDES MATERIAL HANDLING, PUMPING FACILITIES, STORAGE YARDS AND PROCESSING ON THE ENCANA-OWNED NORTH PARACHUTE RANCH OFF CR215 NORTH OF PARACHUTE WITHIN THE RESOURCE LANDS (RL) ZONE DISTRICT. APPLICANT IS ENCANA OIL & GAS (USA) INC. – DUSTY DUNBAR

Dusty Dunbar, Don DeFord, Khem Suthiwan, Jason Eckman and Kevin McDowell water engineer with EnCana were present.

Deb reviewed the public notifications with Khem and determined they were timely and accurate. She advised the Board they were entitled to proceed. The sign was posted on the guard shack and visible from CR 215

Chairman Martin swore in the speakers.

Dusty submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Unified Land Use Resolution of 2008 as amended (ULUR Zoning Code); Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E – Application; Exhibit F – Staff report; Exhibit G – Staff Power Point presentation; Exhibit H– Letter – Garfield County Road and Bridge Department, Administrative Foreman, Jake Mall, dated 7-08-09; Exhibit I – Letter – Garfield County Vegetation Management Department – Director, Steve Anthony, dated 7-28-09; Exhibit J – Letter – Garfield County Planning Department – Project Engineer John Niewoehner, PE, dated 7-29-09; Exhibit K- Email – Colorado Division of Wildlife (DOW) – Game Officer, Dan Skinner for J.T. Romatzke, Area Wildlife Manager; Exhibit L – Noise Assessment Exhaust-Mechanical; and Exhibit M – Email – Garfield County Public Health Department – Environmental Health Manager, Jim Rada dated 8-6-09.

Chairman Martin entered Exhibits A – M into the record.

This is under the old code.

Request: The applicant requests a SUP for the installation of a Drill Fluids Recycling System. This is a network of pits, pipelines and pumps to transfer produced water for use in completion operations associated with the production of natural gas on the North Parachute Ranch (NPR).

The system is fully contained on the company-owned site 8.5 miles north of Parachute on CR 215. Twenty-seven (27) pits on existing COGCC approved well pads are proposed to be connected with pipelines. The pipeline system

uses high carbon steel and steel Flex pipe in varying diameters: 4" at the pit, 8" connectors feeding in to a 12" line that links to the Middle Fork Produced Water Storage Facility (permitted in 2005).

The applicant represents the need for this system to move produced water from pad to pad and to the Middle Fork Produced Water Storage Facility via pipelines, rather than trucks. Moving fluids reduces the need for additional fresh water; there is an estimated savings of 1.26 to 2.52 million gallons per day.

Because the use is a system of pipelines to connect produced water pits to other facilities there will be a definite reduction in the number of tanker trucks required to haul the millions of gallons of fluid. There is a limited traffic analysis provided. As noted earlier, the Drill Fluids Recycling System, once fully operational is expected to reduce the number of vehicles by 120,000 trips per year. All travel traveling Garfield County is on roads built for well beyond that level of traffic and that kind of vehicle. Much of the traffic is on private roads on the NPR.

The operations at the facility will not adversely affect any abutting property, provided the facility operates within its proposed levels. The proposed system will not encroach upon existing setbacks or reduce current separation distances to abutting properties. Staff agrees that the Drill Fluids Recycling System is located well within required setbacks and is sufficiently separated from adjacent properties in all directions.

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."*

Re-vegetation securities are standard for these kinds of applications and shall be conditions of approval. While the well pads on which the pits are located are secured by a COGCC blanket bond, this security does not cover portions of the Drill Fluids Recycling System that are off the well pads, namely, the connecting pipelines. Much of the proposed pipeline that will be used in this system is already in place, so the disturbance has already occurred. (Other portions of the system are proposed to be temporarily laid on the surface.)

Should the Board approve the request for the Drill Fluids Recycling System, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use (such as this system) function in accordance with the proper best management practices and within the parameters of the State statutes.

There is limited proposed storage for heavy equipment on the site; diesel and electric generators to operate the pumps will be in operation at varying locations on the system. An additional submittal of noise assessment for the diesel generators required to operate the pumps (Exhibit L) shows that the noise level at maximum output is 100 dB(A) within 4 feet of the operating machinery; dropping to 79 dB(A) at 49.2 feet.

Staff estimates that the noise level at the property boundary or 350' from an occupied residence would be below 70 dB(A), the industrial noise level from the Colorado Revised Statutes. There is no residence near any of the boundary locations with the exception of D28, which is estimated by Staff to be more than one-half mile from the residence, and it has been stated that the residence is not inhabited. The equipment is represented to be transient, moving from location to location, always in use and therefore not stored.

The requirement for screening should not be required as the site is remote, bounded on three sides by steep canyon-walls, far from human occupation. The boundary of the nearest potentially affected parcel (on the east side) is more than 1700 feet away. Painting permanent installations a neutral shade of non-reflective paint will help to make the site more inconspicuous.

The site is not situated to allow vibration to emanate beyond the boundaries, nor have fumes or other emanations off-site. The site is not proposed to be used for storage, aside from limited produced water, which shall, as a condition of approval, be properly stored in approved lined pits inside an adequately sized spill containment basin. Lighting will be provided by portable lighting plants, and directed downward and inward onto whatever site to which they have been assigned.

Staff does not recommend periodic review of the site as the conditions will serve as a mechanism for operating within the necessary standards of the permit.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties,
- the remote location of the property,
- the proposed is required to operated within compliance for noise and mitigate glare and other emanations,

Staff recommends the Board approve the request for a Special Use Permit for EnCana Oil & Gas (USA)'s NPR Drill Fluids Recycling System 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 system 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 system.
4. Vibration generated: The NPR Drill Fluids Recycling System 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 Drill Fluids Recycling System shall be so operated to comply with all Federal, State and County air quality laws, regulations and standards.
6. Emission of heat, glare, radiation and fumes: the Drill Fluids Recycling System 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. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes, COGCC Series 800.
8. No storage of unused heavy equipment or materials is permitted.

9. No human habitation of this site is allowed at any time, other than the residence 3 miles south of EnCana's gate.
10. Any lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
11. 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. Modified in line with Jim Rada's comments.
12. Prior to the issuance of the Special Use Permit, a reclamation security of \$2500 per acre shall be submitted for site disturbance, as per the Garfield County Vegetation Manager. If the use as a NPR Drill Fluids Recycling System is ended, reclamation shall be initiated within 60 days and meet the requirements set forth in the reclamation plan in place on the date the Special Use Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94). Site visit was included by the County Vegetation Manager to be determined after the on-site visit.
13. All equipment to be permanently affixed on the site shall be painted with non-reflective paint in neutral shades of desert tan or beetle green to make the site less conspicuous.
14. Dust mitigation on the sites and access roads must be performed to prevent fugitive dust.
15. Prior to issuance of the Special Use Permit, written confirmation by a certified wildlife biologist to ensure that no active nest sites for threatened or endangered species or species of concern are within a distance considered by the Colorado Division of Wildlife to be adversely affected by human activity, and that no threatened, or endangered plant species or plant species of concern are within the acreage to be affected by this system.
16. Bear-proof refuse containers shall be required on the site.

Dusty asked to speak to these conditions in No. 9 to be more clear "that no human habitation of this site is allowed at any time other than the residence and sited the located the site of that residence." It was unclear until fairly late in the analysis as to whether or not this was an abandoned farm house or an occupied farm house. It is occupied and therefore the conditions have been revised to reflect this.

No. 11 – Dusty, in response to the analysis from Jim Rada's comments and the oil and gas liaison analysis contribution about COGCC proposed this addendum to Condition No. 11 and it calls for a plan to the satisfaction of Garfield County's Environmental Health Department shall be developed by the applicant to provide on-going verification that the indignity of the system is not allowing drill fluids to escape into the soil and water. Part of the plan shall be letter stating the results of all annual reports required under COGCC regulations to ensure integrity of both sub-terrain and surface flow and gathering lines used as components to be provided within 30-days of the report so we have the current assessment and information.

No. 12 – Dusty left out a portion of the requirement whereby the Garfield County Vegetation Management Department requested a site visit to do an assessment over this large province to determine what the adequate response was. The applicant has shared their willingness to work with them to come up with a reasonable response. This was balanced against requiring this for the entire acreage, part of and it was best to allow the specialist to go on site and determine what really needed to be done. "A site visit shall be performed by the Garfield County Vegetation Management Department to assess the site and determine the recommended acreage for the required security."

No. 15 – Mostly talks about the surface lines that will be laid across the area.

Commissioner Houpt – For clarification, this is a 4.33 acre project but isn't it a project that includes all these various pads.

Dusty – It does, the 4.33 acres made the conditions hard to write because the 4.33 acres is the acreage covered in and affected by the distinct ponds; it may not include the acreage that is affected by the surface lines that are laid out; and, that is why I tried to have a condition of approval to come up with the effective acreage.

Commissioner Houpt – Is there anything included concerning a grading permit?

Dusty – There are not interring anything. The surface lines are laid out on the top of the ground. They represented no interment. If the applicant changes that Dusty would then recommend a condition requiring adequate grading permits to be in place prior to site disturbance.

EnCana Presentation:

Jason Eckman stated they did not have anything to add, they have looked through the conditions, and feel that we can meet them.

Chairman Martin – All lines that are being laid are going to be on the surface or will there be any digging of holes to put them in. The drainage area along the roadways will collect everything for recycling pipelines.

Jason – They will be surface lines and if we do determine later on that, we need a larger line that needs to be buried then we will certainly let you know.

Chairman Martin – You would need a new application in reference if you change the size and decide to bury it.

Dusty – It might be a safeguard to add that as a condition.

The Board agreed.

Commissioner Houpt – That would be condition No. 17.

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

Commissioner Houpt moved to approve the request for a Special Use Permit for the support facility with the 17 conditions presented by staff to allow the installation of the EnCana Oil & Gas USA NPR Drill Fluids Recycling System, presented by staff including rewording in No. 11, 15 and added Condition No. 17. Commissioner Samson seconded. In favor: Houpt – aye Martin – aye Samson - aye

CONSIDER A REQUEST FOR A LIMITED IMPACT REVIEW FOR STORAGE, SUPPLIES, MACHINERY, EQUIPMENT OR PRODUCTS ON 3.12 ACRES OF A 44.61-ACRE PARCEL IN THE RURAL (R) ZONE DISTRICT. APPLICANT IS ENCANA OIL & GAS (USA) INC. – DUSTY DUNBAR

Dusty Dunbar, Deb Quinn, Rayona Bush - EnCana Oil and Gas permit coordinator, Mark Mulish - completion supervisor EnCana, David Grisso – operations field leader with EnCana were present.

Don DeFord reviewed the public notifications with Rayona and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Dusty submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Unified Land Use Resolution of 2008 as amended (ULUR Zoning Code); Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E – Application; Exhibit F – Staff report; Exhibit G – Staff Power point; Exhibit H– Letter – Garfield County Road and Bridge Department, Administrative Foreman, Jake Mall, dated 7-08-09; Exhibit I – Letter – Garfield County Vegetation Management Department – Director, Steve Anthony, dated 7-28-09; Exhibit J – Letter – Garfield County Planning Department – Project Engineer John Niewoehner, PE, dated 7-29-09; Exhibit K – Letter, Burning Mountain Fire Protection District, Brit McLin, Fire Marshall, dated 7-30-09; Exhibit L – Town of Silt Comprehensive Plan 2005). Item M – Citizen Input - Letter from Lisa Bracken 8-10-09.

Chairman Martin entered Exhibits A – M into the record.

Dusty stated this is a request for a Land Use Change Permit from the Garfield County Board of Commissioners (BOCC) through the Limited Impact Review (LIR) process for the operation and maintenance of the F11E Storage Facility. EnCana owns the site, and the affected area is 3.12-acres of a 44.61-acre parcel, a COGCC permitted well pad.

The site is located southwest of the City of Rifle, south of I-70, off County Road 331. Land uses on the surrounding parcels near the project site include agriculture/range land, wildlife habitat, and recent natural gas extraction/development.

Dusty stated this is south and east of the Circle B application.

The use of the property will be for storage of empty fracture (frac) or flow back/roll off tanks, heaters, trailers, fire trailers, pumps and other general equipment. The site was previously constructed and permitted through COGCC and utilized as oil and gas operations in order to store empty ‘frac’ tanks being used for the F11E pad site. The storage facility will occur during normal daylight hours. The proposed maximum number of ‘frac’ tanks would be eighty-five (85) tanks, but the applicant estimates more than one dozen (12) tanks on the site at any given time.

Consideration of a Land Use Change Permit application evaluated through the Limited Impact Review process involves analysis to determine the project’s compatibility with the ULUR. The Applicant is required to meet the Standards in Article VII, and consider the application with regard to its compatibility and potential impacts on adjacent uses.

Standards address compatibility, location, scale, mitigation, and screening/buffering. Preservation of land uses (agricultural) and the public input possible through comment and public hearing are also included as part of a LIRP review. This provides the opportunity for community and neighbor participation.

Staff finds that with proper mitigation measures, the proposal may be permitted and meet the goals, objective and policies of the Comp Plan.

In specific, the proposal has incorporated into its design measures to reduce the transportation impact onto roadways; reduce the adverse effects on adjacent parcels in the form of fumes, light, noise, glare; ensure safe handling of materials so as to preserve air and water quality, contribute to the infrastructure utilized and affected by their project, and minimize the adverse potential effects on the quality of life on adjacent properties, while exercising the right to extract the natural resources of the subject parcel.

Mitigations and requirement are discussed under the Review Criteria that follows.

Consideration of a Land Use Change Permit application evaluated through the Limited Impact Review process involves analysis to determine the project’s compatibility with the ULUR. The Applicant is required to meet the Standards in Article VII, and consider the application with regard to its compatibility and potential impacts on adjacent uses.

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The site is more than 1500 feet from the nearest residence, and is situated to be above the horizon line on a hill. The Impact Analysis addresses specific site design features that the Applicant will provide to ensure the adjacent properties; in specific, the Applicant proposes berms on the edges of the storage area to better screen the site from view from the residence down the hill.

Staff notes that a minimal amount of produced water may be handled on this site. The operation shall be required to meet the waste handling requirements of the CDPHE as a condition of approval.

Staff recommends as a condition of approval that the site noise standards set forth in the Colorado Revised Statutes (CRS) for residential levels be applied to the use on this site, that being a daytime level of 55 dB(A) and 50 dB(A) for night.

Staff recommends that the operation on the site be performed to meet the vibration requirements, that being imperceptible at the property line.

In 7-810 C.1, Staff recommended that as a condition of approval, permanently affixed structures and man-made features shall be painted with non-reflective paint in a color (sage green) to reduce the visual impact on adjacent properties.

Staff recommends an ongoing dust mitigation program be applied to the un-surfaced road on the subject parcel, and any temporary lighting on the site be downcast and directed inward as conditions of approval. The conditions

proposed by the Applicant incorporate comments from the fire service provider. Staff finds that these adequately address the storage of hazardous materials.

Heavy equipment will be on site to pick up or drop off equipment, for short-term storage, repairs or maintenance. As the Applicant has represented the maximum number of trips to the site to average 20 per month, Staff recommends that a threshold level of 3 ADT be in place for the traffic to the site.

Should that threshold level be exceeded, the Applicant shall, within 40 days, provide Garfield County with a plan that includes traffic analysis by a qualified engineer, a dust abatement program / road maintenance schedule to the satisfaction of Garfield County Road & Bridge Department. **This requirement can be met with conditions recommended by Staff.**

By following the Staff recommendations for conditions set forth in 7-810.E. F. and G, this adverse effect can be mitigated. Additionally, a potential increase in noise levels would be an increase in energy resource extraction activities that would require move movement of rolling stock from this site, generating increased noise, fumes and dust.

The closest residence is over 1500 feet from the site. **This requirement has been met.**

The Applicant has represented the maximum number of trips to the site to average 20 per month. Staff recommends that a threshold level of 3 ADT be in place for the traffic to the site.

Should that threshold level be exceeded, the Applicant shall, within 40 days, provide Garfield County with a plan that includes traffic analysis by a qualified engineer, a dust abatement program / road maintenance schedule to the satisfaction of Garfield County Road & Bridge Department. **This requirement can be met with conditions recommended by Staff.**

Finally, the site is not located in a floodplain.

STAFF RECOMMENDATION

Due to the following conditions:

- the limited nature of potential impacts to surrounding properties through conditions of approval that mitigate these effects,
- the proposed is required to operated within compliance levels for noise and to mitigate glare and other emanations.

Staff recommends the Board approve the request for a Land Use Change Permit evaluated through the Limited Impact Review process for the EnCana F11E Storage Facility for EnCana Oil & Gas (USA) Inc. 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 explicitly altered by the Board.
- 2) 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 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) Updated emergency contact information shall be put in place on site and provided to the fire service provider (Burning Mountains Fire Protection District) no less than annually.
- 5) The F11E Storage Facility 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.
- 6) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes for residential levels.
- 7) Emissions of smoke and particulate matter: the F11E Storage Facility shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
- 8) The operation shall be required to meet the waste handling requirements of the CDPHE as a condition of approval.
- 9) Emission of heat, glare, radiation and fumes: the F11E Storage Facility shall 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.
- 10) All permanently affixed equipment and structures shall be painted with non-reflective paint in neutral colors (sage green) to reduce glare and reduce visual impacts.
- 11) To reduce the visual impact, especially from residences nearby, the earthen berms shall be increased by four (4) vertical feet.
- 12) Any temporary lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
- 13) The Applicant shall be to required to perform dust mitigation and road maintenance on the section(s) of the roadway that are their responsibility:
 - a. The roadway connecting from CR 331 to F11E well pad site shall be graded in response to assessment by the Garfield County Road & Bridge Department,
 - b. Dust abatement shall be performed as per a schedule recommended by Garfield County Road & Bridge Department.
14. Proper permits from Garfield County Road & Bridge for overweight/oversize vehicles and traffic control plans during the installation of structures and tanks are also required
15. A traffic threshold level of 3 ADT shall be in place for the traffic to the site. Should that threshold level be exceeded, the Applicant shall, within 40-days, provide Garfield County with a plan that includes traffic analysis by a qualified engineer, a dust abatement program / road maintenance schedule to the satisfaction of Garfield County Road & Bridge Department.
16. To ensure safety to wildlife and domestic animals:
 - a. All fencing shall follow Division of Wildlife 'wildlife friendly' fencing requirements. Industrial chain link fence shall be replaced with 2" x 4" mesh horse fence.
 - b. A bear-proof dumpster or waste container shall be provided on the site.

- c. No domestic animals, such as dogs, shall accompany employees or subcontractors to the site.
 - d. Construction shall be limited to the 'ideal construction periods' listed in the Wildlife Impact and Sensitive Species Report for F11E Tank Storage Yard.
17. Prior to the issuance of the permit, the Applicant shall be required to provide adequate security to re-vegetate the site and cut slopes to a 'pre-operation condition'.
- a. If the site is prohibited from containing hazardous or industrial wastes in amounts greater than 10 gallons, a 35-foot buffer between the proposed disturbance and any irrigation ditch is required;
 - b. If the site is not prohibited from containing hazardous or industrial wastes in amounts greater than 10 gallons, a 100-foot buffer between the proposed disturbance and any irrigation ditch is required;
 - b. The Applicant shall provide the Garfield County Planning Department Project Engineer revised construction drawings showing the appropriate buffer, and stipulate on the drawing that a construction fence to satisfy the fence recommendations in 7-201(c.) will be placed along the buffer line to prevent equipment from entering the buffer area.
18. The Applicant shall provide a short-term re-vegetation bond of \$2500 per acre for 3.12 acres, or \$7800.
19. Prior to the issuance of the permit, a security to return the site to its 'pre-development' condition shall be provided by the Applicant based on a site reclamation plan with the following components to the satisfaction of the Garfield County Planning Department Project Engineer:
- a. an engineer's estimate of the current cost for re-grading the site and re-vegetating the land;
 - b. a calculation of the security needed, considering 4% annual inflation rate and a 20-year project life;
 - c. the appropriate engineering News Record (ENR) price index.
- If the use as the F11E Storage Facility is ended, reclamation shall be initiated within 60-days and meet the requirements set forth in the reclamation plan in place on the date the Land Use Change Permit issued, or the site reclamation standards in place at the time of use cessation, whichever is more stringent.
- The reclamation standards at the date of permit issuance are cited in Section 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).
20. Proper building or grading permits shall be secured from Garfield County prior to construction.

Commissioner Houpt was under the impression that no hazardous materials would be stored on site.

Dusty – Correct, they are not proposing any hazardous or industrial waste but they are proposing to park empty frac tanks that have residual.

David Grisso asked for reference to go back to the photo as we may have mis-represented ourselves because we did present two options and the berm was the least desirable option due to a number of reasons. We have no problem with the painting of any permanent fixture. Our question is according to the BLM standards in this area it would actually be a different color. There are a number of different colors out there and EnCana has been very successful in a blending color. We would like the opportunity to put in the conditions that if we needed to paint it or replace a color, then when we meet the inspector from the County and discuss it on site, we could then put our proposal to you and let you guys make the final decision.

Chairman Martin – We could put approved color.

David – Agreed and clarified this would not need to come back to the Board. When you plant those back slopes they are only green a couple of months out of the year and then the hay fields are brown all around it. The next proposal is a fence on top of the existing berm and on the west side as Ms. Dunbar stated. The reason being is if you look at the green shot line down toward Mr. Eubanks house, that berm is the topsoil and spoil that actually goes onto the reclaim of the F11E and it was put there as a deterrent to Mr. Eubanks for site and sound. Some of that will need to be used and will not leave a lot of material in that area to add four feet to that berm. We would recommend putting a solid fence either slatted or using this material DOW recommends – the mesh all the way to the six-foot mark. That was our primary recommendation and secondary was the berm.

Commissioner Houpt – You could bring other dirt in for the berm.

David – That is a lot of dirt.

Chairman Martin – Agreed and then you have the dust problem exaggerated and planting and wind blowing, hauling the dirt in, grading it, and working it.

David – We already have vegetation on that berm now. That was our reasoning behind the fencing. We have that in other places where the chain link fence is filled with slats or colored material or the DOW type mesh. Instead of going two feet high, we would go all the way to the six foot height, which would add two feet to your current recommendation. Your recommendation was a four-foot dirt enhancement. We would propose on that same length of dike a six-foot fence to be determined of an approved color.

Dusty – The only challenge is that there is a little difference in the definitions; when I talk about the fencing on that particular area where the berm had been mentioned, the purpose of the fence is to obstruct the view. So therefore, it would have to either have slats in it or be solid board or something in a manner to obstruct and mitigate the visual impacts. The rest of the site also has to meet wildlife friendly standards for that particular purpose. The rest of the fencing that is around the site, if you propose any fencing, does not have to be that same kind of fencing. It should be something that is more compatible with the neighborhood and satisfy the DOW requirements.

David – That is understood and is our proposal, which would work as a visual barrier of a color of the County's choice. That dirt in the berm has to go to the reclaim and that is providing some visual for Mr. Eubanks presently; that is the only dirt in the area. This is the first time I have reviewed the changes and that is a lot of dirt to haul in. Could we modify No. 11 to that? Then getting down to the hazardous waste buffer. That ditch is uphill and we should do a lot of vertical consideration.

Dusty – That sounds reasonable but I am not an engineer and consequently

David – We have a stormwater site plan for this that has sedimentation ponds on site to collect any stormwater and/or spill that would come off the site.

Dusty – The condition of approval calls for you to present a plan to the project engineer and that may be saying your justification.

Chairman Martin – Storage tanks that are empty are not going to send water uphill. Then the elevation of water to a vertical site is

Dusty – I wrote the condition to seek a dialogue between experts.

David – It states two different things and that is the concern to clarify. Every reclamation plan we would put forward has stormwater on it so we can do it in-term and post-term.

Chairman Martin – You would have to do some heavy engineering to make that frac tank leak and run uphill. I do not like berms anyway.

Commissioner Houpt – It does say that you would be working with the Garfield County Planning Department project engineer.

David – Our fear was we would be out of compliance if we just sent back a site plan that said the ditch is so high and we have our sediment ponds, we are not storing, however the possibility of residue in the tanks would be our concern because we did not meet the one hundred foot buffer. We cannot use that site with a hundred foot buffer; it cuts off way too much property because it goes all the way around the back.

Dusty – A hundred foot buffer is generally a flow direction; I have all confidence that when you talk about this it would not be an issue.

David – The flow goes down onto the pad site, which would not allow it to go anywhere. That is a lower elevation than the entire area. The next is we are fine with the revegetation short term bond of \$2500 – no question. The only question I had is the entire site is graveled and can we just do the disturbance that is not graveled in the acre calculation? We are not revegetating that site.

Dusty – It is the existing disturbance, which would be the entire thing.

David – Usually on a pipeline it is the entire area that is not used afterwards; we are actually using that entire graveled area and it will not be revegetated.

Dusty – The spirit of the request for the pre-development condition is that the use would end and you would probably be taking your gravel, leaving, and restoring the entire site to the pre-build condition.

David – The short term is revegetating the berms and not the gravel site.

Chairman Martin – It is under reclamation and under a drilling permit pad process, etc.

Commissioner Houpt – This is off the pad. This needs to be reclaimed at the end.

David – Then we address that in No. 19.

Dusty – You are asking if the amount of the affected acreage would not include the center that is not being disturbed. It is installed at present and exists as an adequately graded gravel surface that does not have to be modified.

Commissioner Houpt – Was there any reclamation required when that was built?

Dusty – Not to my knowledge.

David – It was built and tied to the ATD F11E. That is part of the pad. We have re-seeded the slopes right now and actually, if the dirt is not required and the fence is allowed, we are almost at revegetation.

Chairman Martin – In the recommendation you are asking to disturb that whole area, bring in dirt and then re-seed and do everything else and put a bond up as well and then when you are finished undo it all and then re-seed and reclaim. I do not think we need to do that twice. If you are up there right now, we could put visual impact mitigation with fence, slats, etc and not move all that dirt. We would be better off in the long and short run and then the dust problem would probably lessen as well.

David – One more, on the calculation, we are fine with recalculating that reclaim, my question is the 4% annual inflation rate for reclaim project. I started in Garfield County in 2001 and in 2002 and 2003 our cost per cubic yard for the energy industry went down and it went up since then and now we are back to 2002 levels. I would ask for a reconsideration of this 4% annual inflation rate. Then, we would like to provide what we call market value, we put out three competitive bids and we take the lowest bid on cubic yard and that would be what we would propose for the regrading of the site.

Chairman Martin – Replacement of the consideration.

Mark – On the three average daily trips, this is probably one of the most difficult things to figure and you do the best job you can. However, for clarification, there might be times when we will not use the site at all for months, and all of the sudden there is boom of twenty tanks in a few days. I would like to come to a reasonable arrangement on that piece. The intent that we had was that when we do have to move something, it would be during regular business hours, not on the weekends and we would obviously try not to disturb any neighbors in the area. We are really good about it when we are using the site and completing F11E so I know we can do an adequate job. Commissioner Houpt – How many tanks do you anticipate storing on this site?

Mark – That crystal ball question is hard to answer.

Commissioner Houpt – You said 84 in your application – that is a huge number.

Mark – That is the most we could ever have. That is the worst case.

David – That is all the site will contain.

Mark – Hopefully we do not have to put anything there. The plan is we might have a few anywhere from five to twenty at any given time.

Commissioner Houpt – This opens the whole discussion to different levels when you put a number like that in an application. We have talked a lot as a commission regarding contractor's yards in residential area. We have commercial and industrial zoning areas that allow for that level of storage – 84 tanks. In my mind, it is not appropriate in a residential area to approve a site that is going to have that much storage and activity in place. I am hesitant to support this with those numbers in there and with not knowing what the use is actually going to be on this site.

Mark – That is my reasoning for addressing the possibility that would never really occur. We just threw it out, as we did not know how to address this issue. The intent is just to have a place under the current economic conditions if we were to just have to stop what we were doing for a short period, we would have a place to put things. Therefore, what would be an adequate level of movement across the site that would not cause problems with our neighbors?

Chairman Martin – The maximum amount of 84 is what you calculated the square footage that is open and it would still be hidden in reference to visibility.

Commissioner Houpt – When you have an on-going use like that it is disturbing to neighbors, it changes the character of the neighborhood. Well site, people are beginning to adjust to and they know you will have activity on site for a while. However, when you establish a yard like this, it is ongoing and you are saying there could be up to 84 frac tanks on site for how many years. I saw twenty thrown out here but I do not know how long you would want this in place. Those are my concern. I also have a question about road access, if you had an opportunity to read Ms. Bracken's letter. She discusses a concern about a road that is currently established for this use. Do you have some comments?

David – Ms. Bracken is not here, I will not talk of her history with EnCana, but she disputes every time we go in there whether it is a well pad or something else.

Commissioner Houpt - That was not my question.

David – We can provide documents of our right-a-way. We improved the road over the standards that I stated to Ms. Dunbar today and we can document with photos and paperwork from our land department our right to use that road for this use and show the condition of the road before we got there. The road in question Ms. Bracken is speaking of is I believe about 200-feet long. We do not use the Chicken Coop or 6500 Road except for 200-feet and we have the right to use it all.

Commissioner Houpt – Is this 200 feet capable of carrying this type of activity?

David – Yes, we have drilled 11 wells on that site on the 200-feet that includes all frac equipment, drilling rigs and all sand. We pumped most of the water to that site so we have hauled some water but mostly piped. That site is about one-quarter mile off our main 12-inch truck line that pumps frac water around our field.

Commissioner Houpt – Have you looked at other locations around the County where you could store equipment. We have industrial zoning areas and areas that would be more compatible with this type of use.

David – Yes, we have. We looked at north of our office in Parachute, however there was some road issues with CR 215 plus building issues internally on our own because of the site. We looked at all of our own property first. This one was preferred and we had already built it as a tax to the F11E plus it is an EnCana owned property.

Commissioner Samson asked Dusty, in Ms. Bracken's letter, page 4, I do not think we have talked about her comment on this. Third paragraph under conclusion, the last two sentences. "In actuality, EnCana's special request for a storage yard on the F11E pad appears to be an attempt to surf and navigate new COGCC rules requiring disclosure of materials stored on pad sites. F11E is an active pad site which if this application is approved appears likely to enjoy a special waiver of disclosure requirements."

Dusty – Everything that is intended to be stored there has been disclosed to you here.

Chairman Martin – It is exposure to the chemicals is what she is relating to.

Commissioner Houpt – She may have thought that chemicals would be stored but we have heard testimony that this would be empty fracing tanks.

Dusty – Oftentimes the descriptor of the applications makes it hard unless you read the report and the application to truly understand what is being proposed. This happens and most of the calls I receive from people – well I do not want a water treatment facility – well it is a tank yard and they are not really treating anything. Then the caller says, oh that is different. Garfield County is seeking to be more active in serving its role in safeguarding situations.

Commissioner Samson made a motion to close the public hearing. Commissioner Houpt seconded the motion.

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

Commissioner Houpt let everyone know that she is not able to support this application because of the immense use that would be created on this site. We have talked about contractor's yards in residential neighborhoods, this neighborhood has seen and will continue to see energy development, and now we are asking them living with a storage site that would hold up to 84 fracing tanks and use that could be huge when they are moving equipment. This kind of use belongs in a commercial or industrial setting, not in a rural residential setting. This is my motion to deny. The motion died for lack of a second.

Commissioner Samson – Couple of questions, in the exhibits, we received no letters from any neighbors within 200-feet of the property boundary.

Dusty – The noticing requirements requires a sign and public notification.

Commisisoner Samson – We received nothing in the way of any phone calls or anything from anyone that was in the neighborhood.

Dusty – Just one from Ms. Bracken.

Commissioner Houpt – Ms. Bracken is in the neighborhood and I received one phone call today.

Dusty – Looking at the map, in relation to the pad depicted in orange, the neighbors that are approximate to this site including Eubanks, Griffin, Moon, Walter and Rew. Dusty stated she had received no phone calls, no letters and no emails.

Commissioner Samson would hope EnCana would not be putting 84 tanks on this site. That is just a request.

Chairman Martin – If that is an issue it needs to be specified.

Commissioner Samson – Added Condition No. 21 that we do not exceed the physical capacity to the total jammed pack of 84 tanks, so I am saying the maximum number not to exceed 50 frac tanks. How large are these tanks?

Mark – Frac tanks are about 45 foot long, 8 foot tall, and 8 foot wide.

Commissioner Samson moved that we approve the land use change permit to the process of limited impact review to allow the installation operation and maintenance of the EnCana F11E storage facility for EnCana Oil and Gas with the 21 conditions provided by staff.

Chairman Houpt seconded for discussion.

Chairman Martin – That means you are leaving in the berms instead of taking the fence and you still want the permit in reference to disturb revegetate, put the berm in, haul the dirt in and that kind of stuff.

Commissioner Samson – No, I do not want that in there. I do not think that is necessary. I did not have that list of conditions.

Chairman Martin – You need to establish the bond in reference is \$2500 per acre.

Commissioner Samson – No one had a problem with that.

David – No.

Dusty - The dialogue on that was the amount of 3.12 acres was requested to exclude the surfaced area that was graveled and to recalculate.

Commissioner Samson – So I would say that we need to recalculate that – No. 18.

Chairman Martin – No. 19 is the one that is based on the site reclamation plan with all those calculations if you want to include those. No. 11 is also in reference to the berm and it is required.

Commissioner Samson – One at a time. No. 10 – Color with the approval of the staff. No. 11 – Berm – Leave the berm as is. No. 15 – Threshold of 3 ADT's per year based on calculation CDOT.

Dusty – It was presented and possibly, in the future at least any change that would trigger any impact would trigger a dialogue.

Chairman Martin – This is an active well at the present time and an approved pad and no traffic mitigation or limit on that so how can you separate the two activities. Will you rely on enforcement or the neighbors saying, way a minute there are three trucks already.

Commissioner Samson – Who is going to keep track of it? Then if we do we will run into which project is the activity related. Leave 15 as is. The argument that it would trigger a dialogue is okay. No. 17 – Barriers – Eliminate a and b and make c as the condition and not have an alphabet letter. No. 18 – Bond revegetation of \$2500 per acre – say per acre 3.12 acres. “The applicant shall provide a short term revegetation and that should be the security.”

Discussion on Condition No. 19 in relation to security continued. This is the first time a calculation has ever been recommended for 4% annual inflation rate over a period of 20 years.

Dusty stated this is the first time to put a regulation of this nature in place. We are trying to come up with reasonable consistent conditions that do the two things that are being lumped together earlier on. The attempt it to be more specifically directed in the conditions so it is better described in the conditions so that in the event that Garfield County has to pursue the security in the event the applicant goes away, it is clear in how it is stated. What it is, where it is, what it is supposed to do, what rate and how it legally relates to the requirements.

Chairman Martin – You are still collecting that money over a period of 20-years and the Treasurer keeps 1% of it. That is a bond and then you have the 4% interest that you are looking at; who will invest that, collect and keep it. It creates quite a few problems.

Dusty - That is a bonded security.

Commissioner Samson – If we approve this is it going to be standard language from now on; we cannot do this just for EnCana.

Chairman Martin – This Board has not had any discussion on this particular issue and the approach. Dusty said it has been with the planning department, engineering, vegetation management and legal staff. We need to be able to put that policy in place prior to proceeding to put it as a condition on an applicant. There has been no discussion; we have not seen the mathematics, the approach, etc.

Commissioner Houpt – If you think it is fair you can put it in there. We have had different levels of security on different types of projects; and, if in your best opinion this makes sense for this type of reclamation situation, then you can go with the staff's recommendation or change it.

Commissioner Samson – What amount of money are we talking about.

Chairman Martin – We must be careful because we have closed the public session and we cannot accept testimony. We have to rely on our staff to answer the questions.

Commissioner Samson – Are we talking about \$20,000 or \$200,000?

Dusty – I can say that the \$12,480 was probably inadequate and it was not stated in any of the kind of comment letter about what an estimate would be mainly because the regrading to a pre-disturbance condition was not identified.

Commissioner Houpt – It will depend upon the bids.

Chairman Martin – It also depends upon how much soil has to be hauled in to that berm and what the cost would be and then take the berm back out. Therefore, to reclaim your site is another cost and then on top of that which we create a huge expense because of that berm. The question is, is that the best approach.

Commissioner Houpt – If we require that berm to be taken out once vegetation is established I do not know why you would take it out.

Chairman Martin – The condition says they will take it out to go back to the pre-development site so therefore you are requiring them to take it back out. If there is an exception, it needs to be re-worded in your recommendations. It is up to this Board if that berm stays in place or removed. If so the adequate funds needs to be in place to revegetate it one-way or the other. This would be a different amount each way. This berm is causing me heartburn.

Dusty - Berming was an adequate responsible response as there is dirt on site and a dirt pit in existence. The berm is already partially constructed and one of the problems in putting up a fence to mitigate the visual impact to adjacent properties sometimes creates more of a visual adverse impact on its own. You are balancing between an industrial and residential use and trying to maintain the neighborhood character.

Chairman Martin – How are you going to get vegetation to grow on dirt without some kind of irrigation system to get it started? Are you going to rely on nature to keep it alive?

Dusty – Vegetation does not often require irrigation; there are wildland mixes used and I usually let Steve Anthony give the best direction on that issue.

Chairman Martin – You are going to have to haul that dirt somehow and you will have to spray it on and you will have to have water to get it growing. A berm and all that non-native soil that you are hauling in is coming from somewhere so then you will have to treat it as well. You have a pasture down below it so now you have an irrigated pasture with a hill in the middle.

Dusty – It was not my intent to add insult to injury in any response to this to have a reasonable response that provided the mechanism to mitigate the visual impacts. If the berm is thought by the Board to be too onerous then I would entertain a suggestion.

Commissioner Houpt – We have already discussed the berm.

Commissioner Samson – I would think most of the people there would like a more natural looking berm than a chain link fence.

Chairman Martin – The chain link fence would not be where the berm is located. It would be moved to a different area to mitigate the site, which is a long distance from any neighbor.

Commissioner Samson – Then I would assume that over a period of years there will be some natural vegetation on the berm and that the Board, which none of us will be here in twenty-years, will say, yes leave it there.

Chairman Martin – Then, you need to put that in your motion.

Commissioner Samson – No. 11 added, “To reduce the visual impact especially from residences near-by the earthen berms shall be increased by four vertical feet and does not have to be removed during reclamation.”

Chairman Martin – The statement in No. 19 in reference to the calculation “if it is stopped being used, the reclamation shall be initiated in 60-days and meet the requirements set forth in the reclamation plan,” which we have with the well pad and the other already in place.... “On the day of the land use change permit issued or the site reclaimed standards in place at the time of the use.” If it cost you more to re-do it that is what it will take but you need to have it in place. I am saying without the formula; we have done this many times. We need a discussion so that we can adopt this as a policy and put it in there as boilerplate language and the industry knows what will happen as well as everyone else in the land use business. This is the calculation, we will hide your place for your neighbors, and this is what it will cost you for a berm.

Commissioner Houpt – If we do not have an equation who will make the determination on the security.

Chairman Martin – It is premature to put this in this particular application when this Board has not had any input whatsoever.

Commissioner Houpt – We need to have some kind of recommendation.

Commissioner Samson – What have you done in the past?

Dusty - \$4,000 per acre has been the standard.

Commissioner Houpt does not believe it will be sufficient since what is already disturbed is not included and it will need to be reclaimed.

Chairman Martin – There should be a reclamation bond held in place by the state in reference to the pad that has already been disturbed. We are looking at the 3.12 acres of disturbance to get a bond.

Dusty – One of the things discussed and proposed by the applicant in the hearing was to come up with a bid amount and this could be with the satisfaction of the Garfield County Project Engineer.

Chairman Martin – You still have to claim a bond in your approach in reference to this one. The standard has been \$4,000 per acre. We have to rely on this Board sitting together and coming up with a new approach and using a justified formula and not just bring it out of the clear blue. I would like to see the reasoning behind it as well and why we would go ahead and put this in place.

Commissioner Samson – What do we do today?

Chairman Martin – You do the standard of \$4,000 per acre that is disturbed and not that of the oil and gas pad approved by the state. We need to stay consistent to what we have done in the past. Therefore, putting this on us to upgrade and work with our staff saying this is not working and we need to change the policy and approach. We have had this standard recommendation from Steve Anthony for years. We have had it in place and to just go ahead and change it for this applicant...

Dusty – It says “adequate” security.

Don – It does and this issue has only come up recently concerning vegetation because we have fixed periods that have not considered revegetation over a 20-year period. In terms of other subdivision improvements, those are fixed on one-year cycles. This is what you have done on a regular subdivision when you have security included in the SIA. You require the developer to come back at the end of the year and actually give you an engineer’s cost estimate. That rarely goes more than two-years. This is unusual but it is a problem because when you have a requirement in place for a 20-year time period, you have to make some account for the increased cost of those improvements or you will not have adequate security.

Dusty – This is why we have had this thoughtful dialogue trying to make it so the required security does what it is intended to do.

Chairman Martin – This is something to be decided by this Board. There is the standard formula in place that we are going to use and if we change that formula, then we will adopt it and put it into place.

Commissioner Samson – The point is if we approve it today with that condition does it bind us for everything else in the future. If that is not the case, is it fair to this applicant.

Commissioner Houpt believes it is because when you talked about this equation you were talking about the duration of the use.

Dusty – The condition was written by the engineer. We are trying to quantify in a reasonable way an undetermined future. What he was seeking was that the applicant provides an estimate of what they thought it would cost and then calculate it by the most standard rates adding a reasonable inflation rate because it is an extended length of time.

Chairman Martin – I can understand that but I still think we need to do that in-house and make our own calculations and not rely upon an applicant bringing it forward. We should have the engineering practices, estimates in house, and have discussion prior to making it a condition of approval. Work out the calculation, this Board adopting that and at least being convinced of this and then apply it. John did a good calculation the best possible. He is trying to make new ground and I applaud him. It is still not complete. I think it would be premature to make it a requirement today without our participating. Also the understanding that he needs to do the calculations. If that cost estimate – we have two other engineers and we need to look at that and is 4% of not. It might be 5% or 6% based on whatever information we have and then this Board makes that determination.

Commissioner Houpt realizes that the County does not end up reclaim things that are left. EnCana will more than likely reclaiming this and the security will be not be an issue and everything will be fine.

Commissioner Samson – I feel confident with that so with that being said, let’s leave it at \$4,000 per acre and then what are we going to have to do is have a land use change.

Chairman Martin – No, we need to have some kind of understanding, dialogue with the planning department, give them direction, look at John’s calculations, see if we accept it or not and make it part of our approval process and then send it out to say, this is our new policy.

Don – If the Board wants to make a binding policy incorporated in your code and have more flexibility you leave it in the workbook we have discussed and leave it for staff to make those alterations. This is not what Chairman Martin wants to do.

Commissioner Samson – Looking on the applicant’s side, I want to know the rules going into it. If I know what that is to be, then I know what to expect when I come for approval.

Commissioner Houpt – What I would like to see is something from the staff on where they want to go with this.

Commissioner Samson and Chairman Martin – Agreed.

Commissioner Samson – For this applicant we will do it as we have done in the past and then we need to have this worked out. Strike No. 19.

Dusty – Recommended “security to return the site to its predevelopment condition shall be provided by the applicant based on in the amount, strike “based” in the amount of \$4,000 per acre for 3.12 acres.

Chairman Martin – If it is to be returned to the predevelopment site because in the other one you said it was optional. You will remove the berm on your statement.

Dusty – The berm that exists there ...

Commissioner Samson – “Does not have to be removed.”

Dusty – Do you want to say something general like “reclaim the site?” As I understand it you wish to have in No. 19, “prior to the issuance of the permit, a security to reclaim the site shall be provided by the applicant in the amount of \$4,000 per acre for 3.12 acres.” Then you go down to the “if the use” and that stays the same. All that does is say what reclamation plans are in place and references them to the satisfaction of counsel.

Chairman Martin – You also added No. 21 and No. 22.

Commissioner Samson – We have a motion as amended.

Don – Did you add conditions No. 21 and No. 22?

Commissioner Samson – Yes. No. 22 – “no hazardous or industrial waste may be stored on site.”

Commissioner Houpt said she would not second the motion.

Chairman Martin – Second.

Commissioner Samson – This is the best we can do with what we have here.

Complete motion:

Commissioner Samson moved to approve a Land Use Change Permit through the process of a Limited Impact Review to allow the installation, operation and maintenance of the EnCana F11E Storage Facility for EnCana Oil & Gas (USA), Inc. with the 22 conditions provided by staff with the following changes: Condition No. 10 – “All permanently affixed equipment and structures shall be painted with non-reflective paint in colors approved on site by staff;” Condition No. 11 “To reduce the visual impact especially from residences nearby, the earthen berms shall be increased by four (4) vertical feet and do not have to be removed during reclamation;” Condition No. 17 “Prior to issuance of the permit, the applicant shall be required to provide adequate security to re-vegetate the site and cut slopes” – “(a) The applicant shall provide the Garfield County Planning Department Project Engineer revised construction drawings showing the appropriate buffer, and stipulate on the drawing that a construction fence to satisfy the fence recommendation in 7-201(c) will be placed along the buffer line to prevent equipment from entering the buffer area;” No. 18 – “The applicant shall provide a short term re-vegetation security of \$2500 per acre;” No. 19 – “Prior to the issuance of the permit, a security to reclaim the site shall be provided by the applicant in the amount of \$4,000 per acre for the 3.12 acres. If the use of the F11E Storage Facility is ended reclamation shall be initiated within 60-days and must meet the requirements set forth in the reclamation plan in place on the date the Land Use Change Permit issued, or site reclamation standards in place at the time of use cessation, whichever is more stringent. The reclamation standards at the date of permit are cited in Section 4.06, 4.07 and 4.08; of the Garfield County Weed Management Plan (Resolution #202-94);” add Condition No. 21 – “The maximum number of frac tanks shall be 50;” and add Condition No. 22 – “No hazardous or industrial waste may be stored at this facility.” Motion seconded by Chairman Martin.

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

ADJOURNMENT

Attest:

Chairman of the Board

AUGUST 17, 2009

**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 17, 2009 with Chairman John Martin and Commissioners Mike Samson present. Also present were County Manager Ed Green, 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. Commissioner Houpt was absent.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Kim Shriver passed out exhibits and explained what the 4H Youth Development has done. A few things that have taken place the fair, which was very productive and the outcomes were great. A few things they are trying to work on for the upcoming months; August kicks off the Colorado State Fair, which goes until the first week of September. They are working on some new things to get into the schools starting in September, October and November. National 4H week is from October 4 through the October 10 and then hopefully some holiday things with the kids. Pat McCarthy’s agriculture update; many tree visits, bug visits, just different pest problems within the Carbondale, New Castle, Rifle etc areas.

COUNTY MANAGER UPDATE – ED GREEN

REQUEST FOR APPROVAL OF THE 2010 HOLIDAY CALENDAR – KATHERINE ROSS

Annually the board determines what next year’s holiday calendar will be. She explained they do this early in the year to include this in the budget figures. In 2009 and sometimes in the past we have had a 1/2 day for Christmas Eve. In our forth coming policy it is listed as a typical; just as these are (referring to the handout of the holidays), but she has not included it on the calendar they have now. She did not know if the Board wanted it or not; her question is, because of when the holidays fall, in 2010, December 24 is actually a Friday. Do you want December 23 as a half day or let that go for 2010.

Commissioner Samson said he was wondering a couple of things; this coming year there are Fridays and Monday holidays. On Veterans Day is that a hassle to get the day off on Thursday and come back to work on Friday?

Katherine explained that what employees typically do is if they are going to take any holiday time during that period, they will take a PDO. She explained that many employees plan their vacation time, PDO time, around the holiday calendar. For example if she were going to see her relatives in Michigan it would be easier for her to go Thursday, Friday, Saturday and Sunday. It is a convenience for them as opposed to everyone disappearing.

Commissioner Samson asked; have we ever given off two days for Christmas and everyone answered yes, they did it last year.

Jean said the year before the holiday was Thursday and we had Friday.

Commissioner Samson said he does not know if it costs a lot of money; would it be appropriate to give them Thursday and Friday off and Ed stated it is not a significant amount. Commissioner Samson said he thought it would be nice to do that. He asked Katherine if it is really worth it for just a ½ day.

Katherine said as far as productivity goes; generally speaking, no.

Commissioner Samson said to give them both days.

Chairman Martin said as long as the public does not have the great outcry trying to get everything done before the end of the year.

Commissioner Samson said they would have the week after Christmas.

Chairman Martin said you run into January 1. He said it was fine with him; add the other one as suggested.

Commissioner Samson - I move to accept the 2010 holiday calendar with the change of adding also Thursday, December 23 as a day off.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

STAFF RECOMMENDATION TO AWARD A FIRM, FIXED PRICE CONTRACT IN THE AMOUNT OF \$199,879.00 TO GEOTRANS, INC. TO CONDUCT AND COMPLETE THE PHASE III HYDRO GEOLOGICAL CHARACTERIZATION OF THE MAMM CREEK AREA – KENT LONG

A request for proposals was advertised in the Post Independent and posted to the Rocky Mountain E-Purchasing System on July 29, and July 31, 2009. Three proposals were received and evaluated and staff is recommending the Board approve the award to GeoTrans, Inc.

Kent explained their process and the deadline to submit proposals was August 7. They concluded GeoTrans is the most advantageous offer for the County. They are in good standing to conduct business in Colorado.

Commissioner Samson asked; did you notice they are asking for \$199 Million, there is a mistake. I move we approve the amount not-to-exceed \$199,879.000 for the completion of Phase III Hydro Geological study of the Mamm Creek area.

Judy said the budget was actually tight; not all of the consultants she talked to would bid on it because there was too little money to do everything we wanted to do. She does have some more money in the budget for another consultant project this year so we may be back to have you for a supplement.

Chairman Martin – Second.

Don asked Judy, are we partnered with the Oil and Gas Commission in this study as we did in the past and Judy said they were not.

Chairman Martin said this is independent of that. He is glad that was clarified and stated we are doing 100% of this particular project.

In favor: Houpt – absent Samson – aye Martin – aye

Carolyn stated she had a question as it affects their workload. Under the scope of services of this contract, is the right to go onto private property something that is to be held by the BOCC, or is it to be held by the contractor.

What kind of property rights are we looking for, a perpetual easement or a license?

Judy stated perpetual easement.

Carolyn asked Judy to give her the scope of services. She asked who was going to be in charge of actually going out and negotiating this property right with the individual property.

Judy said she will be and she will get some drafts for Carolyn.

Carolyn asked, would these monitoring wells that will stay forever? Judy said yes.

STAFF RECOMMENDATION TO AWARD A FIRM, FIXED PRICE CONTRACT IN THE AMOUNT OF \$196,862.00 TO TYLER TECHNOLOGIES, TO COMPLETE THE COMPUTER SOFTWARE, CONVERSION, UPGRADE, DATA MIGRATION USING “EAGLEASSESSOR”, “EAGLEAPPRAISER” AND “EAGLETREASURER”; AND FOR INITIAL SOFTWARE LICENSING – KENT LONG

A request for proposals was advertised in the Post Independent on July 22, 2009 and posted to the Rocky Mountain E-Purchasing system on July 23, 2009 for computer conversion, upgrade and data migration services. One proposal was received and staff is recommending the Board approve the award to Tyler Technologies.

John Gorman explained this is software for the Treasurer and Assessor. This is upgrading a 15-year-old system, which will no longer be supported.

Commissioner Samson – I move to approve in an amount not-to-exceed \$96,862.00 to Tyler Technologies for the conversion upgrade of the computer systems for the Garfield County Assessor Appraiser and Treasurers Office.

Chairman Martin - Second.

John explained that this is the software they applied for and have received a grant of \$100,000.00.

In favor: Houpt – absent Samson – aye Martin - aye

SALARY INCREASE “POOL” FOR 2010 (CONTINUANCE) KATHERINE ROSS AND LISA DAWSON

Ed passed out documents to the Board. He stated as they recall they had asked them to put the salary increase pool on the agenda for discussion.

Katherine stated there is a one-page document that says 2010 Pay Projections and recommendations. She would like to review some things on that page. She looked at pay increase projections and the pay structure to see if it should move. Typically, they use Mountain States Employer Council Western Slope as their source of data. Mountain States Employers Council is a regional association to which we belong that provides very good compensation data for any of their studies. Things are unique and special this year due to the economic conditions. First, they did two projections because of the rapid change that had occurred. Secondly, because of the economic conditions, she also went deeper for additional data for the Board to look at. She took all of Colorado into consideration, she also took in the mode for Colorado; in other words the most common survey answer. There were several zeros this year; that has not occurred for several years. She also belongs to an association of compensation professionals; it is actually international called World at Work. They are world renowned for their studies so she provided their data as well so they would have a complete picture. It is hard to make predictions in these economic times. In the first box at the top, you have the original projections, which are typically done in the March, April and May timeframe, and the current projection is August. For the pay increase projections, she averaged them out for the Board. What she

would recommend for 2010; would not be a performance increase, but an across the board pay increase of up to 2%. One of the reasons she is recommending it as across the board; it is so much lower than what is typical for the last couple of years and the reaction by employees is within that. How employees take and how they view it. For the pay structure, she is recommending no change at all for 2010. The ranges would stay where they are and across the board employees who are eligible, and she has defined a bit of an eligibility requirement; they have to be active employees on January 1, 2010 for any type of increase.

Ed asked them to refer back to the document that Lisa and Theresa prepared for you. It is precipitated by the question; can we afford it? He thinks that analysis shows for 2010; yes indeed we can afford, roughly ½ million-dollar increase in cost for 2010. It is a little dicey for 2011 and we would have to review.

Chairman Martin said he noticed that the State is doing a hiring freeze and furloughs. Routt County is cutting people; took a 10% cut in pay over the board, Glenwood Springs is taking furloughs etc. etc.

Commissioner Samson said he thought most of the school districts RE1 and R2 both have freezes.

Chairman Martin is also seeing companies cut their benefit packages, insurance for families, its employee only insurance, layoffs and tremendous pullouts. He thinks they need to hold the line; keep our employees, they are a great asset to the county and taking care of our number one concern is the taxpayers. He thinks they can take the recommendation and live with it.

Commissioner Samson asked; the 2% increase.

Chairman Martin said actually no change in the structure itself and the other one is; he still thinks they need to hold that in abeyance. Hold the line there; put it in reserve and if they are able to go ahead and do that through our projections and revenue without injuring, then we can increase that throughout the year, if it is possible; but hold the line now.

Ed asked; so what you are saying is to set aside roughly ½ million dollars in the budget but do not distribute it within the salary structure.

Commissioner Samson asked when they would make that decision.

Ed said you could do it in December.

Chairman Martin thinks they need to see the final budget as well to see where they are going and Ed said it would be mid-December. Chairman Martin said they should put that into reserve and not actually put it in the line item. If they are able to distribute after the final budget numbers come through then they will announce that.

Lisa stated we do not have the contingency; what they could do is put the 2% in the wage line items, but continues the policy of a 0% increase. That way when you see the budget you would see it with a 2% increase and see what that looks like overall. However, because of our controls that we have in place no distributions would be allowed.

Chairman Martin said he thinks that is wise because we need to see how the rest of the economy is doing. See if we over extend ourselves in other areas; try to take care of employees but we have to take care of taxpayers as well. We are not cutting anything, we are not furloughing anyone; but we need to do our fair share through the economy as well.

Lisa said she wanted to clarify that it would not be technically; but it would be protected.

Commissioner Samson said he did not think they wanted to make any commitment at this time to give a 2% rise; he is not prepared to do that. Do we need a motion and Ed stated yes. Commissioner Samson asked; what terminology do we need.

Chairman Martin said we add 2% to our baseline and hold it without distribution for salaries.

Commissioner Samson – So moved.

Commissioner Martin – Second.

In favor: Hought – absent Samson – aye Martin – aye

RETREAT – ED GREEN

Ed explained that the Board had asked them to look into the prospect of having a facilitator for a retreat that the Board is contemplating. Ed said they have done some research and they have three names, and have attached an analysis for those facilitators. Their strengths and weaknesses and have given a resume of each one. Ed said they are thinking about where you would have this. Sleepy Cat is a privately owned facility; but he was thinking one that might be a good prospect is Gateway. .

Don said no matter where you decide to have it; it is still a meeting of the Board.

Ed said absolutely. Ed said you need to think about when you want to do this. There was discussion of early in September; but he does not think that will work. Ed went over the meetings they have scheduled. Ed said they could do September 16 and 17th.

Commissioner Samson said they would shoot for that and ask Commissioner Hought her schedule.

Ed said he would see what the availability is for conference rooms etc.

Katherine said they need feedback on preference for facilitators.

Ed said the Board would need to provide Katherine on which one makes the most sense and she can talk to you individually.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don has three items; litigation with Continental Rifle; Deb needs to provide advice on County Road 317 as well as legal advice for the item set this afternoon at 1:15 p.m.

Deb said one thing should be taken off the consent agenda; it is the Memorandum of Understanding with the Bureau of Land Management. There are a couple of corrections to that contract.

CONSENT AGENDA

- a. Approve Bills
- b. Changes to Prior Warrant Lists
- c. Authorize the Chairman to Sign the Amended Plat for Roaring Fork Mesa at Aspen Glen, Lots 20, 21 and 22 – Applicants; Beverly and Joe Forsman and Cynthia L. Johnson and Robert A. Johnson Revocable Trusts – Kathy Eastley
- d. Authorize the Chairman to Sign a Memorandum of Understanding with the United States Department of Interior, Bureau of Land Management, Authorizing Garfield County as a “Cooperating Agency” in Preparing the Draft and Final Environmental Impact Statement (EIS) for the Transwest Express Transmission Line Project – Kathy Eastley

- e. Authorize the Chairman to Sign the Second Amended Final Plat for Panorama Ranches, Homesteads 16 and 17 – Applicants; Edward and Judy Brown – Kathy Eastley

A motion was made by Commissioner Samson and seconded by Commissioner Second to approve the Consent Agenda Items a -e; deleting d, carried.

Deb stated on page two of the memorandum of understanding, paragraph 2, talks about authorities; the last cause of the sentence references some Wyoming Statutes. That portion should be stricken and in substitution put Section 29.1.201 at C, Colorado Revise Statutes.

Chairman Martin asked if they were citing regarding any of the 10th Circuit Appeals out of Wyoming.

Deb said no; this particular energy lines goes through Wyoming and she thinks it was based on Wyoming law. On page 4, under general provisions, Section 9B applicable law should be the State of Colorado instead of Wyoming.

Chairman Martin asked; with those corrections do we have a motion to approve.

Commissioner Samson so moved.

In favor: Houpt – absent Samson – aye Martin – aye

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

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

Action Taken:

Don asked that Miss. Quinn state the nature of the action she would like the Board to consider.

Deb said she would like to request that the Board modify the previous direction or approval it gave for a road construction agreement for construction of proposed County Road 317A to allow the Chair to sign the original agreements with the Exhibit D, the task schedule now in place, but without the subordination agreement in place. That modifies the previous direction that both those items had to be in place.

Commissioner Samson - So moved.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

Chairman Martin announced that Kathleen Curry would not be here today. That is removed from the agenda and they will try to reschedule.

HUMAN SERVICES COMMISSION

PRESENTATION OF 2010 HUMAN SERVICES GRANTS – GRANT COMMITTEE

Jane McCallor, Citizen Representative on the Human Services Commission and serves on the Human Services Commission Grant Allocation Committee. She is here today to present the recommendations of the Human Service Commission. She informed the Board that the committee members are Kay Vasilakis (Chair), Tresi Houpt, Ed Green, Donna Ward (Garfield County Human Services), Laura Little (Garfield County Public Health), and Tish Phillips (Citizen Representative) and herself.

A list of the 2010 Human Services Grants was presented to the Board along with amounts for each applicant to receive. The committee reached their decisions as follows:

- ✓ Critical agencies that serve the most basic needs received their 2009 level of funding.
- ✓ The majority of the requests received a 30% reduction from the 2009 level of funding.
- ✓ Those with a large increase in funding requests from 2008 to 2009 were reduced by another \$1,000.00.
- ✓ Agencies that have not requested an increase over the past several years received the full 2009 level of funding.

Jane explained they met on July 21 and received information on the money is available; this is based on the sales tax resolution. This year they had \$504,500.00 and they had 39 applicants requesting in the amount of \$989,650.00. This is approximately a 30% decrease in sales tax and corresponding grant monies available. In 2009, they were able to disburse almost \$700,000.00. At the time of the committee meeting, there was uncertainty of the status of the contingency fund; they were unable to address that. However, just prior to the Human Service Commission meeting, it was determined there was \$109,000.00 in the Human Service Commission contingency fund. They have not been able to consider those at the committee meeting; so they presented all of this information to the commission at the meeting on the 9th. She gave a hand out for the grant awards this year. This was presented to the Human Service Commission; there was an opportunity for discussion and then there was a vote taken. The entire commission; except for one individual abstained, the representative from Mountain Valley, and the rest of the commission voted to accept the recommendations as given to the Board. In addition, to continue the \$109,000.00 in a contingency fund, that would be available for emergencies during the year, or if not disbursed rolled over into the grant amount available for next year. The agencies were certainly very concerned this year. Their funding from all sources decreased in this time of need. Their client numbers are drastically increasing. Just to give you a sense of the concern among the Human Service Agencies; there is a regional meeting next month and it consists of Garfield County, Eagle and Pitkin counties, and they have labeled the meeting; Surveying the Winter. She is asking the Board to consider the recommendations from the Human Service Commission.

Chairman Martin thinks it is still a wise choice to put that \$109,000.00 to the side and try to make it through the year by doing that.

Commissioner Samson said he noticed on here that Mountain Valley Development requested \$75,000.00 and none was granted and then you have your comments there. Bruce is here and he is assuming he wants to talk about this. Commissioner Samson just wanted to make sure that was noted. He looked at this and he just wanted to say thank you for being a person who spends countless hours doing what you do. He stated it is tough we cannot help more people in more ways and he wonders what next year will be like.

Jane said that is why she wanted to make note of the concern of the agencies.

Chairman Martin said you could also remind them that he knows the challenge is greater and greater; but when we first started, we had \$289,000.00 and there was a \$700,000.00 request. I hope that we will see an increase next year.

Jane said this is an odd year because the last 2 years it was a very different story.

Commissioner Samson asked if it would be appropriate for Bruce to come forward at this time.

Bruce Christensen said obviously he is a little distressed that Mountain Valley, which has historically been one of the core Human Services organization in Garfield County, is being recommended for total elimination of funding. He would add a number of years ago, before either of you were on the commission, the County had no money for Human Services and a bunch of them worked to pass a sales tax, which created this fund. He includes himself as

one of the people who worked very hard for that to happen. This fund was created for basic assistance to organizations, local match and other things to keep the non-profits able to continue to provide services within the County. His concern is he feels very strongly that the recommendation for elimination of funding for Mountain Valley is based on either misinformation or misunderstanding. He has talked with several members of the committee and as you can see in the notes, one of the items is we are not taking advantage of this year's funding. That is not true; we have billed the County twice, we are in desperate need of that funding. However, they are in negotiation with the County Attorney and he thinks successful negotiation over the language of a contract agreement. He has also been told that the members of the grant committee, again he wasn't there so he doesn't know, had been advised that the County could not provide funding for Mountain Valley because they have refused to sign the Amendment 54 amendment to their contract. Again, that is not true; they have been in productive negotiations with the County Attorney, and our attorney, about the insertion of one simple sentence and a slight revision that Don DeFord had recommended to that contract amendment. He said their fear had been, and as you know you can't contractually waive constitutional rights, and they do not want to do that. They are very concerned about language of Amendment 54 however; if it is ruled constitutional; obviously we all have to abide by it. He said their request was that there be one sentence inserted that says this amendment shall be invalid if Amendment 54 is ruled unconstitutional. From what he read in the newspaper, the Board discussed this at the last meeting and chose not to do that. He fears that if the County is unwilling to insert that sentence then he feels his fear is validated, because the only reason you would not insert that statement is that you do want it to be a waiver of constitutional rights through a contract. For example, they would already be in violation of that contract; one of our members of our Board of Directors sent a \$1,000 donation to Scott McInnis a few weeks ago. That would be a violation of the contract if it were a contractual amendment. He would like to point out that he works with many governments, their organization does, and Garfield County is the only County that is requesting an amendment of this kind of contract. He certainly is not in a position to tell you what to do or not to do; but he is concerned that this has not been found to be necessary by the other municipalities and counties that they work with. Again he has this concern if we cannot clarify the intent, then they are in a bad position. With regards for the need for the money and harm that will come to Garfield County citizens, if we do receive no funding they received a \$200,000.00 cut in their budget last year for one of their programs and they received an additional \$300,000.00 in cuts this year. Tomorrow, every indication he has is that the Governor is going to eliminate another one of their programs to the tune of about \$300,000.00. That one specifically helps people with disabilities who are living in their homes in Garfield County. They would have used the funds that the County had provided to us to help offset that. They have asked for increases from other counties; he has had a favorable response from Pitkin County, obviously they won't be able to use Pitkin County's funds to help people in Garfield, so if they receive no funding there will be a differential in service between what people in Eagle, Pitkin and Lake County get versus what people get in Garfield. It seems to him that our request to change the contract amendment language is not unreasonable. All they are asking is that the constitutional rights of our administrative people and our board of directors, their families, their families third cousins, first wives and all of these things that are spelled out in that amendment, not be waived if in fact the amendment is found unconstitutional. Last thing that concerned him somewhat, when he talked to the member of the committee, there is an injunction barring enforcement of this amendment right now. They do understand and agree with Don that this is an appealable item, but there is question whether or not it is even legal to attempt to enforce Amendment 54 right now. Finally about discretionary grants being sole source contract he thinks the fact that, right now, the County is considering not awarding one single penny to his organization, shows that it is not a sole source contract that is non-competitive. It is clearly, if you have the right to deny, the funding then this probably does not apply at all; but anyway he would like to appeal to the Commissioners, and they have their contact with Don's office attempted to do. This is not something they are asking the Board to decide today; but if it were not resolved, they would like the opportunity to talk to the Board about the proposed adjustment to the language at your first meeting in September. He wanted to be on the record today as saying they are extremely distressed by this action. It is going to cause harm to citizens of Garfield County and it seems that it is something, and he wrote to all three commissioners about a month ago, asking for the opportunity to talk about this. He thinks it is something that if we can discuss we can fix. Chairman Martin said the only discussion they had was that they had to be fair to everyone. What it amounts to is that although the other folks who requested money were able to comply with the Amendment 54 request the Board is still waiting for Bruce to do so they can forward that money to them. The only reason the Board is saying that is because the Denver District Court, in Chairman Martin's opinion, they cannot say it is unconstitutional, in his opinion the Court of Appeals or the Supreme Court deem it unconstitutional. It's the same court that overruled Amendment 41 and so we have uneasy feelings about the Denver District Court dealing with the Fire Fighters Union and a couple of other folks that were there. We are very well aware that the money goes for great uses. By the way, Bruce he said he was there too, he got elected the same year and helped pass that particular issue; but again the Board is just trying to be fair. If everyone else went through it we need you to go through it, then we can get that money to you.

Bruce stated he needed to counter that; because that is not what we are asking and he thinks Chairman Martin has duped everyone else. He said all they have asked, and are asking, is that you put a provision in the amendment; not only for us, but everyone else that says this is not a contractual waiver of constitution rights and that amendment to the contract is null and void should a court ruled it unconstitutional. If you do not do that then we have no other recourse than to assume you want us to waive our rights. There is no argument that can be made opposite to what he is saying. If you put that in there we will sign it; if you won't then they will assume that you are asking for a contractual waiver of constitutional rights, and we can't sign that and he would certainly then think that you are really putting everyone else, who has signed it, in grave jeopardy. However, that is your opinion and he has his. It is not the first time we have disagreed although we both know we do agree occasionally.

Chairman Martin said they do agree on many things but this is one the voters put in place and he is trying to live up to that. Unfortunately, it is an unseen consequence of what is happening. It was not intended to do this; it was intended for something very different and unfortunately if we have a contract for services of any kind it become...for that.

Don wanted to address Bruce's comments regarding communications with Don. Because his comments are correct, Don had discussions last week with the council for Mountain Valley and subsequent to those discussions received a letter from their attorney laying out their position in writing as he had asked them to do. He has not forwarded the letter to the Board at this point. Don received it very late Wednesday; there was not time to get this into your

packets. When Don talked with the attorney, they were to put this on the agenda for September 8. In the discussion with the attorney, he recognized that the discussion Don had with the Board did not include Mountain Valley or council and it was appropriate that they should present their own position to the Board. That will occur as part of Don's time and he will give the Board a cover memorandum with that as well. Just a real quick summary; Don thinks Bruce's comments are accurate about the letter. It lays out really two positions; one is to put qualifying language in the contract regarding the existing injunction and the second is a position that with or without that language this is not a sole source contract.

Bruce said they are not even saying that it is; all they are asking is, should it not be and ruled constitutional and those conditions still apply.

Don agreed. One other thing he wanted to state; because it will be on the agenda. Given the direction of the Board on this issue, the current language that does not have the qualifier will be include in all contracts this year, not only should Mountain Valley be involved; but other Human Service agencies as well. This was done last year and there was compliance and execution of that amendment by virtually all of the agencies. Since that date, we do have this decision out of the Denver District Court. Don does not know what the position of the various agencies will be next year. Be aware of that and it will be discussed on the 8th.

Bruce said he will be here and asked if he should ask the attorney to come up.

Don said it would be helpful.

Jane said she would like to mention, since Bruce referred to the grant allocation committee; this took a great deal of discussion, they were assisted by County representatives, and they have, as a committee a great deal of respect for Mountain Valley and Bruce. They felt caught in the middle and therefore the decision was made.

Chairman Martin stated, "As do we". We have a recommendation in front of us to award as outlined on our sheet for distribution for 2010.

Commissioner Samson asked if they needed to do this today, or should they wait until the discussion concerning Mountain Valley on the 8th, or should we go ahead with this and if we need to change things on the 8th we could do that at that time.

Don said this is kind of a process issue as well. From Don's prospective there is no need to make the decision today; but he is not the one who has to get the contracts prepared and out. That falls to Linda Morcom and Don is not sure if it leaves enough time.

Linda Morcom said she could still do it with a 3-week delay. The objective is to get the contracts out, signed, back in, signed here and attested before the end of the year. She felt she would still have time to do that.

Chairman Martin said it would have to go back for reallocation; it will be longer than a month.

Jane stated; and returned to the Human Service Commission.

Chairman Martin said that is your option; continue it, start from scratch with the amount of money.

Ed explained they have the \$109,000.00 in the carry over.

Linda said that of course would be at the Human Services Commissions discretion.

Chairman Martin said that would be their decision to allocate; not ours.

Ed said that would mean Linda could go ahead with her work and we would deal with the anomaly later.

Linda said if they decided to start from scratch; the dollars would change. She really cannot mail the first one until the final decision on all of them is made.

Jane said she can only speak for herself; she said she is a member of the committee and therefore she is also a member of the Human Service Commission, and she would want to only speak toward the issue that in her opinion it would need to go back to grant allocation committee. Certainly meetings could be called; but it would need to go back to the grant allocation committee, a determination would need to be made at that level, and then that would need to be taken back to the Human Service Commission for approval, or not, of the recommendation and then brought back to the Board.

Commissioner Samson asked if there was enough time to do that.

Jane stated it is not; it is actually Linda and Ed that would be addressing that.

Linda said it would make the end of the process late. How important that is, is another thing.

Bruce said he would like to offer a suggestion. Our intent certainly is not to cause difficulty for the other entities or the Board. His suggestion would be, and he is comfortable making this as offer on behalf of our organization. He suggests them going ahead and accepting the grants as proposed and should we be able to work out this contract language issue and then you decide we are eligible for consideration for funding, we would be more than willing for that recommendation along with whatever additional funds you have to go back to the Human Services Commission. In addition, should they choose to allocate part of that to us - great? If they have a reason, they do not want to and they want to give it to someone else; at least we feel like the process has been handled appropriately. If you are comfortable, with approving their request at this time with the understanding, there may be a supplemental appropriation available to them; then they will make their appeal to them.

Commissioner Samson – I move we approve the grant allocations as recommended by the Human Services Commission for a total amount \$504,500.00.

Chairman Martin – Second. Understand Bruce's predicament and ours as well.

Jane asked if the \$109,000.00 needed to be referred to.

Chairman Martin asked if they were allocating that out and not everyone answered no, so therefore we do not need to. It will be held in reserve.

Don wanted to give a quick correction; it should be \$504,529.00.

In favor: Hought – absent Samson – aye Martin – aye

**CONSIDER DENIAL OF THE PRELIMINARY PLAN EXTENSION (RESOLUTION 2009-51) AND
DECLARE DEFAULT ON THE LETTER OF CREDIT FOR VALLEY VIEW COMMONS
SUBDIVISION – APPLICANT; DARTER LLC – DEB QUINN**

David Smith and Terry Lawrence (President, Grace Homes) were present.

Deb provided exhibits for the Board. Exhibit A – Resolution 2009-51, Conditional Approval of Valley View Commons Extension to file final plat; Exhibit B – Resolution 2008-72, Conditional Approval of Valley View Commons Preliminary Plan; Exhibit C – Letter from Chris Hale of Mountain Cross Engineering, Inc., dated August 12, 2009; Exhibit D – Garfield County Land Use Resolution of 2008, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000 and Exhibit F – Staff Memorandum.

On Monday, May 19, 2009, the Board approved the preliminary plan for Valley View Commons Subdivision (Resolution 2008-72). This preliminary plan approval with conditions entailed subdividing the 7.9-acre property in Battlement Mesa into 4 lots to accommodate 56 residential multi-family dwelling units and potential future self-storage units. This approval provided the applicant, Darter, LLC, 1 year to file a final plat application, which was to expire on May 19, 2009. On May 11, 2009, the BOCC approved a conditional 1-year extension. On July 13, 2009, the Board heard a request from the applicant to extend the deadline to complete the LOC extension and site stabilization from July 15, 2009 to August 12, 2009, which was granted by the Board under resolution 2009-51. Staff recommended a deadline no later than August 12, 2009 to allow staff time to bring this matter to the Board on August 17, 2009 should the LOC not be extended by this date. The current LOC expires on September 4, 2009. As of August 11, 2009, Staff has not received an extended LOC as required by resolution 2009-51 for the subject property or other satisfactory security. In additions, staff has not received evidence that the site stabilization requirements have all been completed. The current LOC expires on September 4, 2009 and staff is recommending moving forward to draw on the LOC if necessary to bring the site back to its original contour as well as to re-vegetate and stabilize the site. As the conditions of approval have not been satisfied prior to the August 12, 2009 deadline outlined in resolution 2009-51, staff is recommending the Board deny the requested preliminary plan extension and declare default on the LOC in the amount of \$106,000.00.

Deb stated that staff requested this be brought before the Board to authorize the Chair to take whatever actions are necessary to declare the default on the letter of credit, go forward, and collect on that. Background: Darter LLC did come in, in May and requested an extension of their preliminary plan; we agreed to that. They came back and requested the dates be changed; we agreed to that. Deb said they made the language in the resolution pretty specific because of various time lines. There are two issues before you today; one relates to the language in paragraph 3 of the resolution this Board passed in July Resolution 2009-51. It indicated in paragraph 3 that prior to August 12, which was last Wednesday, which was the deadline for packet materials. Of 2009, the applicant had to complete one of the following, and should neither of the below be completed prior to August 12, 2009 the preliminary plan shall expire, no further extensions etc. Neither of those two options listed on that resolution were completed by August 12. The second item that is of concern is with respect to number 4 of the resolution; which says the subject property shall be immediately hibernated in accordance with the following provisions. That also did not happen; there was some discussion with staff members and the applicant about delaying the receipting portion of those hibernation conditions until the end of the first week of September. Staff did not have a problem with that; but we felt it was not up to us to re-interpret what the Board meant by immediately, since that had carried over from the prior resolution as well and the extension time was granted at the request of the applicant. Deb said their position today is; if we can resolve the issue with the letter of credit, they do not have a problem amending the resolution to reflect recending to occur by September 4, 2009. Where they stand with the letter of credit, as the resolution exists now, their preliminary plan has expired. Deb said they do not have a problem with the Board amending that in light of the specific language of the letter of credit, what that letter of credit says; the letter of credit will expire and be replaced by a subdivision improvement agreement as approved for final construction upon acceptance by Garfield County. This work must be completed by August 30, 2009 before this letter of credit can be exercised and called on by Garfield County. What that means is, even with authority from the Board today, we could not actually present this letter of credit for default in collection prior to August 30, 2009. The next business day after that is August 31, 2009 two weeks from today. What they are recommending is that the Board goes ahead and authorize the Chair to take whatever actions are necessary to collect the existing letter of credit on August 31, 2009, unless prior to that time we have that letter withdrawn and a new letter of credit extending the time period for one year, in hand. They have had some discussion with the bank that will be extending this. Apparently their loan committee did meet, everything is done except for the signature on the dotted line; but since we don't have that piece of paper in hand we don't want to run the risk that this letter of credit will expire by its own terms without us collecting. What she is asking the Board is to authorize the Chair to take the actions necessary to declare the default, or to sign off on the letter of credit, on the back, saying that we endorse it and request collection on August 31, 2009 unless that letter of credit has been extended prior to that date. In addition, that we amend the resolution to reflect that so that their preliminary plan does not expire even though it already has, we would agree to an amendment to reflect the August 31 date, and the September 4 date for the completion of their hibernation procedures.

David said Debbie accurately summed up the issues. He wanted to give just a little more background. On the fire and recending issue in June, after the original extension was granted, Grace Homes went out to do the work to hibernate the site. Obviously, there are some issues over what the term immediately means. During the process, their landscapers came to them and said; you can reseed now, but you will have to do it again in the fall given the moisture conditions that exist. At that point, in June, Grace Homes sent an e-mail to the County staff and explained this is the recommendation; is this okay way to proceed. Steve Anthony replied that was a smart way to proceed in order to make sure the reseeding actually takes rather than spending your time and money to do it now only to have it fail again in a couple of months. Based on that representation Grace scheduled the reseeding to occur later on. Over a month later, Grace sent another e-mail to County staff saying we are coming up on our deadlines they wanted to make sure the County staff was satisfied with the status of the site. Both John Niewoehner and Steve Anthony replied and said yes everything is looking good and they agreed to extend the reseeding until at that point it was early September and then Steve Anthony agreed to extend it to early October. That is when, unfortunately, legal and planning jumped in and said wait that is not what we believe the resolution says. Those extensions should not have been told to you by County staff because that is not the deal you had with the BOCC. We are back before you to clarify that issue specifically and request the extension in the fall in order to do that reseeding work. The second issue on the letter of credit; he was before the Board and expressed reservations about how bad the lending environment is. It has proved to be that bad; although they did find out last Thursday that the loan committee, on this letter of credit, did agree to extend the letter of credit. They do not have a copy of it yet as Debbie mentioned. He thinks under the circumstances he can understand why she wants to proceed the way she does. They are hoping to have that signed, on the dotted line within the next week and present it to you for review and approval. Then what they would like to do is get a resolution back on the consent or the regular agenda. They would ask for a longer period than September 3 fourth under the circumstances since it is already mid-August and they have to get everything scheduled and moving.

Commissioner Samson said if he understands correctly; if you get the letter of credit and you will get the letter of credit, that is not going to be a problem and that takes care of your Attorneys concern.

Deb said yes; but the Board does not meet again until September 8 and this existing letter of credit expires September 4; they would like authorization for the Chair to endorse the letter of credit that currently exists. Unless a new substitute letter of credit, extending for one year has been received.

Commissioner Samson asked the applicant if they had that set-up right.

Terry stated yes they do. He is a very experienced developer in and probably one of the few remaining in Western Colorado. He still has about 8 or 9 different sub-divisions scattered throughout, from Montrose, Rangle, Garfield County and Grand Junction. We always take care of what we are supposed to take care of. They have a 6-year record of accomplishment of developing and building in Garfield County up at that particular project. True the lending environment has changed and it has shut down 2 or 3 of his projects. They are actively looking for new lenders right now for that project; because he still believes there is a demand and need for affordable housing, under \$200,000.00 in Garfield County. Their goal was to build \$140,000 to 150,000.00 townhomes in that particular project to meet the affordable housing need here. Except for a small amount of outstanding debt with the bank, they only owe \$200,000.00 and some on a piece of land that is worth at least \$1 million; even based upon today's market. There is equity there; they are not walking away from it. They did everything the County asked them to do; but he has done a lot of native grass seeding in that particular project over the years and he always asks Steve Anthony for his advice. He knows exactly what will grow, how it will grow and when it will grow, and they have always followed that even on previous reseeding projects they have done in the County. When Steve said, it made more sense to do it in the fall so it could naturally get more moisture and have a real good growth over the winter months that made a lot of sense. We have to watch our nickels, and pennies, and our costs to take care of that site until next spring. Then the weeds grew during the hot July month and now they are taking care of all the weeds and spraying. When you do that, you cannot spray or seed right away or you will kill all the seed you just sprayed because you just took care of the weed problem. Just this week they took care of all the weed problems and spray so he needs at least, comfortably, 30 to 45 days to seed or he will have a problem. The other issue is; this letter of credit was very difficult to pull out of this bank and to be honest, he has argued with his engineers and some of the staff engineers every since they came up with this \$106,000 letter of credit. However, since it got to this point because they are all dealing in all these details now, he just went out to get bids last week and he can follow it up with hard copy bids, that he will have his engineer review. He will send it to the County Engineer to review; but the real cost to restore that site, to include all seeding, all the dirt work; which is all that was done. It was scraped and it was rough graded, so to restore that to its original condition is about \$53,000 to \$54,000.00 per the estimates he is getting. Instead he is having to go crazy over a \$106,000.00 letter of credit. So he is just asking for a little understanding and grace; he needs at least 45 days to seed that correctly to fulfill that letter of agreement. All the other work that was in there they have done. The letter of credit; once the bank signs it, over this week he will present it to the County staff.

Chuck Hall, Battlement Mesa Service Association. The point he would like to make is that there is a requirement within open spaces within the PUD for those areas to be maintained 6 inches or less. He will say, up until the first time he noticed, there has been some cutting of weeds within the area they are making reference to, and he hopes if the seeding doesn't happen, they continue to maintain the 6 inches or less within the area.

Commissioner Samson said he does not think this is a major problem. He thinks they can give Darter 45 days.

Commissioner Samson is willing to extend....

Chairman Martin said there is the letter of credit; you will give them a continuance until the 8th or the 14th of September to present their letter of credit at which time they will extend the growing season etc.

Terry said the 14th just in case of the Labor Day holiday but he thinks he will probably have it this week.

Chairman Martin said they want to make sure there is plenty of time. We will also have consideration for the seeding period. He knows that the soil conservation folks say, please do not seed and grow things in the middle of summer. It does not work; wait until spring or fall to do reseeding.

Deb wanted to clarify what the Board is doing; you are giving him until what date?

Commissioner Samson stated September 14.

Deb asked September 14 to reseed as well as get a new letter of credit.

Chairman Martin said to have his letter of credit in place by then; prior to that and the 14th we will have the seeding program and the date certain approved by Mr. Anthony.

Commissioner Samson does not think he has to reseed by the 14th.

Terry stated by October 1 would be perfect.

Commissioner Samson stated October 1 for the actual reseeding and....

Terry explained he has already paid the contractor and he is ready to go

Chairman Martin explained that does not relieve the other responsibility for the weeds by the Association.

Deb said she just wants to understand the consequences if they do not have a letter of credit by September 14. His preliminary plan extension is no good.

Commissioner Samson stated null and void.

Deb asked null and void.

Chairman Martin said through the motion.

Deb said she wanted them to understand in the interim the existing letter of credit is going to expire and you will have no security. Just so you are aware.

Terry stated this is truly a \$50,000.00 problem not \$100,000.00.

Chairman Martin said it is the taxpayers we need to take care of as well as Battlement Mesa.

Terry said he would be more than happy to put the land up for collateral for all this too to make everyone feel better.

Chairman Martin did not think that was necessary.

Commissioner Samson asked do we have the motion or do I need to restate.

Chairman Martin said that you are extending it to the 14th or.

Commissioner Samson said extend the letter of credit until September 14 which you will present to us at that time or before and that you will have the reseeding completed by October 1.

Deb stated there is one correction in your motion; you cannot extend the letter of credit; but you are extending the time in which they have to come forward with a new letter of credit.

Commissioner Samson said he would extend the letter of credit and present it to us.

Deb said correct; otherwise, the preliminary plan extension expires and is null and void.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

Board of Human Services

APPROVAL OF EBT/EFT DISBURSEMENTS FOR JULY, 2009 LYNN RENICK

For the month of July 2009, client and provider disbursements for allocated programs, totaled \$288,599.51. Client benefits for Food Assistance totaled \$410,151.71 for a grand total of \$698,751.22. Lynn is requesting the Boards approval and signature on their certification summary.

Commissioner Samson – So moved.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE SFY10 CORE SERVICE PLAN – LYNN RENICK

Garfield County's total allocation is \$274,651.00, which represents approximately a \$4,000.00 increase from last year's Core allocation. The four county (Garfield, Eagle, Pitkin, and Summit) Mental Health and Substance Abuse Services allocations remain the same at \$169,998.00 (\$132,498.00 Mental Health; \$37,500.00 Substance Abuse). Garfield County will continue to be the fiscal agent for the regional funds.

Lynn said she is not sure if they will want to go forward with authorization or approval on signing this. This was received very late and because of the State budget issues going on; everything is being delayed and it is due back in by September 11. It is not complete; it will be about ¼ of an inch thick when we do get it completed. She is looking forward to their direction; however, we do this every year. The bottom line they are requesting is within the plan, \$444,649.00 to be extended and has that has to be in certain categories. It is clear-cut. Their problem right now is because they have additional funding streams; they have to figure out percentages of staff time. It is not going to change the categories of the services they provide. There may be slight changes to the percentages. They are requesting either signature authorization or approval or they could bring it back on September 8 if you prefer.

Commissioner Samson –I move we authorize the Chair to sign the Core Services Plan.

Commissioner Martin – Second; understanding there are adjustments to be made.

In favor: Houpt – absent Samson – aye Martin – aye

CONSIDERATION AND APPROVAL OF THE INTERGOVERNMENTAL AGREEMENT WITH COLORADO MOUNTAIN COLLEGE FOR JOB SEARCH AND READINESS ACTIVITIES – LYNN RENICK

This IGA is to provide job search and job readiness activities/training and American Reinvestment and Recovery Act monies will fund the program. The IGA is in a not-to-exceed amount of \$70,869.00. Services will be provided to eligible residents at or below 200% Federal poverty guidelines. Funds must be expended by the end of September 2010.

Carolyn said they made sure to get the Board the scope of services. That tells you how the money will be used and how the State and County money will be used in the program. Carolyn created the contract itself based on the form that she and Lynn developed for TANF money. Carolyn passed out the first couple of pages of that; it is not in final form yet, but they are hoping the Board will be willing to grant signature authority on this, just to show you that it is those annoying details. It is the same kind of language you are used to seeing but the reference, instead of to the TANF Federal and State Statutes as a reference to the Federal ARRA and community services block grant money. The only other differences in your usual TANF form or the differences in the reporting requirements, under the ARRA, and most of that is covered in the scope of services. The form-funding paragraph, the appropriation paragraph, says we have appropriated money through December 2009; it will refer specifically to the receipt of the ARRA money through the DOLA contract. Then it has your standard language about other State and local money. The scribbling is to incorporate the DOLA contract into this contract. Again, if you do not want to approve this without seeing it we can accept that. Carolyn said they are hoping, based on the scope of services and knowing this is otherwise a from TANF contract you will authorize the Chair to sign the contract.

Chairman Martin stated these are important programs and it is his philosophy that the recovery act is the wrong way to go about it, plus all the strings attached, plus the requirements and the cost actually to the county to administer these things with no reward. It is an unfunded mandate and too many strings attached for him to follow. He is afraid it will be pulled back out somehow.

Commissioner Samson – I move we approve the IGA with CMC for job search and readiness activities in an amount not-to-exceed \$70,869.00 and the Chair be authorized to sign.

Chairman Martin – Second. One question the undocumented or the guest visa, they are also accepted under the job search.

Carolyn and Lynn stated no. Lynn explained that in the scope of services there is an affidavit of legal residency, so it is under the Federal guidelines.

Chairman Martin stated; under the Federal guidelines of a guest visa, a guest visa would work.

Carolyn said she did not know because she did not know immigration laws.

Chairman Martin said that the real issue was in reference to the applications; yes, but they may be here legally, but they may be living here only under a timeline of 11 months and then have to leave.

Lynn said she is not sure that is the case; the 3 categories, they are either a United States Citizen, permanent resident or lawfully present in the United States pursuant to Federal Law.

Commissioner Samson added; lawfully present would include someone who has a work visa.

Carolyn said but not a guest visa.

Chairman Martin said it depends; if a guest visa they are not entitled to work, that would have to be very specific on that visa otherwise they would not be eligible. Second noting there could be abuses to that.

In favor: Houpt – absent Samson – aye Martin - aye

CONSIDERATION AND APPROVAL FOR THE SFY10 CONTRACT WITH THE COLORADO DEPARTMENT OF HUMAN SERVICES FOR IMPLEMENTATION OF THE PROMOTING RESPONSIBLE FATHERHOOD PROGRAM – LYNN RENICK

The department will provide services to non-custodial parents, especially fathers; the goal of the program is to form healthy parental relationships. This is the third year of a Federal Grant with the term of the contract being October 1, 2009 through September 30, 2010. The contract is in an amount not-to-exceed \$35,000.00 and the Boards signature is required. This does require Board approval and signature.

Commissioner Samson – I move we approve the SFY10 Contract with Colorado Department of Human Services for implementation and promoting responsible fatherhood program.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

CONSIDERATION AND APPROVAL OF A 3-MONTH CONTRACT EXTENSION FOR STORM KING CASE MANAGEMENT SERVICES WITH COMMUNITY HEALTH INITIATIVES, INC. – LYNN RENICK

The department is requesting consideration and approval on this contract to extend start-up costs for the substance abuse case management program in the not-to-exceed amount of \$60,000.00 from July 1, 2009 through September 30, 2009. The program serves TANF eligible families with drug and/or alcohol issues in Garfield County.

Beginning in October, the plan is to transition to a fee structure for the addictions case management services. This is a new program and has been a very positive program. Asking for 3 month start-up extension in the amount of \$60,000.00 and they are in the process of beginning negotiations with them for a fee for services fee. That is why Lynn is asking only for the extension through September 30, 2009. Lynn is waiting for the program report and she may have them come to do presentation next month.

Chairman Martin asked Commissioner Samson if he approved.

Commissioner Samson stated yes.

Chairman Martin - Second.

In favor: Houpt –absent Samson – aye Martin - aye

PROGRAM UPDATES

- Closeout financial information from the State has not been received.
- On August 24, County Departments are scheduled to have a phone conference with Karen Beye and other CDHS staff to outline budget reductions by the State Human Services Department.

Lynn stated that August 24 Governor Ritter was scheduled to present budget reductions to each Joint Budget Commission; it is moved up to tomorrow. There is a phone conference tomorrow afternoon with the Executive Director of Colorado Department of Human Services and they will have a better idea about some of the impacts that will hit Human Services. They are still waiting for closeout.

Chairman Martin stated they would have to brace themselves that we will have to pick up a whole lot of programs that were going to continue, and then make some tough decisions, especially into next year's budget.

Commissioner Samson asked how many people are fulltime in her department.

Lynn said they have about 95 positions but not necessarily fulltime. They have chosen not to fill a few of those positions and they will be eliminating a couple of those positions for next year.

Commissioner Samson explained he is trying to get a handle on things for 2010 and 2011, and he continues to hear things are cut. He is wondering what Lynn's staff will look like with so many cuts. He does not want people to lose jobs; but if there are no funds to disburse, then he does not know if there is a need for those individuals and those jobs. Next year will be rough for Lynn and 2011 might be even rougher.

Lynn said there are layers and layers of answers to that question. The program allocations are very isolated and they cannot take some and move them over to others. They have to see which areas will be cut. In the mean time; for an example, in our County Administration line, which covers all of our eligibility staff as well as their administrative staff, they may get a \$50,000.00 cut in that allocation; however they have to serve the same number plus that population.

Ed Green stated their workload would be going up.

Lynn said they are waiting to hear; will a specific program be eliminated at the State level, it then impact caseloads. Then they will have to look at reallocating staff or what they need to do. There is also Senate Bill 177, which is the omnibus bill, which is the TANF spend down bill. They are taking another 20% spend down on those reserves next year. They have another program that is totally funded by that, so they are waiting for closeout so they can determine how they can maintain that particular program, at least through 2010. It is very complicated and they have to have all the information before they can consider; they are absolutely trying their best, and she is not anticipating, today, any kind of reduction in force. However, it depends on what they hear over the next several days. There are some other things out there; there is a lot of conversation at the State level regarding administrative structural change. Right now, they are a State supervised county administered system. They are hearing there are many recommendations that might impact that going to the Governor. She said it would not happen in 2010; but in the next 2 to 5 years, there could be a significant change.

Chairman Martin said the programs do not actually go away; it is the funding for the programs that go away. That goes back again to the unfunded mandate that you have to continue to take care of the citizens and we are sharing that responsibility, now we take all of the responsibility and the funding. That is where we earn our salt on priorities and how we deal with our budget process in the next four months.

Ed said it would eat into the reserves. Ed wanted to put out another budget issue, which related to Lynn and Mary both. The motor pool; he would like to get rid of the Priuses because they are not practical in the winter and going over the passes. That has become a real problem for Lynn and her staff. He would like; they have met the year requirements, but not the mileage and he thinks they will bring a good return as far as trade-ins. He thinks they will need to get at least one Escape to replace the three. They may be able to use some of the trucks coming off the Sheriffs. They will work to limit the number they actually have to buy.

Mary stated they needed to go into the Board of Health

Chairman Martin – So moved.

Commissioner Samson – Second.

In favor: Houpt –absent Samson – aye Martin - aye

BOARD OF HEALTH

CDPHE WIC CONTRACT – MARY MEISNER

This amendment is for the renewal term of August 10, 2009 through and including august 9, 2010. The maximum amount payable by the State for the work to be performed by the contractor during this renewal term is \$61,637.00 for an amended total financial obligation of the State of \$84,471.00. Mary stated this is actually an increase in their contract dollars over last year of \$55,727.00. They also had an increase of 23% in their net caseload. This brings the total contract dollars from October 1, 2009 to September 30, 2010 to \$268,889.00.

Chairman Martin asked; you want to approve the contract increase.

Mary stated; and the supplemental food program to pregnant woman.

Commissioner Samson – So moved.

Chairman Martin – Second.

In favor: Houpt – absent Samson – aye Martin - aye

CDPHE EPR CONTRACT – MARY MEISNER

This is the Emergency Preparedness contract, which runs from August 2009 through August 2010. This is also an increase in contract dollars over last year of \$38,803.00. The total contract amount is \$61,637.00; there were two amounts, and one of them totaled \$61,637.00. The first contract amount is the CORE EPR contract of \$38,006.00 and the second contract is our H1N1 Activities for 2009 and 2010 which \$23,631.00.

Chairman Martin stated; the request is to approve the award of \$38,006.00.

Commissioner Samson – So moved.

Chairman Martin –Second.

In favor: Houpt – aye Samson – aye Martin – aye

Carolyn wanted to point out a mistake the State made. The signature block on the WIC is correct; it says BOCC a political subdivision of the State for the use and benefit of the Public Health Agency; this is the correct way to say it. The other one says the Garfield County Public Health Agency as a political subdivision of the State, which it is not, but it will not matter because the Statute overrides anyway. Carolyn said to Mary; when you talk to your contract administrative, would she please point this out.

H1N1 UPDATE – MARY MEISNER

Yvonne Long, Nurse Manager and EPR lead. Yvonne submitted a report labeled Garfield County Public Health Agency Situation Report. Yvonne explained this is a report she put out for her agency as they go about planning. One of the things they are concentrating on right now is back to school. They are trying to prepare the schools to expect H1N1 flu to be present. It has been present all summer long in camps and such; Duke University started back today and half their football team has H1N1. There have been 7,500 hospitalized cases in the United States with over 477 deaths; but the CDC and the World Health Organization does report that. Between April and June of this year there have been over 1 million cases of H1N1 flu just in the United States alone. They are still working on trying to get the H1N1 flu vaccine ready; it is in the test mode right now, going through trials and they hope to have that released by late October, early November. They are working on doing their normal flu season; they usually start vaccinating mid-October. They have shifted that to September 15 to vaccinate seniors, both in Glenwood and Rifle. On the 16th they will vaccinate the seniors in Parachute and Battlement Mesa. They are trying to get the bulk of their vaccines done in September to pave the road for those H1N1's that will hopefully come in late October or early November. They are planning now with Grand River Hospital, Valley View Hospital, Mountain Family, Medical Services etc. It is going to be administered to priority groups; the groups the CDC has sent out is pregnant woman first, health care workers and first responders second, household of infants under the age of 6 months, and daycare workers. Yvonne continued to explain the ages and explained they will tier that down. The whole age group of pre-school and school age children they are looking at gathering all of their forces; they sent out flyers for volunteer nurses to go with them. They are going to attack the schools in mass and get as many kids as possible. They hope to accomplish that within a two-day period.

Chairman Martin asked; the seniors and the risk seniors are up there on the top priority.

Yvonne said they are not for the H1N1, which seems odd because all of the past years the flu campaigning they have done, we want our seniors covered. However, the H1N1 seems that the seniors are not as susceptible to this as children are. They found back in the 60's and early 70's most of the flu circulating was an H1N1 type; so for instance when she was a little kid, she had some type of H1N1 and therefore they are showing that is carrying forth a little bit of antibodies and resistance to this new flu. They do not seem to be as affected; they are not the ones getting as sick as the young kids do. They are not even recommended to get this shot at this point; even if there is a ton of it. So far, the government is saying when the H1N1 is available; we are not to charge for it.

Chairman Martin asked which government.

Yvonne said the Federal government. What that means; they are not sure that they keep talking about administrative reimbursement rates for those private providers for the public. They will continue to put out press releases.

Chairman Martin - Move to come out of the Board of Health

Commissioner Samson – So moved.

Chairman Martin – Second.

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

AFFORDABLE HOUSING – GENEVA POWELL

Katherine Crosup, Calvin Lee and Geneva Powell were present.

Geneva explained the Garfield County Housing Authority wanted to let the Board know they were moving forward in applying for the 2009 affordable housing guidelines to home that were built previously. The main impact of this will be to increase the income caps permitted for qualified buyers. This will bring existing units into the three categories established by the 2009 Guidelines and create diversity for buyers in the program. They feel this will bring greater success to the county's program. They have units build at Blue Creek under the guidelines prior to the 2009 new guidelines. They are finding that some of those units, built under the old guidelines, were priced high on the initial sale to meet the income category they were targeting. They have had a hard time reselling those units and most recently they had two qualified buyers and in the end, they could not obtain the financing. It was the ratio of what the mortgage was and the amount of income they allowed the family. They looked at what they might be able to do and they looked at the deed restriction with that property and had both their attorney and the County Attorney review this. It looked like the deed restriction would allow us to implement the 2009 regulations on these existing units on the resale. They would be able to set the income category to match what the price of that unit is. That is what they want to do and they just wanted to bring to the Board as a matter of public record since it is your program; this is what we intend to do if you okay this.

Calvin explained what happened in the Blue Creek units, when they were originally sold the guidelines in effect made it so the only buyers that could qualify were people making 80% of the medium income. The Housing Authority thought that original guideline had to apply forever, for every resale. If it did apply, it was limiting the number of people who could qualify and in fact only two people qualified and then they could not get the financing. They called Calvin and asked; how can we get the new guidelines for 2009 if we applied those guidelines then people in the 100% medium could qualify and then we broadened the number of potential buyers that could apply for this. He looked at all the documents to see if we could put that into effect and not have the original apply. Everyone of these affordable housing units, the Board has to sign and the original developer has to sign the master deed restriction and on page 5, okay subsection 3.7, it states that prior to owner entering into a sales contract, for the

sale of his unit to a prospective buyer, such potential buyer shall be qualified by GCHA pursuant to the requirements of affordable housing regulations then in effect. Calvin's interpretation of affordable housing regulations then in effect is the new regulations. It doesn't make sense to interpret it as the old or whatever the regulations were in effect at the time the original sale took place; the first sale. The economics changed and due to that, the Board may change the affordable housing regulations and it makes no sense to tie it to the original guidelines. Therefore; in all the affordable housing units this master deed restriction applies and what they are saying, on behalf of the Housing Authority, would like to apprise you of the fact that we are interpreting that language to mean that for all sales now and in the future, the 2009 guidelines will apply rather than whatever was in effect at the time the original sale took place. They have talked to Deb Quinn and she has reviewed Calvin's legal analysis and agrees. Chairman Martin said he agrees. Calvin was on the original team they put together for affordable housing and coming up with the formula. Chairman Martin thinks that keeping them empty, or not being able to be resold is a travesty. He thinks the approach is acceptable to him to get those units used by the qualified people. Deb stated that she concurs with Mr. Lees analysis, the deed restriction is pretty clear that the purchaser needs to be qualified in accordance with guidelines in effect at the time of the qualifications. Chairman Martin said that would fall upon this Board to acknowledge that change and formula based upon the 2009 language, regulations, and all the other issues. The form of a motion would be to understand that. Deb said a motion is not necessary; it the interruption of the language as it currently exists and has already been approved by this Board in the past.

UPDATE OF THE 2009 LEGISLATION REPORT – REPRESENTATIVE KATHLEEN CURRY

Pulled from the agenda Kathleen not able to be here and she will reschedule for another time.

CITIZENS NOT ON THE AGENDA

Cheryl Hawkins, 6471 County Road 117, Glenwood Springs. She had sent the commissioners information on the Double Value Program and explained this was started on the east coast through a foundation called Wholesome Wave Foundation. It launched this Double Value Coupon initiative as a way to link local farmers to low income families. She is on the board of the Tuesday downtown farmers market and this last year, with the help of Alpine Bank; they were able to set-up the EBT program for food stamps and debit cards. They also have the WIC representative there, every Tuesday from 5:00 to 7:00 with WIC vouchers. It has been successful; the WIC program has been doing about \$60.00 on average for the market. The EBT's they have not had any come through yet; but they are ready and able to do it. A couple of weeks ago she read about this double value coupon initiative and they would like to start it at the Tuesday market. She checked with the people who first started the initiative and their funding is done locally and they suggested either private funding or through the City and she thought it would be best to come to the County instead. There are currently five farmers markets in the County and she thinks they are the only ones now taking the EBT's and the WIC vouchers. She said they would like to do more with the senior program also. How this programs works, it is a double value system. When someone comes and buys \$10.00 worth of EBT's, they would match that with another \$10.00 so they get the double value for EBT or WIC vouchers. A lot of the produce at the farmers market is a little higher end than at the grocery store; being mostly organic and small farms from the area. She decided to come to the Board; they only have 7 markets left in the season but they thought if they could get a start and see how a double value program would work for those 7 and look at it again for 2010. They estimated for \$60.00 per week on average with seven markets. That would be \$480.00 of matching funds maybe taking in \$120.00 of the WIC vouchers, and possible start to build on the EBT program and the senior program. They made an estimate of matching funds of \$1,500.00 to finish the season. That might be too high. We thought if there were any left they could roll it into next season. If it were too low, they would run it until they use it up for this season. If there were nothing left, double value would start again next year.

Chairman Martin explained to help her out, he took this WIC program to Mary Meisner and they started thinking about it and felt it was a worthwhile program. Not only does it put fresh produce into the hands of people who are eligible; but it also serves as an outing for the family having difficulty or a need to get out and do something different. So far, he thinks it has proven out very well. A couple of other counties are trying the same program this year. He thinks they are on to something to allow the WIC program to flourish and to fulfill that need of family ties, family values, getting out and doing things together. It's a challenge for them to find anything; but it's better for them to pick the food they will eat, at the farmers market, then to just give them an EBT which is an electronic transfer, and go to the grocery store and buy whatever they want; junk food. He is always behind the program that is going to put fresh produce in front of the kids and people who really need it. The request out of the discretionary fund is for \$1,500.00 and he suggests they consider this. Chairman Martin said if we have the money in our discretionary fund, we transfer the \$1,500.00 to the WIC voucher program and we use those through the double coupons.

Commissioner Samson- Second.

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

CONSIDERER AN APPLICATION FOR A TAKINGS DETERMINATION PURSUANT TO ARTICLE12, SECTION 12-107 OF THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED – THIS DETERMINATION IS REQUESTED DUE TO A NOTICE OF ANTICIPATED ENFORCEMENT REGARDING TWO GAS WELLS, GV 82-5 AND PA 41-6, LOCATED WITHIN THE BATTLEMENT MESA PUD AND WHICH HAVE NOT OBTAINED SPECIAL USE PERMITS REQUIRED BY THE PUD ZONING – APPLICANT; WILLIAMS PRODUCTION RMT COMPANY – KATHY EASTLEY

Jim Borgel, Attorney at Holland and Hart, Scott Brady, Williams Drilling Supervisor, and Ann Lanes, William's in house counsel were present.

Kathy submitted the following exhibits:

Exhibit A – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B – Application; Exhibit C – Staff Memorandum; Exhibit D – Notice of Anticipated Enforcement; Exhibit E – Resolution 82-121; Exhibit F – Resolution 79-132; Exhibit G – Zoning Code of 1978; Exhibit H – Pre-application conference Summary Form for review process related to Extraction/Processing in Battlement Mesa PUD (with attachments); Exhibit I – Memorandum of Surface Use Agreement (Recorded 10/31/2007) at Reception #736468); Exhibit J – Surface Use Agreement, dated August 6, 1990 (Recorded 7/8/09 at Reception #548481); Exhibit K – Letter from Battlement Mesa Service Association, dated August 17, 2009.

Williams entered the following exhibits into record:

Williams Exhibit 1- Actual oil and gas leases, listed in Exhibit B of the takings application; Williams Exhibit 2 – Surface use agreements, including the 2007 as well as amendment (supplement to I & J) and Williams Exhibit 2; Williams Exhibit 3- Letter from Netherland, Sewell & Associates, Inc., signed by Dan Smith, analysis done on the two pads in question; Williams Exhibit 4 – copies of the APD's associated with these wells including the proposed drilling in the future, 16 additional wells; Exhibit 5 – Historical recap of the Williams pads located within the Battlement Mesa PUD; Exhibit 6 – Parachute Field GV82-5 Location Map, dated August 17, 2009 and Exhibits 7 and 8 are actual photographs.

Chairman Martin swore in the speakers.

Kathy Eastley explained:

The Garfield County Code Enforcement Office issued Notice of Anticipated Enforcement on August 7, 2009 to Williams Production RMT Company (as mineral lessee) and Battlement Mesa Land Investments (a surface owner) for extraction and processing of natural resources for two gas well pads, GV 82-5 and PA 41-9, on lands within the Battlement Mesa PUD. On August 10, 2009, Williams Production RMT Company submitted an application for a Takings Determination related to the Notice of Anticipated Enforcement. Battlement Mesa Land Investments submitted its application for a Takings Determination, but without any supporting documentation on August 12, 2009. This hearing is only for the Williams application. The PUD zoning requires a special use permit for extraction and processing of natural resources within all sub-zones in the PUD. The County has not received application for, nor issued, special use permits for either of these sites. The land on which the violation occurs is identified as tax parcel #2407-081-00-152, which encompasses 1,248.873 acres within the PUD boundaries.

Staff Recommendation:

A takings cannot be determined if other administrative remedies have not been exhausted, therefore staff recommends the Board direct Williams Production RMT Company to obtain the required Land Use Change Permits for the existing well pads, GV 82-5 and PA 41-9. As with other violations that have occurred in the County, staff would recommend that we allow the violation to continue if the applicant, in good faith and compliant with code requirements, submits technically complete applications for Land Use Permits for these sites within 30 days of this takings hearing. Staff recommends the Board: 1. Establish hearing dates as follows, Planning Commissioner, October 14, 2009 and Board of County Commissioners on November 1, 2009. 2. Require the applicant to be responsible for the cost of notification for the above-required public hearings.

Notice of Violation for these sites shall be issued if applicants are not submitted to – and determined to be complete by – the County within 30 days of this hearing – or if the applicant does not obtain the necessary permits prior to December 1, 2009. The 30-day timeframe for submittal of a complete application is extremely short given the County would have to receive the application and supplemental materials; review all of the submittal documentation, and if not complete the applicant would have to resubmit all for a determination of a complete application within 30 days. Staff recommends the Board adhere to the tight timeframe due to the existence of the violation. Williams met with staff on August 7, 2009 and discussed County requirements and processes, as well as having received a copy of the Exhibit H; which was the summary provided to Antero regarding the special use permit process. That meeting may be considered to satisfy the pre-application conference for the Williams applications.

Jim wanted Kathy Eastley's map left up for reference. Initially they would like to protest the application of the use by special review requirement that is contained in the code. As it applies to GV 82-5 and the PA 41-9 well sites. As staff mentioned both of these pads are far out on the perimeter of the Battlement Mesa PUD. They do not contest that they are within the boundary of the PUD. However, they are far out on the boundary and are not anywhere near any of the developed areas within Battlement Mesa. The key point is that both of these pads had been in production for a number of years. The GV 82-5 pad has been in production for approximately 9 years. The PA 41-9 pad has been in production for approximately 19 years. Jim said he had the numbers reversed; but the point is that they have both been in existence for a long time. They both have been active for a long time and throughout that period of time Williams was never informed or aware of the fact that the special use permit requirement, in the Battlement Mesa PUD document, was in existence. He does not believe the County really understood it was in existence either. He stated it was really a mutual mistake is one way to put it. These are critical pads; they produce from a number of leases. Williams has approximately 80 leases that are produced through these pads and as we introduced the oil and gas leases, those are significant property rights on Williams's part and they are significantly valuable. Williams has immediate plans to bring a new rig onto the 82-5 pad within the next several weeks. Williams operate the pad under the terms of the surface use agreement with Battlement Mesa; which requires they actually start production of these 16 new wells prior to September of this year. They are also required, under the terms of the surface use agreements to complete the construction/installation of those wells by March 2010. From their standpoint, if they are required to comply with the special use permit process, they'll be delayed and perhaps be in breach of the terms of their surface use agreement, and they could lose their ability to produce from those wells, or lose the rights to the surface to produce from those wells. One of the exhibits he introduced was the letter from the consultant. As he mentioned they have looked at the reserves that are represented by the leases. They are produced from these pads and the reserves are significant; they are economical feasible to be developed and if Williams is prevented from developing these pads, continuing to use these pads for oil and gas development; it will be a significant economic burden on their part. Since this is a takings hearing they wanted to talk a little bit about the legal aspects of some of their objections. Williams believes that the APD's that have been issued, with respect to the wells on both pads, constitute a vested property right. They have been issued under State Law; the Colorado Oil and Gas Conservation Commission have issued them. The County was involved in the process particularly with respect to the wells that are intended to be drilled in the next several months. Those permits were issued in late 2008 and the County was actually involved as a referral agency. This special use permit process was never brought to their attention during that process. They feel that the County was involved in the issuance of those permits and Williams relied on issuance of those permits even though they have not started drilling. They have actually started some production activities and it has been a substantial expense to Williams in reliance upon the issuance of those permits. They also feel there are issues with respect to pre-emption here. The State has a significant oil and gas code and oil and gas regulations. He stated he is not telling anyone anything they do not know. The activities on the pad are heavily regulated by the State and they believe the efforts of the County to regulate those activities on the pad, by the special review process, are pre-empted by State Law. With respect to staff's comment about final action; they certainly recognize that it is the case; in general, the takings analysis requires a final determination of administrative decision

before you can pursue a takings claim. However, there are also cases out there that recognize in certain instances that a final determination is not necessarily required. Here where Williams would suffer significant damages if a notice of violation were issued tomorrow and they received a notice to cease and desist their activities on the pad; they would suffer damages at that point in time. This requires an immediate remedy really in order to allow Williams to proceed and allow the County to respect the property rights Williams has. They appreciate the staff's efforts to recognize that these are legitimate issues that Williams has and that they are willing to allow us to proceed presuming they do submit an application under the USR process within the next 30 days and complete the process within the time schedule spelling out in the staff report. They are willing to proceed, under the staff's recommendation, with one request; the time frames they believe are a bit aggressive. This is sort of a different animal than your typical major impact review. They have not figured out the rules for what needs to be in the application. This is something they have not done before; it is not the same type of application they would normally go through on a major impact review process. Staff has been accommodating; in fact, they are going to try to get together this afternoon to talk about what needs to be in application for USR. However, they are a little concerned about being able to submit the application within 30 days, simply because it has to be a complete application within 30 days from the date of this hearing. They do not want to miss that date. They are asking that the Board consider modifying the staff's recommendation so they could have an additional 30 days for a total of 60 days to submit the application. On the backend, they would like to have an additional 60 days to go through the process. That would extend the deadline roughly to 60 days for a complete application from today, and to roughly January 1, 2010 for a final decision.

Chairman Martin said that would be in front of the planning commission or are you looking from the Board.

Jim said it would actually be the final decision by the Board of County Commissioners; would be the outside date.

Commissioner Samson asked; you want to go before the planning commission instead of October 14 when.

Jim said they did not calculate those dates.

Commissioner Samson asked you want 60 days from today to turn in the application to staff.

Jim said to turn in a complete application to staff; which means they would really need to, under the current staff recommendation, they would need to get something within 15 to 20 days from today. Just because you need that back and forth with staff to make sure it is complete. They want 60 days to have a complete application. In terms of scheduling the planning commission and the Board of County Commissioners meeting, they are willing to sit down with staff and talk about dates. Jim said they have a couple of William's representatives here today making sure he is correct and did not mis-speak.

Scott entered Exhibit 5, a time log from the first time they worked inside the PUD until now. He also entered Exhibit 6, a map where he pointed out locations on this map. Scott stated he was mostly going to talk about the physical aspects that are going on. The time log shows they have been there for many years. Scott has been there since 1985; but the first time they worked within the PUD was 1990, after they created a surface agreement with Battlement Mesa. The pad, located on the map is the 82-5 location and he showed the PA 41-9 on the map. They drilled on the 82-5 in 1990 and then left coming back several years later and drilled in 1994, they drilled a well on the same pad. He stated they never knew about the special use permit need in there. Obviously, until now or until recently they did not realize that. The earlier years, when they drilled on this pad, they accessed up the Battlement Parkway and came up from Parachute across the river and around on County Road 309; which starts (he pointed out on the map the route). Eventually to get to the 82-5 they extended a road (shown on the map). The existing pad is platted for 2.27-acres; it was actually a little bit less than that. At presently it is right around 2-acres, 1.85 to 2-acres. It is platted for the fourth visit at 2.27-acres to be able to drill the additional 16 wells. The rig that was there previously was a conventional drilling rig; it was much louder, less efficient, much smokier than the present type of drilling rig they use today. A lot of you folks have seen and heard and read about our efficiency rigs that they are really proud of. Those rigs are what make them capable of drilling the additional 16 locations off that pad. These rigs are half as quiet as original conventional drilling rigs that they had to start with. As far as he knows, as far as the drilling even though they had a surface use agreement, he doesn't recall ever having a complaint relative to a rig being on the 82-5 pad. It is very inconspicuous relative to anything on the Mesa because they are at river level. Ground level for the location is at 5,104 feet. The golf course is at 5,280 plus or minus a few feet. The closest resident; he indicated a house on the map, is at 1,225 to 1,250 feet from the location. The closest public road would be 309, which is over 2,000 feet. They potentially want to drill 16 more wells from that pad. He stated he needed to make a correction to some of you folks where he made a statement in their last visit. There wasn't any production facilities on location, there wasn't planned to be; he said he misspoke, and he had understood that the production guys were going to put their production facilities on the next pad, but in fact the plan is for production facilities on site. There will be five quad units, which is obviously five units of a set of four in each unit of production facilities. There will be 3-300 barrel tanks, oil and/or water tanks. That equipment will be on site; but what he also said in that last discussion is they would frac from a remote frac site (showed on map) which would put some of their heaviest traffic, during the completion operations, even further away. The facility they would actually pump the water from would be clear up here (showing map) on Ed's property. They would pump from there down to the frac site and ultimately over to the well pad. Reclamation, after they get the 16 wells drilled on the pad, they would be approximately 160 days; from the time they start drilling until they finish. Within that period, after the drill the first 4 or 5 wells, then the completion guys would come and start another operation where they would actually be completing wells the same time they are drilling. That would usually enhance their overall timeframe. However, after they drill those 16 wells and the drilling rig leaves, they would still need an additional 60 to 70 days to finish the completion of those wells. That puts us into the 200 to 230 day range he thinks, if they started today. Access would be from I-70, where they can get to I-70 in several places, they would go to the Rulison Bridge to 323 and south on the highway where 309 intersects 323 and access all the way through 309 over to a turnoff. They would do all their access there, drilling completion, production; not to say there is not already oil and gas traffic up the Battlement Parkway, but they would route everything, for the drilling completion of these wells, through the Rulison Bridge access area. Major obstacles, should they not be able to get to that point, obviously they had to start preparing another location. It was not on the drilling schedule to be visited immediately. It was one they had the ability to pick and be able to be prepped in case they were not able to go here. As this was on the schedule, and they had an agreement with Battlement Partners to visit this site early; those production facilities that are needed there are already installed or just getting finished installed. Another words, they are already there, we have made that investment because at the time they anticipated they would be able to go there. Therefore, the facilities, everything

is there and he does not believe there have been any complaints or discussion about what has been going on down there. The rig was actually scheduled initially showing up to this 82-5 pad within a week to 10 days from now. Obviously to be able to fit within the surface use agreement that we have with Battlement; they obviously need to be there. He does not know if they will even make it by then their surface agreement runs out March 1, 2010. If we were allowed to go there right away, this would be their last visit, never to return other than water haul or tank oil type hauling in. Potentially a work over from time to time; which would constitute a smaller work over rate. Scott passed out actual photos; different angles of the pad site relative to the entrance road, from north of the river off the interstate. Just to give you an idea of the difference of the elevation in the Battlement PUD up on the Mesa. Not necessarily relative to the bottom of the hill at the river level. Exhibit 8, the fence in the foreground would be the Battlement Mesa fence line, which is slightly in front of the location that is the edge of the PUD. This fence is the entrance to that location and above that, up on the Mesa, the trees are such that you cannot see the golf course; but the golf course is immediately behind those trees. The original location he showed on another photo; he said they obviously negotiated something different from that.

Ann Lane, Senior Counsel for Williams. They first learned about this issue about 2-3 weeks ago when Deb Quinn called her and mentioned that she was concerned that they may have locations within the Battlement Mesa PUD. She immediately contacted everyone; it was the first time they realized there maybe any issue here and that there was this requirement under the Battlement Mesa PUD with respect to having a special use permit. She wanted to make a few comments; as Scott has said, we have been to GV 82-5 pad four times. The first two times they did not have an obligation, a requirement under the COGCC rules to notify the County. But the third time they did, obviously, send a notice to Garfield County at the same time they submitted their applications for the Oil and Gas Conservation Commission, as well as the applications that were submitted in 2008 with respect to these last 16 wells. They did notify the County at the same time they sent the permits into COGCC. On the other pad, which is the PA 41-9, they have two wells there, the first drilled in 1990, and the second well was drilled in 2006. At this time, they do not have any plans to return to that pad in their drilling schedule, which is over the next couple of years. After that, they may be going back to that pad as well. With respect to the surface use agreements, she put on the application for the takings hearing the memorandum that is of record in the County with respect to our surface use agreement. That is the agreement that they entered into with Battlement Mesa Partners with respect to the obligation that they need to be in there by September 1 and out by March 2010. They have no other ability to go in after that under the existing surface use agreement. Finally, she wanted to state, there are about 79 leases between these two tracts they have for the minerals. One tract has 35 leases, the other has 42 leases, all but one, she believes, are beyond their primary term. With respect to the wells in the 41-9, they do hold those leases. She cannot say for sure with respect to section 5; but she believes there may be leases that do hold those. Having that production is critical to them to be able to use their vested oil and gas rights.

Chairman Martin stated he had a few questions on the actual construction of the pad before 1990. Did you go about a permitting process at that time and who did you go with. Again, the rules have changed since '96 it seems like for the oil and gas industry. Do you remember or have documentation on who gave you the authority to go ahead and build those pads?

Ann stated they would have had a surface use agreement from Battlement Mesa and they would have had an application from the Colorado Oil and Gas Conservation Commission.

Deb Quinn stated; in connection with your statement that the existing wells hold the leases, can you explain what that means?

Ann explained under their oil and gas leases a lot of them are from a prior vintage; typically the primary term is 3-5 to perhaps 10 years, depending on the particular lease, the leases were entered into in 1990. At the time they drilled the original well they were beyond the primary term, so the only way they are held, and they have the rights is by production on the oil and gas lease.

Deb asked; the leases will be held by continuing production on the wells that are already there and Ann stated yes. Bill Nelson, Chairman Battlement Mesa Oil and Gas Committee. He has written a letter to the Commissioners and brought it by hand; he will submit after reading. He read, "This committee met on August 12, 2009 to consider the matter of Williams Production RMT Companies non-compliance with County regulations concerning permitting of oil and gas activities within the Battlement Mesa PUD. It is a fact that Williams' drilling activities have been taking place within the PUD for many years, with the first complete well being drilled in 1994. It is also a fact that the vast majority of the residents were very unaware of these activities. However, Williams has always operated in an unobtrusive manner with a high degree of concern for the welfare of those residents. Furthermore, Williams has consistently employed operational best practices and displayed exemplary environmental stewardship. Accordingly, since Williams drilling pads are already in place and are located in areas that create virtually no adverse impacts on the community, this Committee has agreed unanimously not to file any protest to Williams' request for an expedited favorable resolution to this situation by the Board".

Commissioner Samson asked Bill how many are on his Board.

Bill replied they had seven members.

Jake Mall said if Williams had indeed put money toward the road system on 309 and 301. In 1998 they did rebuild 301 all the way from the PA 41-9 all the way back to Battlement Mesa. The lower GV 82-5; they had a lot of trouble with the springs; he and Scott got together and they rebuilt that road clear out to 301 and repaved it. In 2007, they completely rebuilt everything; 323, 309 all the way to the Rulison Interchange clear to the Battlement Parkway that cost \$1.318 million dollars. The numbers prior to that were probably in excess of a couple hundred thousand. Chairman Martin asked if he had anything written down in reference to the roads and Jake said he would send it in an e-mail.

Kathy Eastley said she had a final comment. So much has been said about the surface use agreement from 1990; however there is a provision in that surface use agreement that is entitled special use permits and that the bearer at that time shall provide copies of all applications for special use permits for operations within the Battlement Mesa, or within ½ mile of the boundary thereof when such applications are filed in Garfield County, Colorado. Therefore, it would appear there was some knowledge of the requirement.

Chairman Martin asked the applicants if they purchased Barrett and Ann stated that was correct. Chairman Martin asked when they purchased Barrett and Ann stated 2001. Chairman Martin said that disclosure should have been in the documents at that time.

Ann said they certainly did have the surface use agreement.

Deb Quinn said in connection with the timeline, she was able to talk to counsel a bit prior to the hearing. She thinks that staff's concern is that the special use permit process through the County occurs in a timely fashion so that all their drilling activities, not complete before the hearing process is complete. Deb said she gathered from the testimony they would drill one well every 10 days or so. Deb would just like to ask the Board to continue to have that process expedited as much as possible. If we are looking at a little bit longer than the 30 days, maybe they could do the hearing for the planning commission at the first meeting of November instead of the middle of October, and then have the BOCC hearing maybe the third meeting in December. That would give us date certain which our current code requires us to do if there is going to be a public hearing process as part of the resolution of this takings. Again, she believes that having them come through the special use permit process would alleviate the need for any determination today that a takings has occurred. Especially since staff has recommended, to the Board, that drilling activities be allowed to continue during that process.

Jim said with respect to Ms. Quinn's suggestion; he wanted to ask for clarification. Would that also factor into an extension for the submittal in terms of pushing the hearings back at the end. He is not quite sure what you might be suggesting.

Deb explained if we could get an application from you at the earliest possible opportunity, the complete application, she thinks they would need at least 30 days prior to the first hearing.

Kathy stated yes prior to the first hearing; but the Board of County Commissioners hearing could be scheduled immediately after the planning commission, because they could affect a public notice for both hearings at the same time, rather than waiting and doing a second.

Deb stated so we could even push back the planning commission hearing to the first planning commission meeting in December.

Kathy said yes, but that is really pushing the timeframe; if the planning commission would continue the application for some reason then it would make it difficult. The second planning commission hearing in November, she thinks would be the last possible time and then we could schedule for the Board one of the first Monday's in December. Deb said she is concerned about the holiday timeframe whether that fourth Wednesday in November is the day before Thanksgiving.

Kathy said it almost seems the most critical time for receiving a complete application.

Chairman Martin said he agreed and then they could make those schedule requirements; but the complete application, request was 60 days, staff was recommending 30 days. We need to make a determination if it is going to be staff recommendation or if we come up with another recommendation.

Deb stated; by not responding does not mean she agrees with Mr. Borgel's statements about the law and how it applies to this case.

Chairman Martin said he understood. Back to the Board; do we feel that we can make a ruling in reference to a takings at this time. Yea or Nay - Chairman Martin stated he did not. He agrees with both the request of the staff and the applicant. He stated they needed to go ahead and use the process to exhaust the possible solution to this issue. It has been in existence for 19 plus years and he says even though they have a surface use agreement, this is on the County to enforce their own rules and find things within 20 years. In the last month he thinks activity peaked, we did a little looking to find out woops, we missed something. Chairman Martin thinks they need to go ahead and continue that and let it go through the process.

Commissioner Samson said he did not have a problem with that. He does not think anyone tried to outsmart anyone; it was just an over sight and we are trying to correct it. It will be corrected and no one will be injured in the process. He has no problem with giving them 60 days instead of 30 and he asked Chairman Martin if he did.

Chairman Martin said no, it makes it a little tough at the end of the year getting things scheduled. But then again it has been going on for 19 plus years, we need to address it, they need to go through the system. People have a public hearing and voice their say on this. He feels they need to be done before the end of the year. Chairman Martin felt 60 days to get a complete application is within, and again schedule the appropriate hearing and hold them to that timeline.

Commissioner Samson asked if they needed to give direction or does this need to be a motion.

Chairman Martin said under the circumstances we are not following the staff recommendation and we will have to make some kind of finding.

Deb stated their current code provisions on takings hearing, indicates that if there is a public hearing process as part of the solution that the Board shall set those hearing dates. That much you will need to do and the second planning commission meeting in November is the night before thanksgiving, so she doubts that will be a regular planning commission meeting date. Deb is recommending that the planning commission meeting be set for November 11. Chairman Martin said he thought in your motion; Williams Production, if you feel 60 days is appropriate in your motion to complete the application.

Deb said November 11 is a holiday also. We can set the Board hearing for date certain, as we know when those meetings are. She quoted December's dates.

Commissioner Samson asked if we try for December 14.

Deb stated; December 14 for the public hearing before the Board of County Commissioners and the planning commission will need to occur prior to that so that the recommendation from the planning commission can come to you in advance of that date.

Chairman Martin asked if that was Commissioner Samson's motion.

Commissioner Samson stated yes.

Chairman Martin – Second. We have that date certain, December 14 in front of this Board.

In favor: Houpt – absent Samson – aye Martin – aye

4H AND AIR FAIR:

Commissioner Samson wanted to say he is hearing that Kim (4H) is doing a good job. At the Air Fair, someone came up to him and said how much they appreciated the Fair. He did get a call from an individual who complained about the noise. He told her he would look into it and that we would not be having an Air Fair next year because of the construction on the airport. He told her it was duly noted and they will talk about it here with the Board.

Chairman Martin said he got the same call; but what he would look at also is the navigational easement, we would like to research that to see if it does cover these particular issues. If we do have another air show, after next year, we need to see if we need to take precautions or remedy the situation if we are endangering any humans, or animals, or activity through at least notification to relieve that if it is there. He does not believe it is.

Commissioner Samson wanted to make sure they were on the same page. They have a special meeting on Thursday at 1:00 p.m. for the model traffic code.
Chairman Martin said the Sheriff has been notified, Colt will be here with several requests.
Don said the DA would also be here.
Chairman Martin asked if they had any judicial representation from the judge.
Don said he did not know and Ed will notify the individuals. He knows he notified the district attorney’s office.
Commissioner Samson said the other thing he wanted to know if Chairman Martin was set for the meeting at 9:00 a.m. in Meeker for Strategic Planning.
Chairman Martin stated yes.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

AUGUST 20, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO
WORK SESSION
MODEL TRAFFIC CODE

A Work Session was called to discuss the Model Traffic Code. Those present included:
Wyatt Keesbery, supervisor for Silt and Rifle of Road and Bridge
Marvin Stephens, Director of Road and Bridge
Ed Green, County Manager
Kraig Kuberry, Road and Bridge
Colt Cornelius, Deputy Sheriff
Commissioners Houpt, Commissioner Samson and Chairman Martin
Jeff Cheney, District Attorney Deputy
Cassie Coleman, Deputy County Attorney
Judy Jordan, Oil and Gas Liaison
Don DeFord, County Attorney
Jim Bradford, Court Administrator
Randy Withee, Engineer
Matt Barrett, District Attorney Deputy
Solvvia Olson, Court Deputy
Marian Clayton, Deputy Clerk to the Board
The Model Traffic Code was discussed in length with opinions from those present. Several modifications were made to the Model Traffic Code, one being that scales to weigh overweight vehicles would not be part of this at the present time.
The Sheriff’s office will handle the parking citations and tickets will be processed in the usual manner.
The Court will need to add one FTE for Code Enforcement and the Sheriff will need to add one FTE for processing the citations.
The goal of implementing the Model Traffic Code is to make sure violators are penalized; not for the County to make additional revenue.
An additional meeting was decided to be held on September 9, 2009 for any additional input before a public hearing date was set for the Model Traffic Code.

Attest: Chairman of the Board

SEPTEMBER 8, 2009
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 8, 2009 with Chairman Pro-tem Houpt and Commissioner Samson present. Also present were County Operations Manager Dale Hancock for Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Jean Alberico Clerk & Recorder. Chairman Martin and Ed Green were absent.
CALL TO ORDER
Chair Pro-tem Houpt called the meeting to order.
COUNTY MANAGER UPDATE: DALE HANCOCK
APPROVAL TO AWARD THE PURCHASE OF TWO (2) MELTER APPLICATORS (CRACK SEALERS) TO DENVER INDUSTRIAL SALES AND SERVICE COMPANY IN THE TOTAL AMOUNT OF \$89,667.00 – JAMAICA WATTS
Jamaica Watts, Kent Long and Marvin Stephens were present and presented the recommended bid award for the equipment to be used by Road and Bridge saying five proposals were received and evaluated by a specific criteria. The recommended Board action is to award the bid to Denver Industrial Sales and Service Company in the total amount of \$89,667.00.
Marvin explained the application, which is to fill the cracks in the asphalt roads. We heat rubberized blocks and put it in the cracks to keep the water out. Marvin actually toured the factory where they build this equipment and was impressed with the process.
Kent stated this is a best value proposal, which allows for enhancement modification and alterations. It is slightly different and more complex than the regular RFP process. Jamaica worked on the bid process and did a great job. Marvin complimented both Kent and Jamaica for the work they have done with Road and Bridge.

Commissioner Samson made a motion to award the bid for two melter applicators (crack sealers) to Denver Industrial Sales and Service Company in an amount not to exceed \$89,667.00. Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

APPROVAL TO AWARD A FIRM, FIXED PRICE CONTRACT TO HIGH COUNTRY ENGINEERING, INC. IN THE AMOUNT OF \$87,393.00 TO DESIGN HYDROGEOLOGIC AND HYDRAULIC REMEDIATION MEASURES FOR COUNTY ROAD 137 (CANYON CREEK ROAD) – KENT LONG, JEFF NELSON AND MARVIN STEPHENS

Jeff Nelson, Kent Long and Marvin Stephens were present. The summary of solicitation was submitted regarding CR 137 (Canyon Creek Road) for remediation of a two-mile section of the County road that was severely damaged by a 2007 forest fire. The recommended award is to High Country Engineering, Inc for the design of hydrogeologic and hydraulic remediation measures for County Road 137. The evaluation team made up of Jeff Nelson, Marvin Stephens and Kent Long determined that High Country Engineering had the highest overall score. The contract award is for \$87,393.00. Jeff explained the study and a plan for safe future work on the road.

Commissioner Samson made a motion to approve the amount not to exceed \$87,393.00 to High Country Engineering for the CR 137 remediation of a two-mile section severely damaged by a 2007 fire. Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

EPSDT CONTRACT WITH HCPF (EARLY PERIODIC SCREENING DIAGNOSIS AND TREATMENT)
Dale Hancock and Carolyn Dahlgren submitted the EPSDT contract with HCPF (Health Care Policy and Financing) amendment incorporated into the original contract June 1, 2008 extending it through December 31, 2009 in the not to exceed amount by \$11,606.00. The effective date is July 1, 2009.

Commissioner Samson made a motion to approve the contract amendment No. 4 2106-0107 for \$11,606.00.

Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

HCP CONTRACT WITH CDPHE

Ed Green submitted the amendment made of the 1st day of August 2009 for the Garfield County Nursing Service from October 1, 2009 through September 30, 2010 in the amount of \$18,559.00, contract No. HCP FLA P0800346. Commissioner Samson made a motion to approve the HCP Contract with CDPHE in the amount of \$18,559.00.

Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

AIP GRANT OFFER FROM FAA – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren submitted the FAA anticipated late year grant funding of \$17,000,000 for AIP 19 and requested authorization from the Chair of the BOCC to sign the grant offer. The County portion of this grant is \$894,736 with a start date of 01-01-09 ending 12-31-2010. Construction is anticipated to start in April 2010.

Most of the grants do not come through until June or July, which will be too late for us to complete the project next year. The FAA is looking for late grant year money and/or to borrow from other airports, who are not using all their airport improvement funds for projects this year. The FAA asked Brian to get authorization to put through the AIP project 19 so when they give us late year money we can move forward with it. This year we will need to open the grant if we receive it, perhaps \$100,000, which is not programmed in there, 95% of it is refundable but most of that \$17,000,000 will be spent in 2010 and that is in the proposed budget for 2010. My request is that we accept the grant offer when it comes for AIP 19 of up to \$17,000,000.

Commissioner Samson made a motion we authorize the Vice Chair to sign the FAA grant for the \$17,000,000.00 for the AIP 19. Commissioner Houpt seconded the motion.

In favor: Houpt – aye Samson – aye Martin - absent

Carolyn asked if this money was coming in 2009 and do we have the \$894,736 budgeted in this year or is this a 2010 event.

Brian stated this will be a 2010 event but we need the grant offer accepted in 2009. They may request that we open it by paying the engineering fees of perhaps \$100,000 so that on the record it shows that it is open and that it was given in 2009 and opened in 2009. That is the money that is not in the 2009 budget right now.

Carolyn – So this will require a budget supplement if the grant is going to come through.

Brian – If the grant agreement comes through, yes but we get 95% of that back this year.

Carolyn – There will be a follow-up.

Brian, yes there will be on how much money we are going to spend this year. The key thing is to accept the grant.

NEW PERSONNEL POLICIES AND PROCEDURES MANUAL – KATHERINE ROSS

Dale Hancock, Don DeFord, Carolyn Dahlgren and Katherine Ross submitted the new Personnel Policies and Procedures Manual.

Katherine explained the manual has been in the process for the last two years and today she is here to recommend and ask the Board to accept the new Personnel Policies and Procedure Manual effective on November 1, 2009. To give you a background, about 1 ½ weeks ago after much hard work on the Board's part, the elected officials and department heads (in fact two years worth of work), we have designed and updated an improved Personnel Policies and Procedure Manual. It includes nine sections and is more broadly defined than the original one. It covers such legal compliance, pay and benefits - all things that have to do with employee/employer relationships. The next step if you do approve it would be for me to go to the printers and have 600 to 700 printed, as we need some extras. Then, in October to take those copies to every employee in the County and walk them through it. It will be put on the Intranet for our employees and supervisors to use. The effective date would be November 1, 2009. My recommendation is that you do accept it and implement it November 1, 2009.

Commissioner Houpt asked if all the elected officials have signed off this manual.

Katherine explained that officially they would not sign off on it until Carolyn Dahlgren does the Resolution, which would be after this meeting. I did meet with Jean, Georgia and John Gorman and then the final is based on their final feedback. I feel confident that they are comfortable with it. I received an email from Lou Vallario who indicated that he had no concerns whatsoever.

Jean said Georgia and Jean spent an afternoon with Katherine going through it, asking many questions and obtaining clarifications; I believe we are satisfied with this final effort.

Carolyn – There are some changes that I would like to point out that are different in this document from our prior code. There is one change I would like to discuss with you with Katherine present in executive session so you will be aware of the difficulties of the decision that you are making from a legal perspective. First, this remains an 'at will' not a full merit system Personnel Code. All over the Code, there is standard language that Garfield County employees are 'at will' employees and there is no contract of employment implied by this Personnel Code. This was

actually strengthened throughout the Code. There is new standard language regarding the sheriff because he does have his own separate policies and procedures manual, which in some instances will override the specifics of this Personnel Code.

The section on 'Harassment' was clarified that we do not just say you cannot harass Katherine because she is female but rather you just cannot harass anyone. In the past, the language was ambiguous about whether or not we were only talking about harassment in the federal law sense that says you cannot harass people who are in protective classes. This now clarifies that we expect a non-harassment environment for all employees whether in a protective class or not. A new beefed up staff development section makes the use of budgetary resources a supervisory decision as to whether or not to send people off to school or particular staff training. Ed is removed from the review of employment decisions as a hearing officer and the only adverse employment action that is subject to the review process is termination not just any old adverse employment reaction. In general, the supervisors and department heads are more empowered than they were under the prior code. That is generally throughout the entire code and that section on review of employment decisions is the one that I would like to talk to you in executive session about because that is legal advice regarding both federal and state law. There are other places where things were simply clarified. For instance under the Drug and Alcohol Section, we used to use the statutory language 'impaired and under the influence' – we used that language interchangeably and it was not clear whether we were referencing the criminal code. Now the Drug and Alcohol Section says whether or not these are legal or illegal drugs, one is not to be impaired at work in the least little bit. We added a new section on Workplace Investigations saying that is the expectation of employees to participate in workplace investigations whenever one has to be made. That was the policy of the County and how we behaved but it was never written. Otherwise, the law is updated as required and we added new sections, for instance, the FMLA (Family Medical Leave Act) that has to do with returning veterans. That is a quick review and I only touched on the highlights.

Commissioner Houpt asked Carolyn is she would like to go into a very brief executive session so we could complete this.

Executive Session

A motion was made by Commissioner Samson to retire for an Executive Session to receive input from legal staff on the changes to the Personnel Code. Commissioner Houpt second. Katherine was asked to join the session. In favor: Houpt – aye Samson – aye Martin - absent

Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

ACTION TAKEN

Commissioner Houpt – Basically, what came out of our discussion in Executive Session I believe is that we will table this discussion.

Commissioner Samson made a motion to table this for further discussion at our next meeting, which will be Monday, September 14, 2009. Commissioner Houpt second.

In favor: Houpt – aye Samson – aye Martin - absent

ALLOCATION OF PRIVATE ACTIVITY BOND (PAB) – LISA DAWSON

The Colorado Department of Local Affairs certified that \$2,477,835 has been allocated to Garfield County for issuing Private Activity Bonds (PAB) in 2009 under the State ceiling imposed by the Tax Reform Act of 1987. Lisa Dawson and Don DeFord were present. Don handed out a draft of a proposed Resolution to focus the discussion.

Commissioner Houpt has many questions, if we agree with the recommendation in the Resolution.

Don stated that Lisa has summarized the actions the Board is being asked to take and that includes authority for the Chair or Chair Pro-Tem to sign a Resolution in the form that was handed out. This came up late last week and the Resolution was not included in the packet.

Don drew the Board's attention to the substance on this, which is in numbered paragraphs 1, 2, 3, 4, 5 because you actually need to take official action determining the amount of allocation that's available, how it will be used and where it will be directed. Lastly, the Board needs to authorize the Chair to sign an assignment of allocation to CHFA if that is your choice to do so. Don would also need him to sign a certificate in the form Lisa has presented to you in the packet if you are electing to go forward and allocate the share to CHFA next year.

Lisa Dawson stated this is actually the 2009 allocation. There will be a 2010 allocation as well.

Commissioner Houpt – I have to say every year that this has come up, I have asked that we look at what other people are doing, look at what kind of projects and appreciates a more extensive package this year. However, we need to figure out whether or not we are making the correct decision annually in handing these funds over to CHFA. This can be used not only on housing, but also manufacturing, higher education and environmental projects. We put a real focus on environmental projects and yet we have not taken this opportunity in the NECI meetings.

Lisa was not aware of any discussion in the NECI meetings. Lisa stated she did believe that CHFA would work with NECI on projects. In this packet, CHFA said they provide financing to private sector borrowers for environmental projects. Giving this allocation to CHFA this year is new in that they are matching the assignment of the PABs with a portion of their statewide mortgage credit certificates for issuance in Garfield County. They are telling Lisa that if we allocate the \$2,477,835 to them then they will match that amount from their statewide funding for mortgage credits or certificates to be issued in Garfield County. That gives us a two for one benefit this year.

Commissioner Houpt – My other question was that the monies that we have invested in CHFA, since we have been doing this consistently for a number of years, are our residents benefiting to that level of investment. I do want us to consider what kind of benefit our folks could receive in using this in a different way. We have never promoted this; we have always said that no one has ever used them while not really promoting it for use. Perhaps in 2010 we could look at this issue. The benefit of having that matching money is wonderful; this is a good idea. Do we know what projects have been developed in Garfield County because of monies going to CHFA? There was a chart included that talked about loans, is that primarily where funds have gone.

Lisa – Yes.

Commissioner Samson – In Garfield County is this the limit they will allow for the purchase price of a new or existing home.

Lisa – Yes.

Commissioner Houpt – In the second column, if there is one or two in the household and three or more it is bumped up to that amount.

Lisa – Yes.

Commissioner Samson asked Lisa how those allocations were set.

Lisa – She did not know how CHFA set the amounts.

Commissioner Samson – Is the \$4,955,670 amount guaranteed to be spent in Garfield County?

Lisa – Yes.

Commissioner Samson made a motion to authorize the chair to sign in the resolution and bonds froms, assign the allocation and the County Attorney to sign the certification on the allocation. Commissioner Houpt seconded the motion and stated this is a great opportunity. With all present in this discussion, we need to figure out a way that we can better use the funds. In favor: Houpt – aye Samson – aye Martin - absent

ROTATING COUNTY COMMISSIONER MEETINGS TO REMOTE LOCATIONS – CHARLES ZELENSKA

Abe Dress, Jean Alberico and Charles Zelenka presented the idea of rotating County Commissioner Meetings to remote locations stating working with Jean we need to be able to record in the same manner and quality as we are doing currently. The estimates are between \$9,000 and \$11,000 to accomplish what we will need in portable recording and microphones to record into the unit. The sound quality of what we have now is high quality and this does not offer speaker systems. We would need to purchase speakers in the amount of \$1,000 to \$2000. The speakers might not be necessary until we start looking at larger facilities.

Commissioner Samson stated he appreciates the response.

Jean contacted all the town clerks and the Battlement Mesa Activity Center. A handout was submitted including the information about the possible BOCC meeting sites and recording equipment available. Jean said all the towns have the capability to do recording, however some will need us to have a portable device. In addition, the quality may not be great but doable. The towns that have access to public TV include Carbondale, New Castle, Silt and Rifle. Other issues are room capacity and scheduling conflicts. Jean named the town and city council meetings that would be an issue. In New Castle, we could use the schools and/or the Community Centers – New Castle Town Hall is not large enough to hold many people. If we use these facilities, we would need to purchase and carry equipment.

Commissioner Houpt suggested we could stagger meetings; the question would be how many people would attend unless it directly affects them as it relates to an agenda item. We have not solved any logistics.

Commissioner Samson – We could schedule it around those issues.

Commissioner Houpt – Are people willing to attend our meetings; it would be a huge impact on staff. When I served on the School Board, we did try moving around our meetings to various locations and no one came.

Fred – From staff perspective, this will require a great amount of time, say two or three month's lead-time and be site specific due to scheduling of planning issues and public notification. It is fine with staff as long as we know three months in advance so we can schedule. Another issue, if the agenda item is near to Carbondale or Glenwood Springs then perhaps the parties would feel the need to go to Parachute or wherever the meeting was to be held.

Commissioner Houpt agreed with that type of schedule however, will this work for you, Fred. Do you see any advantage? You could say to the applicant, we can schedule you for this particular location or give the applicant the option to wait until we are in their area or Glenwood.

Fred – Yes, that is a possibility. The one issue would be compliance the Land Use Code and the timeframes associated. We cannot automatically delay the applicant. This would have to be on a case-by-case basis. Throughout the course of the year if we could set the dates and try to coordinate the meetings it would not be an easy task. I applaud the Board for attempting to move the meetings around the County.

Don reminded the Board of the legal staff challenges; it is mandatory that you hold at least one meeting every month in the County seat. Some of his staff must also attend court so scheduling a matter would be critical for his department.

It was suggested that we could look at a meeting schedule on an annual basis starting in January with a three months lead-time. If go this route, consider the days available in the communities and plan the entire year in advance and make sure we have one meeting a month in another location.

Dale suggested deciding what issues are the largest interests of the public and focus that on your agenda.

Commissioner Samson – When this idea was envisioned, it was on a trial basis and I believe we do need to try it and see what happens. One meeting a month would be outside of Glenwood.

Commissioner Houpt – If we do this she would like to commit to a year's calendar so the staff would have an understanding what will occur at the different areas. We have set days for human service and public health. Make sure they can rotate.

Dale stated the 3rd Monday would be the best to schedule outside of Glenwood Springs.

Commissioner Houpt asked the administration personnel to meet with Human Services and Public Health and to see how it would work best with elected officials.

Commissioner Houpt – Based on Dale Hancock's recommendation she would like it to be the last Monday of every month.

Dale addressed an issue with elected officials and staff department heads saying no overtime dollars have been budgeted for this and there will be some staff involved who earn overtime.

Commissioner Samson – This sounds like it would be a tremendous hassle.

Abe said the IT department could make it happen although the video conferencing would not be available in other locations and he requested the Board consider the winter driving aspects.

Don – When you asked about my staff, staff would appear by conference calls. Many do have court schedules.

Dale stated he has the direction.

HUMAN SERVICE ANNEX DESIGN & BUILD AWARD – RANDY WITHEE

Lynn Renick, Randy Withee and Diane Watkins were present.

Randy Withee submitted the Contract Award for the Human Service Annex Design and Build Award stating that on August 10, 2009, the BOCC authorized staff to pursue scope and cost negotiations with Neenan. Meetings and discussions were held resulting in the overall gross square footage of 12,400. Some minor floor plan changes were made and in coordination with the site development with the Mountain Family Health project. A three-dimensional view of the building was included in the packet, elevations, floor plan, site plan, funding in the total of \$2,350,025 and the recommendation award to Neenan for a not-to-exceed amount of \$1,995,025.00.

Questions: Commissioner Houpt asked Randy about energy savings; and asked if the different programs out there had taken a lead. Where do those discussions fit in?

Randy said he has held discussions and will be meeting this Thursday to go over energy enhancements. He explained they have energy efficiencies consisting of water conservations, landscaping, zeroscaping and insulation already in the design as well as day lighting. He said it depends upon how much money the County wants to spend on additional measures.

Commissioner Houpt – I have a concern at the current Human Services building where the breezeway is huge and the air that is lost. That building was not designed for energy efficiency from day one. She would like to have NECI folks sit at the table with you and Jeff in the design.

Randy – Believes we are doing a great deal with NECI already; the Board needs to set the percentage and the goal. Commissioner Houpt wants to make sure we focused on high-level energy savings in creating buildings with efficiency and the County be an example.

Comments from Human Services:

Lynn said she believes there is space for growth; we still have a presence in Glenwood but we are full. River Bridge is full as well.

Commissioner Samson confirmed the completion date would be the spring of 2010.

Randy – Mountain Family will have a 9,000 square foot building at build out. They will start in the fall of 2010. There will be a limited amount of parking.

Don – A contract question, early last week Kent had some language issues with Neenan and wondered if those were resolved.

Kent – Yes, Don ran the deductible limits and Neenan is okay with the limits.

Commissioner Samson made a motion to award the design build to Neenan for \$1,995,025 and authorize the Chair to sign the contract. Commissioner Houpt seconded the motion.

In favor: Houpt – aye Samson – aye Martin - absent

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – LEGAL QUESTIONS - ITEMS CORONER, AMENDMENT 54 AND PUBLIC HEARING EXPARTE COMMUNICATION

Commissioner Samson made a motion to go into Executive Session. Commissioner Houpt seconded the motion.

In favor: Houpt – aye Samson – aye Martin - absent

Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

CONSIDERATION AND DIRECTION REGARDING CCST REQUEST (COLORADO CORONERS STANDARDS AND TRAINING BOARD)

A letter was submitted to the Board stating that Colorado statutes require all coroners attend sixteen hours of in-service training annually. According to the records, Trey Hold has not submitted documentation of the required sixteen hours of training for 2008; the deadline for documentation was extended to March 1, 2009. Pursuant to CRS 30-10-601.6, the CCST Board is required to notify the County Commissioners of this non-compliance with statute. Trey Holt was not present today; however Don discussed this with Trey and he is aware of the notification. Trey is still required to fulfill his duties as an elected official but the Board is required to officially suspend his salary until we receive from CCST that the Garfield County Coroner has met their training standards. This is a methodology that the legislature appropriated to make sure training was completed by all Colorado coroners.

Commissioner Samson made a motion to suspend the pay until the County coroner can meet his requirements and the County receives proper notification and that the chair authorized to sign appropriate correspondence.

Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - absent

CONSIDERATION OF MOUNTAIN VALLEY DEVELOPMENTAL’S POSITION REGARDING AMENDMENT 54

Bruce Christensen and his legal counsel Betty Bechtel were present.

Don DeFord submitted a letter from the law firm of Bechtel & Santo, LLP regarding the Mountain Valley’s proposal for resolution of the Amendment 54 dispute. Mountain Valley Development is standing firm regarding Judge Lemon’s preliminary injunction against the State regarding the amended language refusal of the County to add language in the Human Services Contract as proposed by Jefferson County Attorney in paragraph 1 of the proposed Amendment No. 1 including the modifier suggestion regarding a “stay.”

Commissioner Houpt - We as a County have not made it a sole source; that was a determination made by each entity.

Don – We have intentionally not made the decision to decide it is a sole source contract. Subsequent to our contracts, the Denver District Court challenged the constitutionality of the amendment. Denver District Court did enter an injunction. Garfield County and others in the state were not parties to the case, nevertheless the decision was extensive and Don explained this to the Board. Other counties have responded, placed the recommended language in their contracts so long as it is in place and decided there is no need to comply with Amendment 54 on contracts. This issue was previously discussed and Board of County Commissioners did not want to change the contracting. To Don’s knowledge this issue has not yet been appealed to the Supreme court or at least nothing has appeared on their website to indicate such action. At this time, Don is uncertain as to what action has been taken. In a discussion with counsel, Betty Bechtel for Mountain Valley Development and in correspondence included in the Board’s packet, they have stated the position they would like to take to sign the contract at hand and future contracts.

Commissioner Houpt asked Bruce if he wished to proceed today since the vote was 2 – 1 to deny Mountain Valley’s request.

Bruce explained that his counsel had to drive from Grand Junction to be present today and he was not sure if she could be here next Monday or even if he could attend. Therefore, he wished to proceed today saying there is a significant cost in delaying and he would like to move forward.

Commissioner Houpt stated that John could read the minutes.

Bruce decided he would make a presentation and was okay with the request to defer action until September 14, 2009. He gave an overview of his position expressing he truly felt this was a violation of the First Amendment Rights, his strong feelings that Amendment 54 would be deemed unconstitutional. His position that several counties have taken is one he agrees to. He has a Board of Directors and feels he has an obligation to defend their rights. Many of the board members are politically active. This Amendment 54 affects all family members including nieces and nephews, brothers, sisters, stepsisters, stepbrothers, parents, aunts and the only family member left out is uncle.

How can one possibly know what their nieces and nephews are doing much less other family members? The Amendment 54 is very vague. Amendment 54 passed last November as a Constitutional Amendment voted in by the citizens of Colorado.

Bruce explained that the State of Colorado has further reduced their funding and the County grant is essential in the operations of Mountain Valley. He reminded the Board of the contributions made to this County by their workers and the burden this places on the community, his staff, the workers and his Board of Directors. Many members of his board are political involved. Bruce continued to explain he believes this Amendment 54 is unconstitutional and the court has determined it is vague. How can one possibly know what your nieces are doing much less other family members?

Betty Beckel explained this issue is affecting Mountain Valley Developmental Services greatly. They are providing services but not receiving funds. They would like to negotiate the language and explained the language is acceptable as proposed by the explanation in their letter. Mountain Valley is willing to sign the amendment and a similar provision for the next grant period if the language that Jefferson County as proposed by Don DeFord at the August 10, 2009 meeting is included. Betty emphasized this was a 31 page decision by the Denver District Court and they ruled Amendment 54 is over breath, vague and impinges on First Amendment Speech rights. She maintained that the language they would like to have inserted into their contract is of no risk to the County and stated to insert immediately after the introductory title on Item 10, page 8 so it would read - "Sole source contracting, campaign compliance." Then insert the language that would read, "The following provisions shall not apply to the extent they have been adjoined or invalidated by a decision of a court of competent jurisdiction and that decision has not been stayed."

Bruce added if Amendment 54 were found to be constitutional, they would follow the law; however, if it remains unconstitutional, the amendment will not apply. It is a small clarification and would like this relayed to John Martin that MVDS needs the County's help more than ever.

Commissioner Samson stated that since John Martin had very strong feelings about this issue he believed we need to have this come back on next Monday when John will be here and then take a vote. Bruce can be here on September 14, 2009. This continued discussion will be scheduled under Don's time.

BATTLEMENT MESA CONCERNED CITIZENS REGARDING BATTLEMENT MESA DRILLING ISSUES – CHERI BRANDON

Cheri Brandon and members from the Battlement Mesa community were present stating their concerns for the drilling in Battlement Mesa.

Don cautioned the Board to be careful of hearing issues that would later be heard in a public hearing when the Special Use Permits came in front of the Board. He stated the Board should keep the discussion outside of that realm.

Deb Quinn prefaced the issue that one of the discussions they are concerned about is the Williams drilling on two pads within the Battlement Mesa PUD as well. The status of Williams is that a public hearing is to be scheduled in connection for their activities and this became apparent with or in association with Antero and their issues. It was discovered that Williams has had two well pads, which have been on-going for a decade or more, 1982 and 1991. Some lower well pads have had pads added and to date there has been no complaints; nevertheless, we issued enforcement as they are within the Battlement Mesa PUD. They will need to apply for a special use permit. If it were outside the County, it would be a use by right, which was believed to be the case since the 1980's.

Takings determination: Deb stated they decided not to enforce the alleged code violations as long as Williams comes forward with a Special Use Permit application, which they are in the process of submitting. Deb explained this is the standard practice and we have done similar with others when they are willing to cooperate and pursue the Special Use Permit. Williams is actively engaging on the two well pads currently being drilled. Because of this, there will be public hearing in the Planning Commission and before the Board of County Commissioner; therefore, this limits the Board from hearing concerns regarding concerns prior to a public hearing.

Cheri Brandon said she is coming before the Board as a new member of the Battlement Mesa Concerned Citizens. She referenced a movie starring Peter Finch, quoting a line saying, "we are mad as hell and not going to take it anymore." The residents of Battlement Mesa have been patient with the oil and gas industry and have learned to live with the interruptions to their lives understanding the industry creates jobs and we do need independence from foreign oil. This is an insult to our community; we live in a small compact area and our concerns for health, safety and sense of pride are foremost.

Commissioner Houpt is relying on Deb to interrupt when the discussion enters into the area of concern for the legal staff. Commissioner Houpt reiterated that all comments should be made during the public hearing process. She also encouraged the concerned citizens to communicate during the process of the application by giving them letters and various communications so they will be a part of the process as well. She reminded Cheri that they must maintain integrity for both Williams and Antero.

Fred – We anticipate on the Building and Planning website to post when an application is received. By the time it hits the website it would be 60 days before the hearing.

Cheri – Williams needed to get a Special Use Permit. Would this SUP be approved after the fact? She is aware that the PUD as stated on page five that building activities were to cease in October, November, December and January. It is going on and it was started in August. Battlement Mesa was meant to be a retirement community and nothing was told to us about drilling. This is an offensive activity with lights or odors. In our covenants it says "no hazardous activities; no temporary structures." This amazes us who live in this retirement community. There are homes very close to the golf course and out golf course has a rating as a top course in the area. There are currently two active wells in our PUD.

Sandy Getter said she could see five rigs from her house. Last report we heard was there are 17 rigs drilling in Garfield County. Sandy said she also saw an article in the Sentinel that Garfield County received over \$11 million from Federal Mineral Severance tax and it was based on where employees live. Battlement Mesa is an unincorporated area so all the tax money from people living in Battlement Mesa goes to the Garfield County's general fund. Rifle and other municipalities receive severance tax money. We do not receive any direct distribution – no financial help; yet there are 883 workers in the industry living in Garfield County and a large majority reside in Battlement Mesa. She would like the County to make Battlement Mesa a priority and use it for the citizens of this community for safety and impacts of oil and gas including air quality monitor prior to drilling. She talked to Jim

Rada and he said there was no money at present to put in another air quality monitor. She would also like water quality monitoring for our wells.

Colin – Battlement Mesa Concerned Citizens – The health and welfare issues need help from the County. We will prepare a paper on specifics such as air and water monitoring, truck traffic including enforcing the law.

Commissioner Hought – The County does provide services in general with other activities to the Battlement Mesa area.

DISCUSSION OF THE 6TH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 6TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Chair Pro-tem Hought swore in the speakers.

Deb reviewed the notice and advised the Board they were entitled to proceed.

Theresa Wagenman presented the Resolution for approval of the Board regarding the 6th amendment to the 2009 budget and the 6th amended appropriation of funds along with Exhibit A describing the changes. Theresa requested signature of the Chair on the Resolution.

Commissioner Samson moved to close the public hearing. Commissioner Hought second. Motion carried.

Commissioner Samson made a motion to accept the Resolution to the 6th supplement to the 2009 approved budget and the 6th amended appropriation of funds. Commissioner Hought seconded the motion.

In favor: Hought – aye Samson – aye Martin - absent

National Payroll Week

Theresa announced this is National Payroll Week and the Finance Department is having an open house today. She invited everyone to stop by, enjoy some food, and participate in the drawing for prizes.

RESOLUTION ADOPTING RIFLE ACCESS PLAN IGA

Deb Quinn submitted the Resolution adopting the Rifle Access Plan IGA between Garfield County, CDOT and the City of Rifle for an Access Control Plan encompassing sections of US Highway 6, State Hwy 13A Bypass and State Highway 13A. Deb stated the Board reviewed and approved this IGA on July 20, 2009. After the Board signs the IGA, it will be forwarded to CDOT for signature then after all signatures are on the document it will be submitted for recording.

Commissioner Samson moved to approve the Resolution adopting the Rifle Access Plan IGA for portion of US Highway 6, State Hwy 13A Bypass and State Highway 13A. Commissioner Hought seconded the motion.

In favor: Hought – aye Samson – aye Martin - absent

DIRECTION FOR CONTRACT & LICENSING TERMS AND CONDITIONS FOR PEAK PERFORMANCE IMAGING SOLUTIONS (PPIS)

Don DeFord submitted the contract for Peak Performance Imaging solutions for the County Attorney's office in the amount of \$23,450.00. This includes the Laserfiche software license agreement, which includes customer access to hotline technical support. This was formally presented and approved for purchase by the BOCC for records management in the County attorney's office. As previously stated, the legal staff has worked jointly with the Information Technical Department to meet the technical requirements for this software. MaryLynn did an extensive amount of research on available software. There are only three companies that offer the software they need to become updated. Don is requesting signature of the Chair on the contract agreement. This is designed to move our office into the paperless world.

Don reviewed the contract and licensing language calling attention to the typical software-licensing language particularly in Paragraph 6 & 7 in full caps. These are standard provisions that we routinely see in software licensing agreements. There include severe limitation on Warranty and in the paragraph under Damages. Laserfiche is a national corporation and this type of software is not readily available. This software would greatly assist the attorney's office and the contracting office to have some general direction on how this Board views licensing agreements. We need to know that this Board understands we have to accept these limitations in order to receive the necessary software for various offices. It is a standard provision when you purchase software on-line or outright. If the Board approves, we would like direction that you understand you have to accept these onerous provisions and we will use that as general direction in our licensing agreement. Don stated however, this might not always be the case for every situation.

Commissioner Samson commented that you would not be able to get this without this software and language.

Don – We normally do not agree to all waivers of warranties and consequential damages; however, it is included in all software licensing. The warranty with Laserfiche includes maintenance and training; we are assured any corrections and defects will be addressed for a cost of \$3,000 a year. This type of contract does not come with every program.

Commissioner Hought – This Board has seen this language discussed in other contracts. I believe we need to accept this limitation.

Don – If that is the case then I would like authority to go forward with the contract and sign with Laserfiche and Peak Performance Imaging Solutions.

Commissioner Samson made a motion to approve the contract with the license terms and conditions with Peak Performance Imaging Solutions. Commissioner Hought seconded the motion.

In favor: Hought – aye Samson – aye Martin – absent

UPDATE AND CONSIDERATION OF SETTLEMENT – BARON LANE, LLC CONDEMNATION – AIRPORT

Carolyn stated this would be a public and executive session issue item. She submitted the petition alleged against Baron Lane, LLC in District Court Garfield County with respect to eminent domain proceedings on property located within the Rifle Airport Commercial Plaza and Storage PUD for property owned by Baron Lane.

Carolyn submitted both a public packet, an executive packet and Resolution approving the condemnation; she requested to be able to continue to negotiate and discuss the final settlement in executive session.

Secondly, to approve the IGA with City or Rifle and discuss in Executive Session as some blanks in the IGA need to be completed. Brian wants to go over this in Executive Session.

Executive Session – Discuss Baron Lane and the Rifle IGA and there are some blanks to fill it and Carolyn would like to go over those in Executive Session. Some may require public action. Don added to discuss status of claims on CR 306 – Dixon/Dutton. Cassie will provide updates on litigation with Empty Enterprises; Elk Creek; Murray property; North Bank code violation; code violations on H Lazy F Mobile Home Park, Birchfield code enforcement and Mid-Continent Load Out Facility code enforcement.

Commissioner Samson made a motion to retire to Executive Session to cover all items as mentioned. Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin – absent
Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt second.
In favor: Houpt – aye Samson – aye Martin – absent
Action Taken:

Baron Lane LLC – Rifle Airport Commercial Plaza and Storage PUD

Carolyn said we are seeking approval of a settlement on the condemnation under terms agreed to in executive session and the Chair authorized to sign the stipulation.

Commissioner Samson so moved; Commissioner Houpt second.

In favor: Houpt – aye Samson – aye Martin – absent

IGA - Loop water system with Rifle - Direction

Continue to negotiate with the City of Rifle.

CR 306

No public action

Code Enforcement Issues

Mid-Continent Iron Load-Out Facility Code enforcement

Don requested the Board authorize the settlement to the terms explained to the Board in executive session. There is currently no activity. Commissioner Samson so moved. Commissioner Houpt second.

In favor: Houpt – aye Samson – aye Martin – absent

H Lazy F Mobile Home Park

Don requested the Board authorize staff to proceed with code enforcement and injunction to remove the barrier to access to CR167 pursuant to the conditions in the Special Use Permit for that site.

Commissioner Samson – so moved. Commissioner Houpt seconded.

In favor: Houpt – aye Samson – aye Martin – absent

Birchfield Property

Don explained, on the Birchfield property there were multiple code violations; we have proceeded and they have completed the corrective actions. Don would request the Board dismiss this case as they are in full compliance with our Land Use Code. Commissioner Samson so moved; Commissioner Houpt second.

In favor: Houpt – aye Samson – aye Martin – absent

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Changes to Prior Warrant List
- d. Grants - Sales Tax Recovery Distribution for August 2009 \$51,658.53 – Georgia Chamberlain
- e. Resolution concerning an application for takings determination for Williams Production – Debbie Quinn
- f. Authorize the Chair Pro-Tem to sign a resolution to amend the approval of a Preliminary Plan extension for the Valley View Commons - John Niewoehner
- g. Authorize the Chair Pro-Tem to sign the Acknowledgement of Satisfaction and Direction to Treasurer to authorize the release of the Panorama Reserve Subdivision's financial security – John Niewoehner
- h. Authorize the Chair Pro-Tem to sign the Acknowledgement of Satisfaction and Direction to Treasurer to authorize the release of the Gilead Gardens Subdivision's financial security – John Niewoehner
- i. Authorize the Chair Pro-Tem to sign the Purchase of Services Agreement for Winston & Associates, Inc. to assist Garfield County in the update to the County's Comprehensive Plan – Fred Jarman

Pull e – Williams – Resolution - No agreed with the outcome and would like to pull this Resolution until the entire commission is present.

Pull i – Comprehensive Plan – Fred Jarman has asked to have opportunity to discuss this.

Commissioner Samson made a motion to approve the consent agenda, items a – j excluding items e and i.

Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin – absent

ITEM I

Fred stated the contract for \$250,000 went through RFQ process and personal interviews were held with the top five proposals. Winston and Associates firm was selected. Fred pointed out that the contract and scope of services involves the BOCC, as he believes they need to be an integral part of the process. Our hope is to have input from everyone involved. Statutorily it is in the realm of the Planning Commission but realize the consultants and staff for a document like this to be successful there needs to be involvement by the decision makers. Formal meetings will also be held to bring staff updates. At the very outset, 'CAC' Citizens Advisory Committee, Planning Commission members and the Board of County Commissioners will invite citizens to participate in the beginning. We want citizens to be involved versus one group or another. There will be an advertisement in the newspaper in the form of an invitation to kick off this project.

Fred – The budget has already been appropriated for the \$250,000; however, we will probably not use more than \$160,000 by the end of this year 2009 and rollover the balance for 2010. One adjustment in the scope under Task 2.10 of the Colorado Revised Statutes; Counties are to come up with the natural resources plan once you reach the population of 60,000 and we expect we will be at that number at the next census of 2010. Therefore, we should incorporate this in the Comp Plan. In the scope of revised services this is called out and should be a separate task.

Fred stated he is very excited about it. We have a great team. Our consultant, Winston and Associates, BBC subcontractor are part of the team. Fred feels we can hit the ground running. LSC, who has provided the County with the Transportation Plan in the past will be involved as well. LSC is a subcontractor and they know about the County road system.

Fred asked for direction and authorization that the Chair be authorized to sign the Purchase of Services contract.

Commissioner Samson – So moved. Commissioner Houpt – Second.

In favor: Samson – aye Houpt – aye Martin - absent

CONSIDERATION AND APPROVAL OF IGA WITH CITY OF RIFLE – AIRPORT WATER AND SEWER

Deb Quinn submitted the City draft for the Garfield County Regional Airport water and sewer utilities loop upgrade system IGA referred to as the “Boot Property”. The County plans to upgrade the utilities at the Airport Property and the parties wish to redefine the terms and conditions of the City’s provision of water and sewer service to the airport property and supersede and terminate the prior agreements.

Deb stated there were no substantive changes.

Deb requested the signature of the Chair on the IGA.

Commissioner Samson made a motion to approve the IGA with Rifle as presented. Commissioner Houpt seconded.

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

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

OFFICIAL CERTIFICATES OF THE 2008 ELECTION – COUNTY COMMISSIONER SEATS

Jean - Presentation to Mike Samson for his Certificate of Election as County Commissioner. We have been researching this, finally have the certificate and he is official now. There is one for John Martin as well since he was elected once again.

CONSIDER A REQUEST FOR APPROVAL FOR A PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN FOR A RESIDENTIAL DEVELOPMENT KNOWN AS TCI LANE RANCH EAST OF CARBONDALE. APPLICANT IS TCI LANE RANCH, LLC – FRED JARMAN

Fred Jarman, Jon Fredricks from Noble Design Group Project Manager, Paul Spencer and Deb Quinn were present. Deb reviewed the public notifications with Jon Fredricks and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chair Pro-tem Houpt swore in the speakers.

Fred submitted the following exhibits: Exhibit A – Proof of Publication – written form, list of legal description and adjacent owners; Exhibit B – Proof of Mail Receipts; Exhibit C – Garfield County Zoning Resolution of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E – Garfield County Subdivision Regulations of 1984, as amended; Exhibit F – Application in two binders); Exhibit G - Staff Memorandum dated 9-08-09; Exhibit H - Letter – Town of Carbondale dated 2-06-09; Exhibit I - Letter – Eagle County email dated 2-04-09; Exhibit J - Garfield County Road and Bridge Department, Administrative Foreman, Jake Mall, dated 7-08-09; Exhibit I – Letter – Eagle County Engineering dated 1-30-09; Exhibit K – Email from BLM dated 2-03-09; Exhibit L – Letter from Carbondale & Rural Fire Protection District dated 1-30-09; Exhibit M – Email from DCOT dated 1-23-09; Exhibit N – Letter – Division of Wildlife dated 2-02-09; Exhibit O – Letter – Colorado Division of Water Resources dated 2-03-09; Exhibit P – Letter – Colorado Division of Water Resources dated 2-03-09; Exhibit Q – Letter - Garfield County Road and Bridge Department dated 1-12-09; Exhibit R – Letter from RFTA dated 1-26-09; Exhibit S – Memorandum - Garfield County Vegetation Management Department, dated 2-05-09; Exhibit T – Letter – Garfield Housing Authority dated 1-26-09; Exhibit U – Memorandum – Garfield County Engineering dated 1-19-09; Exhibit V – Letter – Holy Cross Energy dated 1-14-09; Exhibit W – Letter – The Fleisher Company dated 1-30-09; Exhibit X – Letter – TCI Lane Ranch addressing BLM comments dated 2-03-09; Exhibit Y – Letter – TCI Lane Ranch addressing Garfield County Engineering comments dated 2-09-09; Exhibit Z – Letter – TCI Lane Ranch addressing Carbondale & Rural Fire Protection District comments dated 2-09-09; Exhibit AA – Letter – Rocky Mountain Ecological Services addressing Garfield County Vegetation comments dated 2-11-09; Exhibit BB – Letter – TCI Lane Ranch addressing CDOT comments dated 2-11-09; Exhibit CC – Letter - Zancanella and Associates Engineering consultants addressing Colorado Division of Water Resources comments dated 2-13-09; Exhibit DD – Letter – Garfield and Hecht, PC addressing Garfield County Housing Authority comments dated 2-18-09; Exhibit EE – Letter in support dated 6-23-09 from Brian Buell; Exhibit FF – Letter in support dated 6-12-09 from David Culp; Letter GG – Letter in support dated 6-11-09 from Michael Buell; Exhibit HH – Letter in support from Cory Ross dated 6-25-09; Exhibit II – Letter in support from Dr. Dave Jenson dated 5-20-09; Exhibit JJ – Drexel, Barrel, and CO CR 100/SH 82 Improvements memo dated 4-6-09; Exhibit LL – Email from Heide Alexander dated 5-14-09; Exhibit MM – Intentionally left blank; Exhibit NN – Letter from the Roaring Fork Conservancy dated 5-26-09; Exhibit OO – Letter if support from Adam Roy dated 5-22-09; Exhibit PP – Letter – Blue Creek Ranch HOA dated 5-26-09; Exhibit QQ – Letter of support from Adam Roy dated 5-22-09; Exhibit RR – Applicant response to PC Conditions #2 dated July 2009; Exhibit SS – Draft SIA for the Project received in August 2009; Exhibit TT – Letter – Patrick Miller & Kropf on water issues dated 7-13-09; Exhibit UU – Email from the GCHA dated 8-12-09; Exhibit VV – Draft deed restriction from AH Units received in August 2009; Commissioner Pro-tem Chairman Houpt entered exhibits A – VV into the record.

Fred stated this is a request to rezone property to a PUD/Preliminary Plan approximately 3 miles east of Carbondale on State Highway 82 on the Roaring Fork River on 100.52 acres of land. TCI Lane Ranch, LLC proposes to develop the property into a residential community containing 89 dwelling units of duplexes and single-family detached units for an overall residential density of 1.12 acres per dwelling unit. These units vary from 1,900 square foot attached duplex homes to 5,500 square foot single-family homes. Ten percent (9-units) of these will be deed-restricted and managed by the County Housing Authority. The site design is characterized as a cluster-type design scheme providing for six separate residential pods allowing for the preservation and dedication of over 75% of the site as open space. Uniquely, this project also proposes a solar array to provide the energy needed to operate the community at full build out reducing its electric energy consumption to zero.

The access to the Property is by way of County Road 100 and State Highway 82 frontage road, physical water is to be provided by Mid Valley Metropolitan District, and wastewater is to be handled by Mid Valley Metropolitan District. Current and historic uses of the property include ranching irrigated meadows and three-log structure, which will be preserved as recreational amenities.

In order to accomplish the proposed development, TCI Lane Ranch, LLC request approval for 1) Rezone from ARRD to Planned Unit Development (PUD) and 2) Preliminary Plan approval. Fred notes that this application is being processed under the “old code” as it was deemed technically complete prior to the end of 2008.

Fred continued to review the application in-depth. He stated the land is zoned high density. Listen

Planning Commissioner recommended conditions of approval and additional suggested condition by staff.

The Planning Commission recommended approval to the Board of County Commissioners for the Preliminary Plan Application with the following findings of fact:

- 1) That proper publication, public notice, and posting was provided as required by law for the hearings set

- before the Planning Commission and Board of county Commissioners;
- 2) That the hearings before the Planning Commission and Board of county Commissioners were extensive and complete; all pertinent facts, matters and issues were submitted; and that all interested parties were heard at those hearings;
 - 3) That the application is in compliance with the specific standards set forth in the Garfield County Subdivision Regulation of 1984, as amended;
 - 4) The proposed use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
 - 5) That the Applicant shall comply with the conditions listed below:

I. PLANNING COMMISSION RECOMMENDED CONDITIONS OF APPROVAL REGARDING THE PROPOSED PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN

- **WILDLIFE:** The Covenants shall contains the following provisions:
 - a. Fencing should be held at a minimum and any necessary fencing should be wildlife friendly. For wire fencing, 42 inches for a maximum height, 4 wires at most with a 12” kick space between the top two strands. Rail fencing should be 48 inches or less with at least 18” between two of the rails.
 - b. The riparian areas along both the Roaring Fork River and Blue Creek are extremely important to wildlife.
 - i. *Elk usage of the property has increased considerably during the winter months. Deer and elk conflicts are to be expected within the development and plantings of native vegetation are encouraged to help reduce some of those conflicts. Eliminating the plantings of any berry, fruit, or nut producing plants or shrubs will help discourage elk, deer, bears and other wildlife from feeding upon the landscaping. Homeowners need to be aware that the Division of Wildlife is not liable for any damage to landscaping by deer, elk, or bear.*
 - ii. *Bear/human conflicts have increased within the Roaring Fork Valley and in the vicinity of Blue Creek Ranch and Catherine Store. This has the potential to be a reoccurring problem. It is important that certain measures be taken to minimize these possible conflicts:*
 - a. *Homeowners have and use an approved bear-proof container for storing all trash/garbage;*
 - b. *Pets should be fed indoors, and pet food or food containers should not be left outside;*
 - c. *BBQs should also be securely housed in the garage or cleaned with a bleach solution when not in use due to the fact that leftover food and grease are an overwhelming bear attractant;*
 - d. *Round doorknobs on the outside of doors rather than lever-type can limit bear access into houses.*
 - iii. *The proposed pedestrian bridge over the Roaring Fork River should be gated to prohibit access to the RFTA during the winter closure period.*
 - iv. *Due to the critical nature of wetland areas for wildlife, it is recommended that any proposed trails or paths be minimized and the public access into these areas should be limited in numbers. Access should be closed completely from December 1 through March 15 in order to limit the disturbance on big game and wintering bald eagles utilizing the riparian corridor.*
- **VEGETATION / WETLANDS**
 - a. As part of the public improvements to be constructed by the Applicant and secured in the Improvements Agreement as part of the Final Plat application, the Applicant shall construct a fence to a design specification consistent with the BLM’s needs regarding preventing disturbance of the Ute’s Ladies Tresses on the BLM parcel in the southeast portion of the development.
 - b. Where trail design indicates that the trail crossing the wetland area will be a 2’ Natural Surface Path, Staff requests further clarification on this type of path. Garfield County Vegetation discourages the construction of any type of trail that would bring imported fill material into the wetland area.

Staff Response: The Applicant has revised their plans to eliminate the on grade paths from delineated wetland areas and instead used a boardwalk type crossing to elevate the trail across the wetlands. This condition had been satisfied.

- c. The Applicant shall provide an “orchid monitoring program” and a plan that that will maintain the open wetland areas.

Staff Response: The Applicant has hired Rocky Mountain Ecological Services to prepare a plan, which is attached to this memorandum. The County Vegetation Management will review this plan prior to Final Plat.

- d. Staff has concerns about potential conflicts with Ute’s Ladies Tresses habitat that need to be better analyzed by the Applicant prior to the hearing before the Board of County Commissioners:
 1. *All lots as shown on the site plan within Exhibit JJ;*
 2. *Portions of Riverstone Drive and how will Riverstone Drive cross the wetland without altering the water flow and the hydrology.*
 3. *What are the future plans to channelize Blue Creek and if channelization occurs, will the area would become less saturated and spiranthes habitat would become diminished.*

Staff Response: The Applicant has revised their site plan to address these issues specifically by using a 20-foot wetland buffer around lots near wetlands. This condition had been satisfied.

- **AFFORDABLE HOUSING**
 - a. The Applicant shall be required to provide nine (9) deed-restricted single-family affordable housing units on Lots 1, 11, 12, 18, 25, 26, 28, 29, and 39. These units shall be governed /

administered by the Garfield County Housing Authority. The Final Plat shall note these lots as AH Units on the plat.

- b. The Applicant shall meet with the Garfield County Housing Authority prior to Final Plat to ensure that the required deed restriction meets the requirements of the Garfield County Housing Authority.
- c. The Applicant shall provide a security that is acceptable to the Board of County Commissioners that ensures that units will be constructed and available for sale. The Applicant shall propose this security to the County prior to the hearing with the Board of County Commissioners so that the BOCC can make a decision at the hearing as to the security's adequacy.

Staff Response: As discussed, Staff finds the revised proposal meets the County's affordable housing requirements for unit and bedroom count and that the concerns of the Garfield County Housing Authority can be met. Staff discussed this revision with the GCHA and they support this new approach. The Code allows for a "security" provision to ensure the units are built while the free-market units are being built. This could be in the form of a cash security (letter of credit) or a provision to withhold issuance of building permits on free-market units until a building permit has been issued for a deed-restricted unit generally at a ratio of 10 free-markets to one (1) deed-restricted unit. In this case, the application proposes these nine units will be constructed at a rate, which will be a minimum of 10% affordable to 90% market rate at any one time. The Applicant proposes the following language in the proposed Subdivision Improvements Agreement to address ensuring these units are constructed:

- 1) "One (1) affordable housing unit is required to be fully constructed and accepted by the Garfield County Housing Authority and the Garfield County Building & Planning Department (as evidenced by the issuance of a Certificate of Occupancy) for every ten (10) "free market" lots developed within the subdivision."
- 2) The Applicant proposes to provide a Letter of Credit to be held in escrow to the benefit of the County in the amount that it would cost for the County to cause the construction of the affordable housing unit. This security would stay in place until all units are built.

The land use code provides that the BOCC is to determine if this arrangement is acceptable. Staff believes this meets the intent of the code and the comprehensive plan but is concerned as to 1) the timing of when all of these units are sure to be constructed and 2) that any monies held in escrow are enough to cover general inflation for if / when the County needs to cause the construction of a unit. Otherwise, Staff is in general agreement with the concepts.

Applicant has agreed with GCHA and County Attorney's Office to submit an Affordable Housing Plan and Agreement pursuant to Article VIII of the ULUR with the Final Plat Submittal. Security for these units will be in this document. Additionally, the Applicant shall submit the deed restriction and plan for the additional non-required employee units with the Final Plat.

- **OFF-SITE IMPROVEMENTS TO CR 100 / STATE HIGHWAY 82 INTERSECTION**

- a. The Applicant shall construct the improvements to the intersection of CR 100 and State Highway 82 as approved by CDOT, which includes a new right turn lane from northbound CR 100 to the up valley direction of State Highway 82. Additionally, the applicant will construct a raised median between the northbound and southbound directions on CR 100 (within the SH82 ROW) adding additional safety to the turning movements. These improvements are to be paid for exclusively by the developer within the context of the Improvements Agreement. (This final design approved by CDOT shall be included in the Final Plat application.)

- **100-YEAR FLOODPLAIN**

The Applicant shall obtain an Administrative Floodplain Permit from the Building and Planning Department prior to the submittal of the Final Plat. The Final Plat shall show the first finished floor elevation (FFFE) on each building envelope on the Final Plat that lie within the 100-year flood fringe.

- **ZONING DIMENSIONAL REQUIREMENTS**

This approval of the PUD shall allow the following variances from the dimensional standards in the ARRD Zone District and provisions in the Subdivision Regulations of 1984:

- A. Reduction in minimum lot size per the site plan;
- B. Allow duplex as a use-by-right instead of a conditional use;
- C. List pipelines under conditional use permit subject to pipeline regulations rather than list under use-by-right;
- D. Reduction in the ROW width on the main entrance roads (Haystack Road and Riverstone Drive) from 60 feet to 50 feet;
- E. Allowing "community building" as accessory use to the residential development; and
- F. Allowing Dragonfly Spur to exceed the 600 linear feet maximum for cul-de-sac by 200 feet.

- **DRAINAGE**

The Final Plat shall address the following drainage questions raised by the County Project Engineer:

- A. Watershed. The Historic Basin has been divided into six (6) existing sub-basins based on contour mapping, survey information and field investigations. This will generate runoff in addition to the volume calculated within the development on a pre-post calculation methodology using the rational method derived from the SWMM program of intensity, duration and frequency.
- B. Treatment of Storm water Runoff. Water quality treatment for storm water is discussed within the Preliminary Plan. In order to protect the water quality in Blue Creek and the Roaring Fork River, it is the county's expectation that all runoff from roadways, parking areas, roofs, and similarly developed areas will be treated using best management practices of retention basins and sedimentation swales as per the submitted improvement plans.
- C. Depiction of Offsite Water Pipeline to Development – These plans will be prepared by the Applicant's engineer and reviewed by the Mid Valley Metro District's engineer. The main issue to the County is proof that CDOT will allow the utilities in the Highway 82 ROW and whether there is adequate room in the ROW for both the water and sewer line.
- D. Depiction of Offsite Sewer: Same comment as for the offsite water lines.

- **GEOLOGY**

The Final Plat and covenants shall contain the following plat note to address potential sinkholes:

“if conditions are indicative of sinkhole related problems are encountered during site specific soil and foundation studies for the houses and other movement sensitive facilities, an alternative building site should be proposed or the feasibility of mitigation evaluated ... Prospective homeowners should be advised of the sinkhole potential, since early detection of building distress and timely remedial actions are important in reducing the cost of building repair and should an undetected subsurface void start to develop into a sinkhole after construction.”

- **IMPACT FEES**

- A. The development is subject to development impact fees adopted by the Carbondale and Rural Fire protection District. The developer will be required to enter into an agreement with the District for the payment of development impact fees. Execution of this agreement and payment of the fees are due prior to the recording of the Final Plat. Fees are based upon the impact fees adopted by the District at the time the agreement is executed. The current fee for residential development is \$704.00 per unit.
- B. The Applicant shall be required to provide a school land dedication or fee in lieu of dedication to the RE-1 School District at the time of Final Plat pursuant to the requirements in the Garfield County Unified Land Use Resolution of 2008, as amended. This fee is collected at the time of Final Plat.

- **WATER SUPPLY:**

Prior to the hearing before the Board of County Commissioners, the Applicant shall supply sufficient evidence to respond to the points raised in the Division of Water Resources letter dated 4/29/09 in order to satisfy HB 1141.

Staff Response: The Applicant submitted a letter from Patrick Miller & Kropf, which adequately addresses the water supply comments raised by the CDWR regarding the requirements of HB 1141.

ADDITIONAL SUGGESTED CONDITIONS BY STAFF:

- **NOXIOUS WEEDS:**

The Applicant shall include a provision of weed management in the Improvements Agreement to guarantee that weed management will occur in the future on undeveloped lots and for the open space areas. The County Vegetation Manager recommends an amount of \$6,000 per year for four (4) years (\$24,000).

- **REVEGETATION SECURITY:**

The County Vegetation Manager recommends a revegetation amount of \$2,500 per disturbed acre for the upland areas, which would total \$60,000 for the 24 acres disturbed by the development.

- **CONSTRUCTED WETLAND SECURITY:**

This area is almost three (3) acres in total. The County Vegetation Manager recommends the applicant provide Garfield County with a cost estimate for this work. When this information is provided, Staff will recommend a security amount for the wetlands work. This estimate shall be submitted to the County with the Final Plat application.

- **COVENANTS:**

Wetlands are mentioned in the covenants (3.36.4). The County Vegetation Manager recommends that additional language be added that would disallow landowners from adding fill material into designated wetlands within their lots.

The County Vegetation Manager requests that the applicant address the issue of mosquito management in the neighborhood constructed wetlands area.

Commissioner Houpt has questions regarding the Affordable Housing units and will wait until the applicant has presented.

Commissioner Samson – What is the purpose of 10% for Affordable Housing units.

Commissioner Houpt – This was under the old code at the time the applicant submitted their a

Fred – Enrolled in the Comp plan and directed to Study Area 1 – if you are asking for an increase in density, you would have to mitigate and it was adopted throughout the state. In the new Land Use Code, it is 15% all across the board. Primarily someone has the ability to locate Affordable Housing in another area; this is a provision and it is carried forward. The Board would have to agree. How do you find the equivalent in another location; it is called “off site provision housing”. The condition as it stands by the Planning Commission finalizes the Housing Plan and Agreement before they come to obtain final approval of their final plat.

Commissioner Houpt – What benefit does the letter of credit have with the Affordable Housing units.

Fred said he would let the applicant cover this. This is a new concept and the Board has the opportunity to give us the equivalent to construct the other eight units. Rational nexus: This can only be done only at the time you are creating the site plan. The employee would be required to take care of the unit. If you have not created, the need you should not have to fix this and he cautioned the Board not to go backwards.

Applicant Presentation – Power Point

Jon Fredricks presented the information and presented their power point on paper. He highlighted their guiding principles:

- Create a rural-cluster style community with the majority of the site remaining in open space;
- Preserve public view corridor from Highway 82;
- Preserve habitat and recreational experience of Roaring Fork corridor;
- Preserve natural and cultural resources of the site;
- Provide a diverse mix of housing types and sizes;
- Set a new standard in energy efficiency and renewable energy production.

The total land area includes 100.45 acres +/- with single family residences, duplex residential, community utility – 31.77 acres; open space – 68.68 acres; total number of residential lots – 89; lot sizes average 0.19 to .062 with an average of - 0.34 acres; total area non-residential floor space 2,350 sf; off-street parking spaces – 200 – 506.

The Affordable Housing will have 14 units – 16%. 6-half-duplex with 1900 sf; 3 single family – 2600 sf; half-duplex managed by applicant for employees of 1900 sf; 3 single family managed by staff for employees of 2600 sf.

Jon explained the Deep Green Standards compared to LEED comparison to National Averages in a chart. All structures orientated within 20 degrees of Solar South; natural heating, cooling and day lighting; well throughout site planning with minimal habitat disturbance, water and material conservation.

The development starts with the land:

- A healthy environment

- Power production
- 300 kW community solar array – optimally sited (-14.1%)
- 100% of residential power needs (600+ mWh/yr produced versus 585 mWH required – eliminating 800,000 Lbs CO2/year from use)
- Largest private solar array in western Colorado
- Efficient, Sustainable & Healthy Building Practices
 - Our deep green standards exceed all major green building standards (LEED, Built Green and ENERGY STAR)
- Use of support and efficient building design
 - Passive, centralized, flexible designs
- Resource and energy efficient construction practices
 - Material minimization, superior thermal envelopes
- Environmentally friendly and healthy materials
 - No/low VOCs (off-gassing), sustainable materials, water conservation
 - Total cost of ownership (durability and maintenance)
- Continual measurement throughout occupancy to ensure optimal performance

Passive Solar Design makes use of southern orientation, glazing and overhangs to provide natural solar heating, cooling and day lighting. Saves money and resources and creates healthy living.

Superior Thermal Envelope (ERV) maintains air quality by turning over the fresh air in the home while preventing heat or cooling loss – healthy and cost effective.

Entry airlock is designed to prevent winter heat and summer cooling losses by eliminating drafting while entering or exiting the home, saving energy, money and improving health.

Double the insulation of a typical home. **Bio-Based foam** insulation is made from U.S. grown soybeans, not imported petroleum, a healthy effective insulation.

Efficient Heating – Triangle Tube condensing high efficiency modulated boiler, 95% efficient

Rinnai on-demand water heater provides endless hot water. No wasted heat (30% efficient)

In-floor radiant heat, energy efficient with minimal heat lost. Hypoallergenic with no moving air.

Solar hot water system uses the sun to pre-heat domestic and radiant hot water. Drastically reduces heating costs, fossil fuel use and CO2 emissions.

Efficient Cooling:

Natural cooling is achieved through cross drafting by properly placing windows. It is free too.

Insulated whole house fan exhausts warm internal air and pulls cool fresh air from open windows (3900 cfm). Efficiently and quickly cools the home without toxic coolants or extreme power.

Water Conservation

Water efficient appliances like front-load ENERGY STAR washers use a fraction of the water of traditional appliances.

Dual flush toilets; Two buttons for liquid and solid waste (0.8 gal/flush and 1.6 gal/flush). Saves thousands of gallons of water each year, 50% less water than traditional.

Water efficient showers and faucets save thousands of gallons of water each year.

Drip Irrigation, rain sensors and drought tolerant vegetation minimize external watering use.

Sustainable and Healthy Material

Green-Core Cabinets 100% recycled wood boxes, no urea formaldehyde resins, and sustainable bamboo doors.

EcoTimber bamboo flooring - Sustainable plantation harvested (3-7 yr growth). Only flooring produced with non-urethane glues (low VOC).

IceStone Counters; 100% recycled glass with cement.

Green Way beetle-kill pine siding; produced locally with Colorado beetle-kill pine, considered a waste product.

Homeowner Financial Impact:

\$155.00 per year in water savings – 51,100 gallons

+ \$1,286.00 per year electricity savings 10,800 kWh

+ \$682.00 per year gas savings 66 million BTU = \$2,123.00 per year total savings

\$63,690.00 over the life of a 30-year mortgage and a total savings of \$189,000 per year for 89 homes based on current utility costs.

Traffic Summary

- Traffic Impact Study completed September, 2008
Traffic counts were performed on May 29, 2008 with guidance from CDOT Region 3 Staff
- Projected new Average Daily Traffic (ADT) at build out = 764 trips
13 inbound in AM peak hour, 45 outbound in AM peak hour
49 inbound in PM peak hour, 29 outbound in PM peak hour
- Two proposed access points to Old Highway 82 Frontage Road (CDOT)
1 relocated Access, 1 new Access
Access Permits have been issued by CDOT
- Project will add 6% to current volume at SH 82/CR 100 Intersection
Traffic Study recommends intersection improvements
TCI Lane Ranch will provide these improvements at time of project construction

Jon stated there would be a pedestrian/bicycle bridge over Roaring Fork River to Rio Grande Trail and 25' dedicated public easement from Old Hwy 82 to Rio Grande and it has been by RFTA Board of Directors

In summary:

- Property has a Comprehensive Plan designation of 'Residential High Density'
- P&Z Sketch Plan review comments were implemented in the Preliminary Plan
- Major conformance with Goals and Objectives of Comprehensive Plan
- A rural-cluster community design concentrates development to just 32% of the property, with 68% Open Space
- Affordable and Employee Housing is provided at 16% (14 units)

- TCI will be one of the first ‘Net-Zero’ projects in Colorado, and will establish a new standard in energy efficiency and sustainable building technologies
- Project provides public access to the Rio Grande Trail and fishing access to the Roaring Fork River

Community Center will be the existing barn for meetings; there will be community gardens and a conservation easement including the wetlands and goes all the way to the center of the Roaring fork River about 1/3 of the site. Paul reiterated the Affordable Housing units will be scattered in the neighborhood and all 14 units will be deed restricted.

Utilities provided by: Mid Valley Metro District for domestic water services and sewer services. Holy Cross Energy will provide electric grid-tie to solar farm; Source Gas, Qwest, Comcast and raw water irrigation will be included.

Community Gardens – There will be individual residents who could have gardens.

Geneva Powell on Affordable Housing stated the County will have nine required and the developer will do the additional five and will be sold according to the income guidelines.

Fred – All 14 units would become part of the PUD. They are employee units and rolled into the PUD; these are locked into the PUD.

Jon – Discussions have been with Geneva and we are looking to the Housing Authority to manage the Affordable Housing employee units but they manage those five units as well but they would not a part of the County; these will be rentals, sales, etc.

Geneva reiterated they would agree that one master deed restriction on a development would be easier. She is working with that deed restriction to get it approved with HUD, buyers can use federal loan, FHA, and CHFA loans but each FHA and CHAFA require specific language. This will help the buyers in the long run and there will be one deed restriction by FHA and CHAFA. Some of the language is not agreeable to the legal staff or us so that is still on the drawing board.

Deb – We may have a separate security agreement for each of the affordable housing units. As a legal staff, we are looking at it, if there is a master deed restriction it would allow one per unit modification. We are very much in favor to find language to accommodate.

Jon stated they are comfortable with conditions and have previously addressed several of the P&Z concerns since their hearing.

Fred wanted to make certain that the specific disclosures are on the plat.

John Colson – The projected prices for Affordable Housing is for a duplex \$164,947 and a 3-bedroom \$287,038 based on 2009 sales prices.

Geneva stated these will need to meet the AH guidelines. We would have new guidelines for income by the time these are built.

Commissioner Samson made a motion to close the public hearing. Commissioner seconded the motion.

In favor: Houpt – aye Samson – aye – Martin - absent

Commissioner Samson stated he was very impressed with the information, the materials and information and commend you on this development. I am very interested and will look at it from time to time to see how it progresses. It is a very nice community.

Commissioner Houpt stated this is the best development she has seen since she had been on the Board. She is greatly impressed with the answers you have and you have dealt with many environmental concerns and really appreciate the overall provision brought forward. There is an inaccuracy in the acres of bond - 2.68 acres versus 3 acres.

Commissioner Samson made a motion to approve the request for approval PUD and Preliminary Plan for TCI Lane Ranch in Carbondale with the recommended conditions and on number 13 change the land security amended to 2.68 acres and the additional recommendation by staff. Commissioner Houpt seconded the motion.

In favor: Houpt – aye Samson – aye Martin - absent

Preference to Local Contractors

Commissioner Samson made comments and direction for staff on granting local preference to contractors. A few years ago, the people in Garfield County did cross borders. He would like to look at this regional and what type of regionally business people do. He has many contractors in the area that wonder why we do not give county preference. Could we put in our point system a place that gives some benefits to a local contractor? Therefore, he would like staff to look into this and give the Board some direction to give to local contractors. We are starting new procurement policy and assuming a lot of action going on in the public and with procurement. Ask for an opinion on the new procurement policy locally and how we believe that would impact this County. He would like to hear from the new procurement officer.

Deb has not been working with Kent Long and we could give an opinion as to what would be best for the County. We could also get some feedback regionally.

Commissioner Houpt said, since we have a new department head and a new approach to procurement, this would be a good time to finalize the recommendations and findings.

ADJOURNMENT

Attest:

Chairman of the Board

SEPTEMBER 14, 2009 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 14, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, 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

- 7) **A. Resolution on Fracing – Mike Samson**

Chairman Martin stated they were trying to find the Club 20 facing resolution; however, he has not been able to pull up in his e-mail.

Commissioner Samson asked if Judy Jordon was going to say a few words on that and he would rather have this item moved to after the presentation by Tara Meixsell under the 10:15 a.m.

Chairman Martin stated they would do that.

8) **B. discussion Regarding Giving Preference to Local contractors – Mike Samson**

Commissioner Samson said when they had Dale here; Dale said it would take two weeks and we gave him direction at that time to report back to the Board on September 21st.

Chairman Martin stated they would continue this.

Commissioner Samson explained he has had several calls from citizens and he has told them September 21 and directed them to give any concerns to Mr. Hancock so he will be ready for his report.

9) **C. Resolution for Thompson Creek divide Coalition – Mike Samson**

Chairman Martin explained this was drafted and given to Commissioner Samson.

Commissioner Samson asked Don DeFord if he is okay with the language.

Don wanted the Board to be aware that it was given to them as a deliberative document; once you discuss it in a public session, it becomes public document.

Commissioner Samson stated he did not have a problem with that. He then asked Commissioner Houpt if she was okay with page 2, number 2.

Commissioner Houpt stated she was and looked at language from the Thompson Divide Coalition and it is consistent with what they asked for. In fact, she thinks the language in this resolution, that is being proposed, has directly come from the coalition.

Commissioner Samson said there was not a tremendous amount of change.

Chairman Martin stated the resolution, in general, states that we will help support, supply the information, and bring all parties to the table so we can resolve the issues at hand, or attempt to.

Commissioner Houpt stated that it actually points out the values of the area and talks about the important contributions on the farming and ranching made to the local economy in the area, and about the watersheds. Keeping the watersheds clear and clean, it talks about the wildlife attributes, recreational opportunities and the concerns of oil and gas development in that area for these reasons. This is an area that has not been disturbed to date with heavy industry, with the exception of some coal mining years ago. However, it also talks about respecting property rights and respecting the leases that are in place and finding a resolution that will be beneficial for everyone. She knows that the coalition believes that the resolution does not include drilling but finding some kind of resolution so that those who hold those leases are not injured.

Chairman Martin said that means hundreds of millions of dollars in reference to the leases, fees that one company said they would be willing to talk about; but other considerations need to be there as well.

Commissioner Houpt stated there are many different avenues that can be taken that they have seen in other states. Like companies donating them to non-profits for tax write offs, and looking at the whole notion of leasing.

Chairman Martin said remember there are three Federal units that are there; they have proven out in production since 1956 to present. Those are vested property rights as well as there has never been history of a Federal unit being dissolved, unless there was no production.

Commissioner Houpt said what we are saying in this.....

Chairman Martin replied he understands; but some of the vested property rights, that need to be considered, will be those of the energy and also the mineral right holders. This could also be some of the ranchers and farmers that are in there. As long as we are able to resolve those issues, put those on the table, treat everyone fairly and not be prejudicial to one side or the other he is fine with the resolution; but we need to make sure that is up front.

Commissioner Houpt said that is what she is hearing from this group. There was a meeting she attended and there was a real recognition of fairness. She applauds all of the people for the balanced approach they are taking recognizing that we need to find some kind of creative solution for approaching this. One concern she has is putting a period in here.

Commissioner Samson said he is trying to remember why he put 2 years.

Commissioner Houpt said they are talking about a complex discussion and she recommends they take the 2 years out of there. She feels they can review and discuss their resolutions at any time.

Commissioner Samson said he had no problem with that and they will strike over the next 2 years. He feels he came up with a decent compromise.

Commissioner Houpt said it reads well.

Commissioner Samson – I move we adopt the resolution by the Garfield County Commissioners in support of the Divide Creek Coalition as stated.

Commissioner Houpt – Second.

Chairman Martin stated to remember to keep in consideration to fairness of all sides and that is what the resolution is supposed to accomplish.

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

10) **D. Request for Amendment to the 2009 Budget for the Garfield County Public Library District – Wilma Paddock**

Wilma Paddock and Amelia Shelley were present.

Wilma stated they are requesting an amendment to their 2009 budget. She stated they actually sold their COP's and they needed to change the budget to reflect what happened to the COP's.

Commissioner Houpt – I make a motion we approve the 2009 capital improvements amended budget as presented by the Garfield County Public Library District.

Commissioner Samson – Second.

Chairman Martin said that was an increase of about \$12,672,116.90.

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

Commissioner Samson wanted to ask a few questions. When is the projected completion date for the new library in Rifle?

Wilma stated October 2010.

Commissioner Samson stated; you will be at the location at 3rd and West Avenue until that time and she answered correct. Wilma also stated they have moved in on the weekends and hope to be open by Wednesday or Thursday of this week.

Amelia explained they would be inviting the Board to a groundbreaking ceremony in late October. She has to wait for the Rifle elections to play out to know who to invite. Sometime in November, they will be ground breaking their addition to the Parachute Branch. In 2010, they will be hiring architects to start projects in Silt and New Castle.

11) E. Release of Bond – LEED Energy – Marvin Stephens

Marvin stated they are ready to release and there are no issues with LEED.

Commissioner Houpt – I make a motion we authorize the Chair to sign the satisfaction permit and release of security for LEED Energy Services.

Commissioner Samson – Second.

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

12) F. New Personnel Policies and Procedures Manual – Katherine Ross

Ed stated he understands the Board has a concern about the resolution in Administration Review. He asked if they wanted to discuss in executive session first.

Don stated it is up to the Board to tell them if they need, or would like legal advice on this issue. This was discussed in executive session last week; but it might be they need to be updated on the legal issues. It is a policy and ultimately it will be discussed publically.

Commissioner Samson said he thought it would be good to have Chairman Martin hear what was said in executive session; since he wasn't present last time.

Chairman Martin asked if they meant the appeal process and everyone stated yes.

Commissioner Houpt – I make a motion we go into executive session to discuss legal issues pertaining to personnel policies.

Commissioner Samson – Second.

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

Chairman Martin asked for a motion to come out of executive session.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Don asked if the Board was going to deliberate today.

Chairman Martin said they need to work on it; they have given direction to staff and they need to come back when it is completed. You have a meeting tomorrow to come up with final changes; the Board will review and take final action on the policy at another time.

13) G. Staff Recommendation to Amend the Award Amount for a Firm, Fixed Price Contract to Tyler Technologies, Inc. to Include Discussion of Proposed Contractor Language in its Contract Documents – Kent Long

On August 17, 2009, the Board adopted a staff recommendation to award a firm, fixed price contract to Tyler technologies, Inc. in the amount of \$196,862.00 for the conversion, upgrade, and data migration of the computer data base systems of the Garfield County Assessor, Appraiser, and Treasurer. The amount stated in that staff recommendation is incorrect. The actual award amount should be \$288,157.00. Staff did not see the personal services line item in the proposed quote of \$93,630.00. Staff is recommending the Board approve the amended award.

Chairman Martin stated they received a letter from Tyler Technologies.

Kent Long explained that John Gorman was out of town and Lisa Warder had another commitment. Kent stated there are two matters; first to amend the original amount to the current amount of \$288,157.00. He made a mistake and left out the personal services line. The second item the Board needs to consider is to authorize the signature of the contracts from both Tyler and the modified county standard purchase of service agreement. They were able to get Tyler to move from a gross negligence standard to a regular negligence. They had to push on the actual amount of damages and they agreed to pay their own expenses if they create a problem and have to come here to fix it. He and Don spent a lot of time with Tyler and think they are finally there with them.

Chairman Martin stated you have the two recommendations and the first is to approve the award. Do we have a motion?

Commissioner Houpt – So moved.

Commissioner Samson – Second.

Don stated he wanted to have a brief discussion using Tyler as an example; he had this discussion with the Board last week concerning a software licensing agreement for his own office. He thinks it is important for efficiency and for understanding that the Contract Administrators Office and the County Attorney's Office clearly understand the position of the Board on software licensing. These types of agreements have special provisions that do not coincide with our standard practice and language for contracting with the County. For instance with this and others we have specific requirements in terms of liability and limitations of liability that you will find in the sales and support agreement on page 2, Exhibit A, that specifically limit the potential laws to Tyler Technology to the amount of the contract. That is a standard provision in every software license you see many of which frankly are simply agreed to by our employees right now. Both he and the Contract Administrator would like to avoid bringing this back to Board every time this comes back on software licensing.

Commissioner Houpt said she thought they had this conversation and agreed with Don.

Don said they did but he wanted to make sure the full Board understood that. The provisions on venue, limitation of liability, and warranties are unique on software licensing; while they are going to proposed written amendments to the procurement policy in March, pending that he knows his department and his would like to be able to move forward without bringing everyone back to the Board. If the Board agrees with this form of agreement with Tyler, they will take that as direction not to routinely bring these back to the Board.

Chairman Martin restated the motion on the table is to approve the fixed price of \$288,167.00.

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

Chairman Martin stated the second motion proposed changes to the County Standard purchasing

Commissioner Houpt - I make motion we approve the proposed changes to the county standard purchase service agreement and approve the execution of that agreement as well as the sales agreement in support of Tyler Technologies.

Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

14) **H. Authorization for Contract Award for Construction of the Hanger Access Taxiway at the Airport – Matt Anderson**

The period of performance for these contracts is the date of award September 14, 2009 through October 31, 2009. Invitation for bid was publicized and three bids were received. The IFB stated the County reserves and will exercise the right to select the vendor which represents the lowest price/technically acceptable bid. It should be noted that Garfield County does not have a local preference policy. Staff made the determination to award this contract to United Companies in an amount not-to-exceed \$1,215,927.25.

Matt stated this is a pretty standard or invitation for bid. He noted on the memorandum to make sure we do not have a local preference policy and this was not used as an evaluation factor.

Commissioner Houpt wanted to ask Matt about this. She stated they had this discussion in the last four meetings. She remembers in the spring she pushed that they really do some work on this because of the economy in this county. She thought it was going to come forward when they did the new procurement policy and she does not know where they are on this.

Matt said they have spoken to many of the vendors in the area and the message to them was to know the facts about the law, then come before the Board and make that change, request to the Commissioners. They have talked about drafting a letter to the contractors; like a survey. That has not been sent out yet; however, they have gone out to the Western Slope Contractors Association; which there is 100 vendors there. If they would like a local preference policy in Garfield County please come forward and request. All the vendors he has talked to, they appreciate that; but he still has not seen any action from the vendors.

Commissioner Houpt said she has heard from staff that you heard they did not want a local preference. She is wondering if that is accurate; if it is not, this is something she has been asking for some resolution for a number of months now. She thinks the Board has been asking for this.

Ed explained he thinks that is why Commissioner Samson asked for it to be on the agenda today and it is deferred until the 21st. It is a two edged sword, we are principally an out commuting county. We do a lot of business in Eagle, Pitkin and Mesa County and if you peg a preference here, then any job those counties do there if a contractor there is not favored with it they can insist upon exactly the same level of preference points and they have to do that.

Commissioner Houpt stated that what they talked about, and she said these are things you might want to move forward with. Look at it, not only from the county level; but regionally, we know we do business regionally. We have folks that have committed a great deal to the area and they have employees who live here, raising families here, and she thinks it is important for us to action on that. She is a little disappointed they did not get a letter out.

Matt said he thought the message they received was; they wanted to get the word out to the local vendors and have them come back to us and say yes they want this. They have gotten the word out preaching for them to come back to them. The vendors come into the office and complain a little bit; he tells them the policy and encourages them to come forward.

Commissioner Samson thinks someone made a mistake as this was put for the September 21 meeting to give staff time to talk to the local vendors and bring back a report to the Board. He had several calls and informed people to be prepared to come to the Board on the 21st to discuss.

Commissioner Houpt said that is fine; when we talked about this last week there was no reference that there were big contracts coming up. She has to express her disappointment that they are not past this point. She stated to Matt it was her understanding, even though they do not have a formal local preference policy in place, in the equation she thought there were points given.

Matt explained in a request for proposal that is more of the best value approach; in these two instances they went with the invitation for bid approach. This is strictly lowest price technically acceptable. In this case, especially for the airport projects, they do it for FAA guidelines. They went out and decided to do as a low bid, it came back, and all the companies that submitted bids were all technically acceptable. In this situation, there are no points associated with anything.

Commissioner Houpt asked if that would be looked at too.

Matt stated absolutely; it is his preference to do as much as they can as a county as a request for a proposal as a best value approach instead of lowest value approach.

Commissioner Samson said he was wondering if looking at bids, it would not have made a difference if we gave another 5-10%.

Commissioner Houpt said the problem with changing the process now is that it has been advertised to everyone. She does not want this to come forward again without having some resolution. It may even mean putting some projects on hold.

Commissioner Samson said in all fairness of those who have gone through this and followed the rules we should probably award this bid. I move we award the bid for to United Counties for the construction of hangar access taxiway for the Garfield County Airport for an amount not-to-exceed \$1,215,927.25.

Commissioner Houpt – Second.

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

15) **I. Authorization for Contract Award for Additional Paving for County Road 246 and County Road 352 – Matt Anderson**

The period of performance for these contracts is the date of award of September 14, 2009 through December 31, 2009. Invitation for bid was publicized and three bids were received. The IFB stated the County reserves and will exercise the right to select the vendor which represents the lowest price/technically acceptable bid. It should be noted that Garfield County does not have a local preference policy. Staff made the determination to award this contract to United Companies in an amount not-to-exceed \$628,968.90.

Matt said this is a similar situation regarding paving for additional roads.

Commissioner Houpt said there are times when we split this up; is there any reason why we did not this time.

Matt stated yes, there is; particularly on previous projects, we have seen a couple of change orders for asphalt and fuel escalation. It was a large amount on the last project. Looking at the risk value of that; it could happen again and

they looked at multiple awards; but decided the total low amount of 628 would probably be a lower risk and a better value to the county.

Marvin said he might have to pull one of the projects County Road 352 because of the installation and prices. He needs to get his numbers a little bit closer.

Chairman Martin asked if his recommendation was to hold off and Marvin stated just County Road 352.

Commissioner Houpt asked if that would change the numbers.

Matt stated yes, it would make the award; actually, if we discount County Road 352 then the low would be Frontier Paving.

Commissioner Samson asked Marvin if he was okay with that and Marvin said he was.

Matt stated so in this case they would go with Frontier. If you would like they could recommend award to Frontier Paving in an amount of \$410,701.70.

Marvin stated he would like to accomplish 352 if he finds enough savings; would he have to bring this back to the Board and Commissioner Houpt stated he would. Marvin said he would rather do that.

Chairman Martin stated he thought Marvin would have to have it rebid.

Marvin said this just came up last week or two weeks ago that the cost of asphalt...

Matt said in accordance with our bids we put out; there is a statement in there that we can make multiple awards.

There is also a statement that says there bids must be good for 60 days, if it goes beyond 60 days it has to be re-bid. If not, we can still award to United for County Road 352.

Chairman Martin explained the recommendation is to change what you have to award to Frontier Paving.

Matt stated yes, recommend award to Frontier Paving in the amount of \$410,701.70.

Commissioner Houpt – So moved.

Commissioner Samson – Second.

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

16) J. Limit Increase for AIP 19 Grant – Brian Condie

A letter was presented from Brian Condie asking Craig Sparks, Federal Aviation Administration, to amend the Grant Application AIP 19 from \$17,000,000.00 to \$17,500,000.00 as of September 9, 2009.

Brian stated he appreciated the Boards patience and understanding with working with the Federal Government. We do what they ask us to do. It was not after we got this approved for 17 Million and they wanted us to change it to 17.5 million. He talked to CH2M Hill and asked what the real dollar amount will be. Realistically they said if everything comes through, with bid increases they could expect a 20 million grant, from the FAA, to complete this project. His request to the Board is to have the Chair authorize to sign a grant offer, from the FAA, up to 20 million dollars and that should cover him for the next 6 months.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

Carolyn wanted to clarify that it will make a difference in the local match that Brian will be bringing back to the Board the local budget numbers.

Brian asked CH2M Hill how much money they wanted this year and it is about \$200,000.00. Once he gets the grant, he will come back with that request.

Chairman Martin stated the motion is on table.

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

COUNTY ATTORNEY UPDATE – DON DEFORD

17) A. Consideration of Mountain Valley Development's Position Regarding Amendment 54

Don wanted to move to item 2A, further consideration of contract language that addresses Amendment 54 in this case specifically with the Human Services grants to Mountain Valley Developmental; but in a larger sense as it applies to all of our contracts. He had some phone discussions with Mayor Christenson last week all by voicemail. Don anticipated he would be here today. His last message Don thought he would be here. Do you want to move forward or wait?

Commissioner Houpt asked Chairman Martin if he had a chance to listen to the minutes from last week's meeting because they moved forward and had Mr. Christenson's attorney speak on this issue in anticipation of you being able to review those minutes.

Chairman Martin stated he reviewed them and has not changed his opinion. He thinks if they had twenty-eight other organizations have to go through the same thing and do the reporting he thinks one other should do the same.

Commissioner Houpt said she thought everyone would like to see this change to Chairman Martin that was the discussion last week.

Chairman Martin said that may be and it was; but until the Court of Appeals, or the Supreme Court rules that amendment 54, that the people put on the ballot, voted and upheld is overturned from that Supreme Court, he believes it needs to be upheld now and into the future until the hearing by the District Court.

Commissioner Houpt stated; you are not recognizing the court's opinion even though as of last week it has not been appealed. She thinks in all fairness see if Mr. Christenson's coming.

Don stated apparently he has contacted the Clerk's office and will be here at 10:15. We will defer until then.

Chairman Martin stated he recognizes the Denver District Court; but he does not recognize them as ruling on constitutional issues to remove it from the Constitution of the State of Colorado. He looks at the Supreme Court to remove a Constitutional issue.

Commissioner Houpt stated it has not been appealed.

Chairman Martin said he understands; if it is not appealed it is ruled unconstitutional and will probably be reviewed and set down and say they upheld the ruling of the court. At that time, it is a final decision and he can have a discussion on 54. Until then the answer is no.

Commissioner Houpt stated there are decisions that stay in place that are never appealed and they are valid legal decisions. However, we will discuss at 10:15.

18) B. Consideration/Approval of a Petition for Annexation of a Portion of County Road 296 to the City of Rifle

A map was provided, as Exhibit A, for the location of this annexation.

Don stated these are annexations of current county rights of way that lay either immediately adjoining to or within; they both lay within the boundaries of the City if you agree to the annexation some are actually within geographically. He has talked about these and has given to the planning department. They are for a portion of south

7th Street and County Road 295 as they lay within the City of Rifle. He would like them to act individually on these and authorize Chair to sign the petition.

Commissioner Houpt – I make a motion we approve the petition for annexation for a portion of County Road 296 as presented by the City of Rifle.

Commissioner Samson – Second.

Chairman Martin stated even though it caused one homeowner a lot of heart ache and cuts his property, we can discuss later he guesses.

Commissioner Houpt said we could discuss now.

Chairman Martin replied no; we have discussed numerous times about this piece of property, the motion is there.

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

19) **C. Consideration/Approval of a Petition for Annexation of a Portion of Fourth 7th Street to the City of Rifle**

A map was provided, as Exhibit A, for the location of this annexation.

Commissioner Houpt – I make a motion we approve the petition of annexation for a portion of South 7th Street as presented by the City of Rifle.

Commissioner Samson – Second.

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

20) **D. Consideration/Approval of an IGA with the City of Rifle for Maintenance and Repair Responsibility for Roadways in Rifle Airpark PUD**

Don stated the last item concerns annexation of county roads. The annexation has actually occurred in a sense that it is part of the substantial commercial and residential area immediately around the Garfield County airport and to the south of the airport. The IGA in front of you deals with the responsibility of maintaining roads pending development of that area within the City. Rifle has held off recording the annexation until we reach an agreement on that maintenance. Rifle is aware of some of the difficulties the County has had in the past on this type of agreement. He suggested some changes to this agreement that really leaves it within the sole discretion of the County as to what maintenance will be performed to the roads. Particularly paragraph three; we added language to make our obligation exercisable solely at the discretion of the County. In addition, to provide that the county does not agree to perform maintenance to any specific standard, and he is alright with this if the Board wants to undertake this obligation and because of some of these other difficulties with other municipalities in the county; he certainly can't assure the Board they won't be free of any controversy down the road. He thinks Rifle understands that the county is generally maintaining the roads.

Commissioner Houpt thinks it is important to recognize what kind of use is happening on this road right now. She thinks this is an important IGA and she appreciates Dons time spent on the language issue and Rifle mentioned they appreciate it also.

Don mentioned that City Council has considered approved and signed this agreement.

Commissioner Houpt – I make a motion we approve the intergovernmental agreement maintenance and repair responsibilities for roadways in Rifle Airport PUD between the City of Rifle and Garfield County as presented.

Commissioner Samson – Second.

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

21) **Continued Discussion - Consideration of Mountain Valley Development's Position Regarding Amendment 54**

Mayor Christen said he and council attended, last week following talks, several conversations with the county attorney and his attorney about their request for; he is not sure if it is one or two sentences. Essentially our request is that our Mountain Valley Services contract amendment be modified to include a statement that had been agreed to between the county attorney and our attorney that the provisions of that contract be null and void if the amendment itself was determined to be unconstitutional or illegal. He thinks that is pretty much where they are. Our concern as he mentioned previously, they have a fairly politically active board of directors and they didn't want to waive constitutional rights contractually which they could do, and there was some lack of clarity in the contract amendment that he thinks the language being proposed satisfies from their end they would be happy with that language. Additionally as discussed at the last meeting with this Board they would like to be considered for a 2010 grant with the funds remaining since they were recommended for none in 2010 based on this ongoing misunderstanding with the contract amendment.

Don stated as Mayor Christen talked about his conversations with his attorney; he is correct as indicated last week, their attorney and he agreed on language actually that he had previously presented to the Board, that would limit application of the current constitutionally required contract provisions regarding Amendment 54 to the extent of quarters of competent jurisdiction has entered an injunction prohibiting application of that amendment. As you know a temporary injunction has been entered by one of the judges of the Denver District Court and as he told the Board last week, earlier this summer he had extensive discussion with the Human Services Commission and members of that commission, and grant recipients, and this Board about this language. He thinks at that point virtually all of them have signed off on the current contract; except Mountain Valley and there may have been one other. However; they all have misgivings about this language when he talked to them. The direction Mountain Valley is seeking on this contract; is direction also to Don for all of their contracts. Under the current direction of the Board every contract, that the county issues, contains Amendment 54 language and requires compliance with that amendment. That applies to not only Human Service Grants but also all of our private and public contracts. It does not apply, of course to contract IGA's. Don is taking the Boards action as direction, not just the past and the amendment that applied this year; but direction for next year as well as we are very close to having to issue contracts to the Human Services Agency through Ed's office and Linda and we need to get direction for the remainder of this year and 2010 as well.

Commissioner Samson stated the problem he has; if he is one of those other agencies and did not like the language, but he signed it any way.

Don explained that at the time they signed the language no court had considered or ruled on the language.

Commissioner Samson said he understands that; but here is where he is coming from. They knew the rules and they followed the rules; they did not like the rules but they followed them. If he is one of them, and they did that, and they see another one who did not and in their eyes, they are getting special privileges into their contract, he is going

to have problems with that number one. Number two; it is his understanding that the Human Service Commission voted not to, unanimously, give Mountain Valley any money for the 2010 cycle correct.

Commissioner Houpt said she would like to respond to your concerns when you are done.

Commissioner Samson said his point is, evidently the Human Services Commission had problems with giving them money. He does not think anyone wants to cut funding for Mountain Valley. For some reason, point one, everyone followed the rules and number two, that commission said they are not going to give any money for 2010.

Commissioner Houpt said on the first one; many people were not familiar with the amendment, did not clearly understand the implications. As Mayor Christenson's attorney demonstrated last week, it is such an overly board amendment. It impacts everyone and she has been in the non-profit world for ever. If you look at the different structures of every non-profit organization, there will be different levels of concern with this type of amendment. She does not blame Mayor Christenson for being concerned about this and if she were a non-profit director in the area, she would be thanking him for doing the difficult work and bringing this forward; because she would not feel comfortable in 2010 after seeing there was a decision that has been made on this. Signing a contract that would put her organization in the type of position it would be in under the current language we hold in our contracts. Although Mountain Valley has not signed the contract yet, she would not look at him and say he did not follow rules; she would say he was brave to push this to the point where he was listened to, and we can make an adjustment that is not going to injure anyone. It will not hurt us, it will benefit non-profits, it will benefit anyone we contract with and we will not be held anymore liable for this. Because if indeed this is held up as a constitutional amendment; all bets are off, they have to follow the language of the amendment. On the second one, it was not a question that anyone wanted to give money to Mr. Christenson's organization or not, it was a matter of being concerned that we distribute money that will be distributed because we were very low on funds for next year; we thought we were. There has now been additional money identified and she thinks that is a separate question that needs to be posed to the Human Services Commission not this commission. As far as fairness goes, there is nothing fair about Amendment 54. We have a county attorney that has come to us with some language that would make this work for everyone. There are numerous other counties, in the State, that have adopted the same language in their contracts and she has to say Mr. DeFord is always watching out for us and typically has probably a more conservative approach to protecting us than she would always agree with. She trusts that he has done a great deal of research on this. With that, she is going to make a motion that we adopt the new language that our County Attorney has brought forward and recommended for our adoption to all contracts in relation to Amendment 54, and have that language moving forward and altering the 2009 contract language for Mountain Valley Development.

Commissioner Samson said he had more questions.

Chairman Martin seconded for discussion.

Commissioner Samson said he really has a moral dilemma here. He agrees with the arguments that his attorney made. He thinks Amendment 54 is a disaster; he thinks it is poorly written, conceived and it had good intentions as many things do in the beginning. It has created a disaster throughout our State. With that being said, it was passed by the constituents of this State. Probably not realizing all the implications caused. He has a real problem with letting one organization, and he still tends to think they are not following the rules as prescribed with the law. He does not agree with law; he agrees with the Mayor. But he looks at that and thinks if he is one of those other 30 organizations and he did that but the Mayor doesn't and then he gets his after we had to follow it; is that fair to them. That is the biggest thing he has in his mind.

Mayor Christenson stated; number one, he respectfully disagrees with the statement about following the rules. They have not refused to follow the rules. They have been in contract negotiations on language with your county attorney for months now. All they are asking, again, and the only reason he can see this Board would vote not to allow this language is if you are in fact requesting us to contractually waive our constitutional rights of our directors and management. That is all we are asking in this contract. It is the same thing other counties have done. Let me point out we deal with eight governments and the only one that has proposed an amendment of this type is Garfield County. He agrees with Tres; your county attorney does a very good job of offering protection for you and maybe some of these other entities are not protecting their Boards to the level you are. Nevertheless, Garfield County is the only government; he has an \$8 million dollar contract with the State of Colorado that is very similar to yours. This language is not in there. However, we are not saying we will not follow the rules. What we are saying; if Amendment 54 is found to be constitutional, we will abide by it. However, we are also saying if it is found not to be constitutional, we are not willing to waive the rights of our directors and management for something that is unconstitutional. Now a judge has issued a very strong opinion saying this thing goes so far out of the bounds on several constitutional issues that it is in fact unconstitutional. We still say if it is found to be constitutional; we will follow the requirements. Now there is a preliminary injunction imposed barring enforcement; which he feels if Garfield County if you do not do this is enforcing something counter to a judge's order. He is not an attorney; but he thinks that argument can be made. He has been told there is another contract with Garfield County where the language to the amendment was changed. He has not seen that. An Attorney has told him they changed the language and the County signed it. He is feeling like they are being treated differently; if that is the case. All we are saying is a very simple addition to the language of a contract which is not uncommon, it's not following the rules it is negotiating language that says, should this thing be found to be unconstitutional, which in all likely hood will happen, the amendment to the county contract becomes null and void. That is very prescriptive spelling out that we will do all of these things. Their fear is it is not clear that whether or not it is applicable depends on the constitutionality of the amendment. If you, in fact, refuse to allow us to insert that language it is not just for us. As Don and Tres have said, that would be language in all of your contracts. If in fact you don't want to allow us to make that change; logic would say that the only reason would be you are asking us to contractually asking us to waive rights and he can't believe you as the elected body of this County would ask the citizens and the people you do business with to do that. It does not seem like what he would expect from that from them.

Chairman Martin said he has a differing view just the opposite. He may or may not agree with Amendment 54.

However, the whole premise was to make all non-profits and contract people to governments A-political. They do not take political sides etc. They do not contribute; they do not work on that, which was the whole idea that was signed by the governor. That was put into the State Constitution and until it is removed we have to take the opposite, in his opinion, we have to enforce until it is found to be unconstitutional. If that happens, he will jump up and down with joy that it goes away. Now he has to enforce and protect the constitution. That is what he is sworn to do.

Mayor Christenson asked Chairman Martin, so the district court's ruling that has found it unconstitutional to the point of issuing a preliminary injunction barring enforcement, does not apply to Garfield County. Chairman Martin replied; Bruce it is the court that found 41 unconstitutional which was reversed by the Supreme Court that was upheld as constitutional. Those are the issues at stake. When they say that it is constitutional or non-constitutional, the Supreme Court or the Court of Appeals then he can react. Until then a District Court does not have that much authority to rule on constitutional and remove it from the constitution until the process is completed. If that is completed; then Amendment 54 does not apply to anyone and goes away. However, if it is in place and is applied to one contract; then it applies to all contracts. He wants consistency, agree or disagree with the rules, and there is no one in this room, except maybe you and me, that supports Mountain Valley as much as we have from the very beginning. He still supports it and he is still taking care of clients and non-clients that went through the program. He thinks he deserves the money; but unfortunately the citizens of Garfield County as well as the State of Colorado voted in this amendment and it is part of the constitution and he has to uphold that. It applies to all contracts, all people until ruled by the Supreme Court of the State of Colorado that it is not constitutional and goes away.

Mayor Christenson asked; what if it is never appealed to the Supreme Court, John.

Chairman Martin stated it says there as far as he is concerned.

Commissioner Houpt said she would love to debate this as a Commissioner; but she is not an attorney and she started doing that a few minutes ago, and it is an opinion verses an opinion. She would like to ask their county attorney to explain the legal system. When a decision is made in a court and it a pending potential appeal, or perhaps never will be appealed; what kind of weight does that have on the law.

Don explained; the Denver district court opinion right now is a temporary injunction. The only reason it is arguably not applicable to Garfield County is because Garfield County was not named as a party to that case. It is a binding injunction at this point on the parties of that case which most significantly included the Governor. As to the State of Colorado, the State has been enjoined from enforcing the provision of Amendment 54. The most significant for us and honestly the State, and the amendment requires contractual agreements with all contracting entities that are not governmental entities that apply Amendment 54.

Commissioner Houpt stated we are an arm of the State.

Don explained we are a political subdivision of the State, we are not a department of the State, so in order to bind Garfield County, or any other subdivision technically we would have to be parties to that case. That is not a difficult process to undertake; but when the case was brought, it was brought against the Governor and a few other parties but not other political subdivisions of the State. Don stated as he has told the Board, other counties, as political subdivisions, have chosen to recognize the reasoning of the opinion of that court through the language Don recommended to the Board rather than go through that process of being made parties to the litigation.

Commissioner Houpt said we could do both.

Don said we would probably not seek party status, but someone else could seek that. That decision will stay, and remain binding if it is finalized in a final opinion a final permanent injunction. Normally in most litigation for a case that involved as much evidence and as much reasoning, as the one did in the Denver District Court; the court would simply convert a preliminary injunction order to a final order; however, the State objected to that. They asked it be set for a final hearing; they wanted to present more evidence. Which he suspects is the reason it has not been appealed at this point. There is no final decision yet to appeal. The State has asked for the opportunity for an additional hearing in the order we have talked about, actually said it was not a final order; that is yet to come. If the Denver District Court remains firm in its current position and there is a final order then that will be final and binding on the parties to that case and they can appeal. Initially they would appeal to the Court of Appeals; however, they can ask under special proceedings to go directly to the Supreme Court as this county has done a few times. He would suspect judging the history of other rulings on constitution amendments; the Supreme Court will consider this on direct appeal when asked to do so. Given the timing, he suspects they are looking at the first part of next year before that occurs and that may be optimistic. It could easily be the end of 2010 or the beginning of 2011 before you receive a final appellate decision in this matter.

Commissioner Houpt believes the language, the County Attorney has brought to them, will not put them in a compromising position. In all fairness to the folks who are contracting with the county, we should support her motion.

Chairman Martin said legally he agrees with her but it is a different issue. That happens to be the moral issue of upholding what the citizens of the State of Colorado wanted in their constitution. And for us to go ahead and do that really defeats the purpose and shows that government is not trustworthy and they can't even follow their own constitution. He would say no.

Commissioner Samson wanted to ask Mr. DeFord some questions. He asked what specifically was the wording he put in there was.

Don explained the specific wording; they would leave all the current language the same, but have an introductory sentence that reads as follows. The following provision shall not apply to the extent those provisions have been joined or invalidated; but a court of competent jurisdiction and the court decision has not been stayed.

Commissioner Samson said, so what that is saying, if we were to approve this; then the court decides negative, then it makes it null and void. However, the money has already been given.

Don said that is right; but then the contract provisions apply; they would have to abide by those.

Commissioner Samson said it would just be a delayed enforcement of Amendment 54.

Don stated that Tresi asked about questions about the legal process. He should explain why that phrase "has not been stayed" was added. He added that in the event that an appeal is taken from a final decision of the Denver District Court; it is routine you ask the appellate court to stay or hold in advance the decision of the lower court. That would also activate provisions of Amendment 54 relative to the Denver District Court.

Mayor Christenson wanted to go one-step further. If this offers you the protection you feel you need; if they go ahead and insert language in the contract and they receive funds from Garfield County under those terms, should we find this amendment is found to be constitutional, and they cannot certify they have been in compliance with it; he doesn't have a problem saying they would refund those receipts back to Garfield County.

Don said he could not answer that.

Mary Christenson said he thought they were dealing with both a legal issue and a political issue here. He is trying to get the politics out of this. He doesn't want the Board feeling they have exposed themselves to the wrath of the

populace that voted for this thing by giving money to somebody that this thing is found two years down the road to be constitutional, and they have gotten some money and he can't certify that no one affiliated with his organizations third cousin, second wife, didn't give a contribution to some political candidate.

Commissioner Houpt thinks everyone who signs our contract, if this motion passes, will be in that situation. She appreciates his offer but does not think it is practical.

Mayor Christenson stated we are in 30 plus years that he has been here; this is the toughest situation he has been in. They have had over \$600,000.00 in cuts over the last few months. He cannot continue to even come close to meeting the needs of some of the citizens of Garfield County if the County pulls its support from us at the same time.

Chairman Martin said they are not pulling the support. You have to abide by the contract that everyone else has. The money is there, it's sitting there, it has been awarded to you all you have to do is comply the contract, receive the money. Chairman Martin stated they did not pull the money.

Commissioner Houpt stated it was not that easy to Chairman Martin.

Chairman Martin stated; yes, it is. We need to comply with the contract that everyone else has done. He cannot waiver from that; he has to honor the citizens of Colorado that voted this in. Like it or not; there are some rules we do not like. Unfortunately, it is part of the constitution and it should not be; but it is and it has to be A-political in contracts with any government entity. That's what the citizens want and that is what they are going to get at least until the Supreme Court says it is not.

Mayor Christenson thinks Chairman Martin has a higher obligation to the citizens of Garfield County.

Mayor Christenson said this thing has already been enjoined

Chairman Martin said he understood that by a Denver firefighters union against the Governor.

Mayor Christenson said and Children's Hospital, and the University of Denver and a lot of People He realizes it is attractive to talk about unions; but this has been challenged by much larger groups than just the firefighters union.

Chairman Martin said then the Supreme Court needs to rule.

Commissioner Houpt said and it will be; it will continue to be. People understand what they voted for.

Mayor Christenson said they are agreeable to saying what we have said; your attorney is agreeable to that. He has even gone as far to say if we can't certify if it is found to be constitutional they would refund funds to the County to protect you if that was in fact found to be protection that will benefit you. He cannot ethically waive the constitutional rights of his employees and board of directors. All we are asking is for a statement that says if this is not constitutional it is void. Just clear that one question up.

Commissioner Samson stated; if he votes for this, and it passes, where are we at legally.

Don said he would change the form of the contracts, all of them, including all your standard purchase of services agreements; to reflect this language and we will be in a position where the contractors will still have to decide whether this court (Denver District Court) is a court of competent jurisdiction and will sign the language. Don believes most will from what he has seen around the state. All of the public and private attorneys believe that decision is very well reasoned.

Commissioner Samson asked; is there any other county taking a stand that we are taking on these contracts statewide.

Don said is not aware of any, he sent out a request to every county attorney; the language you have seen is the result of that request. He did not get a response of any except initially Boulder that they were still applying Amendment 54 on their contracts. He says at the time; because subsequent to that the Boulder County Attorney indicated he was going to adopt the language of Jefferson County.

Commissioner Samson asked Chairman Martin if it would cover it by having the clause put in there that if it is found to be unconstitutional that it takes care of that.

Chairman Martin stated it is a bunch of weasel words and it bypasses the actual intent on Amendment 54. Either we uphold the constitution that the citizens put in there, through the initiative, through the signature of the governor, and the approval process; as well as the legal review when it went through the legal question to be put on the ballot. The answer is; he is not comfortable with changing that. He thinks they need to uphold it, like it or not and it needs to stay in the contracts until proved to be unconstitutional not constitutional. The question is; it is constitutional right now, it is being challenged; it has to be proven unconstitutional not that it is unconstitutional and needs to be proven constitutional. He knows that is semantics; the whole premises of the initiative process by the citizens that is allowed by the same constitutional to amend it and put items in there; we must uphold it, it becomes constitutional until proven otherwise instead of the other way around. To take the attitude that we are going to put weasel words in there and circumvent it; goes back to the trust of the populace and the electors that we can't be trusted even though it is in black and white and we need to uphold it. He is saying they uphold it until otherwise. He said he might not like it; he said he does not like, it but he needs to uphold it. There are several in their own land use he does not like but he upholds it. We need to call for the question.

Commissioner Houpt said she does not think they are not upholding it.

Chairman Martin said he could respect her point of view; his is different.

Commissioner Samson asked if they could be upholding it by the language that is put in there and it is a delayed support. Could you not support that?

Chairman Martin replied no; he thinks they need to uphold. They did with 30 other organizations that agreed to do so, signed the document, put the burden of proof on themselves and they agreed to do such. We need to have Bruce do the same thing. One out of 31 is not right. He understands negotiations; it is a standard contract, we upheld it, we had many phone calls, many disagreements; but everyone complied except Mountain Valley.

Commissioner Houpt said they are talking about a new day, a new year and we are talking about a court that has made a preliminary decision, there is an injunction in place and she thinks honestly she knows these folks and non-profits and she feels they would be very happy if we supported this language.

Chairman Martin stated they might be. Unfortunately, the majority of the State of Colorado disagrees with you because they put it in and that is what we have to uphold. The other issue is he would love to be able to be political and non-political and make the choices. Fortunately this allows non-profits to be; it requires them to be A political which the citizens want, they are tired of having organizations that are non-profit turn into political activists groups and this is one of the attempts not to do such, and if this is a Denver District Court; he cannot support it until it goes to the Court of Appeals.

Commissioner Houpt stated this is not non-profits; it is everybody who you once were related to.
 Chairman Martin said again it goes back to the same rulings and the same discussion we had with Amendment 41.
 Commissioner Houpt stated; we will not change each other minds here.
 Chairman Martin stated that was correct; all those in favor of the motion to go ahead, include the words, and adjust the contracts from today until the future ruling whether it is constitutional or not.
 In favor: Houpt – aye Opposed - Martin - aye
 Chairman Martin – all those opposed
 Commissioner Samson – aye
 Chairman Martin referred to Mr. Samson.
 Commissioner Houpt stated it is language that only recognizes there is a constitutional discussion going on in this State and is honoring the fact that that discussion is going on. That is all that does.
 Chairman Martin stated he understood that. However, the other side is we need to uphold instead of putting aside. If we put it aside then we are not upholding the constitution amendment as it was written and applied. If we put it aside then we are saying we are, again, not abiding by it and that is his opinion.
 Chairman Martin told Commissioner Samson to vote his heart.
 Commissioner Samson stated he would vote for the motion.
 Chairman Martin stated he voted for the motion and it passes, you will be able to make those changes.

EXECUTIVE SESSION:

Don stated he has a few items for executive session; they require legal advice. He needs to provide legal advice concerning your budgeting as it may relate to the so called excess revenues; provide legal advice concerning takings hearing and code enforcement issues in anticipation of that discussion that is addenda this afternoon; discuss a litigation of Rose Ranch and non compliance with your land use approvals; claims on County Road 306; potential litigation involving the Dunton and Dixon matters; Cassis has a number of issues concerning code enforcement, concerning Empty Enterprises, Blizzard, Young Boost, North Bank, Battlement Mesa, Vezzoso and Elk Creek. Carolyn said they could remove Rose Ranch.
 Don stated the others all require legal advice and a few involve litigation. He will leave it to the Board; he does not know that any of those concern items at 10:15.
 Chairman Martin asked for motion to go into executive session.
 Commissioner Houpt – So moved.
 Commissioner Samson - Second.
 Don said it would take about an hour.
 Chairman Martin stated they would need to come back at 10:15 a.m.
 Don stated he would defer some of Cassie's for now and he would like to start with budget discussions.
 In favor: Houpt – aye Samson – aye Martin – aye
 Chairman Martin – Motion to come out of executive session.
 Commissioner Houpt – So moved.
 Commissioner Samson – Second.
 In favor: Houpt – aye Samson – aye Martin - aye
 Don asked if they could give direction to the budget staff on how to incorporate the property tax revenues as well as severance and mineral leasing revenues this year. He would like the board to set a workshop.
 Chairman Martin thinks we need to do it soon because budget is due by the 15th.
 Ed stated the 13th they will make a presentation.
 Commissioner Houpt thinks they need to do this week. Commissioner Samson will be gone the 3rd through the 19th.
 Commissioner Samson asked if they had a meeting the night of the 16th with Glenwood; so could they do it the day of the 16th.
 Commissioner Houpt stated she had a meeting from 12:00 to 1:30. She wondered if they could do it at 2:00
 Commissioner Samson said 2:30 would be better for him.
 Chairman Martin stated it would be a special session for discussion and decision for budget.
 Don asked if that wanted to do as a special meeting or continue.
 Chairman Martin said special meeting on the 16th at 2:30 here in the BOCC.
 Ed will find out if the room is available.
 Chairman Martins said we need to post.

REGULAR AGENDA

- **Abatement/Refund of Taxes for Perry Gene Connolly, Abatement No. 10-001, Schedule No. R200680 and Pregnancy Resource Center, Inc., Abatement No. 10-005, Schedule No. R311675 – Lisa Warder**

Lisa stated notification was by letter.

Chairman Martin swore in speaker

Lisa explained the first was abatement 10-001. The improvement to the property was not picked up by the assessor's office. Once they picked up the improvement and added to the parcel it went from a vacant land assessment rate of 29% to the residential rate of 7.96%; necessitating an abatement in the amount of \$1,020.73 and in 2008 \$1,038.75.

Commissioner Houpt – I make a motion we approve the petition for abatement and refund of taxes for abatement 10-001, scheduled number R200680 for the tax year 2007 in the amount of \$1,020.73 for the tax year 2008 in the amount of \$1,038.75.

Commissioner Samson – Second.

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

Lisa explained this is for schedule R311675, abatement 10-005; the Division of Property Taxation determined this property is exempt as of January 1, 2008 and the abatement is for 2008 only, in the amount of \$4,518.48.

Commissioner Houpt - I make a motion to approve schedule number R311675 on the assessors recommendation for a refund in the amount of \$4,518.48 for the tax year 2008.

Commissioner Samson – Second.

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

PUBLIC MEETINGS:

- **Fracing Act – Tara Meixsell with Grand Valley Citizens Alliance**

Tara Meixsell - lives in New Castle, Colorado. She had the pleasure of meeting with one of the three commissioners Mike Samson. She focused on hydraulic fracturing concerns. She let Commissioner Samson know she has a copy of the film; Split Estate, it focuses on Garfield County and impacts to landowners. It has been in two film festivals already and won a governor's award from the State of New Mexico and the governor recommends any politician who does any judgments on hydraulic fracturing, natural gas; be sure to watch this film. She got permission from the producer to have a screening and Commissioner Samson would like to see this with all three of them together; which would necessitate public comment. It will air October 17 and it is in contention for the academy award race. This is not a short; it is a movie like feature and is probably a good hour.

Commissioner Houpt said she thought this might be something they should agenda for a future meeting to air. She felt they could do it September 21. She asked Ed Green to check into that.

Don stated that will be a public meeting and Tara stated that was fine per the producer.

Tara wanted to discuss her concerns regarding the exemption of hydraulic fracturing of chemicals from the Safe Drinking Water Act. She asked this commission to support current national legislation that would reverse the exemptions put into place in 2004 when conclusions drawn from an EPA study stated that fracturing poses little or no threat from drinking water. This study was declared scientifically unsound by an EPA whistle blower, Weston Wilson, who asserted that data gathered by the EPA did not show cause for concern and that the conclusion on the study was incorrectly arrived at. It should be noted somehow that Hale Burton, a huge industrial company and a fracturing giant had a hand in this final EPA conclusion. She stated this was all to the best of her research and knowledge. In 1997, the US Courts of Appeal ordered the EPA to regulate hydraulic fracturing chemicals under the Safe Drinking Water Act after a hydraulic fracturing operation resulted in the contamination of residential water well. The time has come to again make the appropriate efforts to safeguard this nation's water and not put company profits above health and safe water. Right here in Garfield County there have been numerous reasons to believe that hydraulic fracturing chemicals have likely posed threats to both water quality and human health. She wanted to discuss a very good friend of hers, Dee Hoffmeister, who would have like to come here today; but her health will not allow that and she asked Tara to tell the Board that. The health problems she and her family have been plagued with while living near an open pit filled with chemical mixes know as flow back; are some of the reasons she feels her health was impacted. Dee has lived in Silt, Colorado for more than 10 years. There is a well approximately 800 feet from her house with four wells and two condensate tanks. In 2005, after returning home from vacation, is when the first rigs were in operation. There was a pit there also filled with liquids and she passed out within 10 minutes after being in her house. They knew the fumes were surrounding the house; they could see it and smell it. Since then Dee has been disabled with chronic weakness, dizziness, nausea, pain, burning skin and breathing difficulties. The doctors have not been able to diagnose her condition; she will emphasize Dee has not been to specialists or toxicologists they simply cannot afford it. The oil and gas company operating near her home offered to pay Dee to rent another home or stay in a hotel. In 2005, Dee left her home and went to live with her daughter, for eight months here in Glenwood. They moved back after the major fracturing and drilling was completed and the disposal pit was emptied. Dee experienced relief from her symptoms when she is away from home; but she has never fully recovered. After a 2000 fire at a nearby well site she was hospitalized for two days and had to spend another 2 months away from her house. Dee's extended family used to live on the property and many of the children have asthma problems, are on nebulizers and some have moved to California and their health symptoms are gone. Air testing on the property in 2006 showed elevated levels of benzene, ethyl benzene etc. She wanted to tell the Board that Dee's problems are not going away. The drilling is intense, they are fracturing, and there are open pits all over. Tara was up there about 1 year ago; she became so ill they had to get in the car and leave. They went to a neighbor's house; she called every phone number on the refrigerator at the house to get someone to come and do an air study. She finally got one member from the COGCC; it was a weekend no one came out. She went home, was nauseous all evening, and Dee became extremely ill. Another family, the Amos family, they no longer live here, they moved away. They had their water well blowup. Their water stunk and fizzed and they felt there was something seriously wrong with their water. The company asserted they had nothing to do with it even though the gas well was being worked on close to their home. Laura became ill and came down with something called con-syndrome. She had a tumor and had it removed. She started researching her conditions and found studies done that link her rare form of tumor to the chemical 2BE; which is a know ingredient in some fracturing mixes. There is a lot of discussion back and forth over whether or not the company ever asserted, or offer on record that 2BE was used in the mix. Laura claimed many years ago, to Tara, that she was told by an EnCana official that yes 2BE was used. Finally, Theo Colborn reopened the study and pushed the COGCC and the EPA to take a good look at the Amos situation. The end of that story is EnCana was finally fined for contaminating the Amos water well and she understands EnCana bought the Amos property and they live on a nice ranch far away. In addition, they cannot talk about it; Laura would have to be subpoenaed by a Federal subpoena to discuss what happened in her case. She wanted to talk about some of the counter points to some of the industries stances. In response to the industry's claim that there has never been a documented case of ground water contamination by fracturing the industry controls the data. When there is contamination, problems the industry settles under the condition of confidentiality. The industry does not conduct baseline tests of ground water before fracturing and compare the tests after fracturing. It is not mandatory. She also wanted to let the Board know; if she, as a landowner, wanted to test her water well before gas operations happen; she doesn't have a sheet of chemicals to give them, they are undisclosed. How can she protect herself; she cannot run a water test before, during or after if the chemicals are undisclosed. The industry's statement ignores the fact that 75% of frac fluid that is returned to the surface many times in the form of flow back fluids are minimally regulated. Flow back fluids are placed in pits which are sometimes unlined and which are subject to storm water evens. Also in many cases, the pits are merely bulldozed in or partially empty. Regulation of disposal or recycling frac fluids is loose and their chemical compositions are unknown. Our flow back fluids, or parts thereof, used for drilling new wells where they will be exposed to ground waters; how do we know. Airborne's from flow back fluids may be dangerous depending on what the frac fluids contains. Dee will tell her they are fracturing again, I am so sick; they do not go out of their house. In response to the claim that gas and oil are over regulated she asserts they are one of the few industries that are exempt from most environment laws and this to her flies in the face of reason. In response to the claim that Federal regulations is not leaded she asserts that the ground water often flows between states and that the industry can successfully exert political pressure, on a State by State basis by vastly spending on advertising. She also notes the opposition to the COGCC rules; we need Federal help. Federal Regulation management will allow for broader data acquisition for scientific study, which we sorely need. In response to the

claim that fracing is necessary, she is not arguing about the practice of fracing itself, it is about what is used in the frac mixes. Green chemical mixes, water base mixes could be used. It does not have to include undisclosed chemicals. That is her layman's stance on that. Fracing is necessary for domestic production of oil and gas. Domestic production of oil and gas is extremely important; however it must be done with due regard for the land and water resources and for the health of the public and environment. When it comes to public health and environment, the industry seems to prefer to spend money on public relation campaigns and lobbying rather than on pursuing the development of technologies to protect other national resources. The industry should develop non-toxic frac fluids and methods of recycling flow back fluids where the recycled components are tested, safely reused, and safely disposed of. Lastly, on the claim that jobs will be eliminated; she asserts when operations are conducted properly there will be more jobs. For example testing, developing and employing new technology. Any additional costs can be offset by saving and vast public relations lobbying expenses now spent to convince the government not to pass regulations that require them to do it right. She asked to be on the agenda to speak before this County Board because she feels it is extremely important for the County Commissioners and the public to hear our concerns over hydraulic fracturing chemicals used in natural gas development. She understands that the county invited the industry group COVA to do their presentation before this commission some time back. She offers a different viewpoint that of a landowner and a concerned citizen. She is not a lobbyist, not employed by any entity to be here; in fact, it is the polar opposite, she is just here, on her own time, to just state what she feels is important to everyone in this county. She would like to feel they could have frac fluid in their mouths foods and be just fine; but she is not going to trust an industry that can be unregulated and she will assume that will be fine. The day they can do that, it would be a great day. Please join the other cities and counties from across the nation in supporting responsible natural gas development by endorsing and supporting Diane DeGette's Hydraulic Frac Exemption Bill; or undoing the exemption. Gas development can occur in a safe and responsible manner; but a business model based on maximizing profits, and ignoring, and discrediting health concerns should not be the way to do this. Discussions over the right of takings have arisen regarding the right of the company to extract the product. She asks this important question; is not the taking of the safety of our water and air supply, by allowing the use of undisclosed chemicals, not a taking from the citizens in regard to their health and in regard to their ability to ever be able to know what to test their water wells for. She is asking her county commissioners to take this responsibility seriously and help protect the health of this country both now and for years to come.

Chairman Martin asked if she wished for someone else to speak about an experience.

Commissioner Houpt asked if Tara had a proposed resolution. She stated they have received a resolution from Club 20 and someone else brought it last meeting.

Tara said she did not have a printed copy but would get one to her. She stated she made her verbal request they support the bill and that is the basis of what she was interested in.

Rick Rolls – Hunters Mesa, 10 miles south of Rifle. From 2003 to 2005, EnCana had pits at the end of his driveway. One about ¼ mile east and ¼ miles west from his house and they were trying to aerate or evaporate the produced water and frac fluids. In 2004, he became deathly ill; he could not reach his face to eat, he could not walk. He is still unemployed because of it. If he exerts himself more than 2 hours he swells up like a balloon and can't move. His live stalk is suffering severely; two out of three kid goats are born dead. The ones that do survive end up with an abscess in their lymph glands and eventually die. His horses are all sterile which makes it hard to make a living. He is almost positive it is from the aeration of the pits. In 2004, he had blood tests done and he had benzene in his blood; six types in his blood and he thinks it is a serious concern about the ground water. They had a frac spill on his land in 2005; for 7 days, he listened to transports, 24 hours a day, pulling in and out of the place. On the 7th day, his lower reserve was filling up and he needed to start irrigating; when he got down there the center tank in the east battery, the drain valve had been open on it and they let it drain out on his ground. They told him they cleaned it up; Greg Baines from EnCana, all they did was cover it with top soil. This spring they came to redo the contours, off the end of the pad on the reclamation, when they moved the dirt the black stain reappeared on the ground. He has been fighting with them to get this cleaned up. They have done nothing. To think it does not get to the ground water; that crack tank spill is 25 yards from West Mamm Creek, which is one of the alternate points of diversion for that creek is for the City of Rifle for their water. He thinks it is a serious problem that needs to be corrected and the frac water and the produced water needs to be on the Safe Water Act.

Mr. Light – Battlement Mesa. He is the president of the Grand Valley Citizen Alliance. He wanted to emphasis one thing Tara said. The Grand Valley Citizen Alliance has never taken an action to condemn drilling or fracing. They feel they are necessary activities; however, an important issue beyond drilling and fracing is the public heath safety and welfare. That has to be accommodated. He stated a friend of his wanted him to carry a letter and an addendum to his letter, which is on fracing from Earth Works, and he wanted to submit for consideration and part of the record. His name is Bob Arrington and he is a recent resident of Battlement Mesa. What Mr. Light wants to do; he wanted to give them a resolution from Durango in support of the Bill. He is citing some of the results that Theo Colburn of Paonia has done. These are notes taken from a number of studies done of pits some in Colorado and some in New Mexico. This data is from the Colorado Oil and Gas Association; it is their study. Industry spokesmen repeatedly tell you that the products they are using are safe. Yet the data proved by the Colorado Oil and Gas Association about the chemicals they found in evaporation pits and produced waters in four Colorado gas plays suggest otherwise. For produced water alone they found 70 chemicals and of those chemicals 57 where not traceable to a chemical abstract service number. That means there is no way they can be researched to determine their health effects. Out of the 13 chemicals that were identified, that is that had a chemical abstract service number, 8 were water soluble, 7 can cause skin, eye and sensory organ damage, respiratory problems, gastro intestinal and liver problems and brain and nerve system damage, the later which can be irreversible. Six can cause cardiovascular and blood disorders and ecological damage, which means possible impacts on vertebras, invertebrates and fish. There were seven identifiable follicle chemicals, in addition to the water-soluble there were airborne chemicals of which six can cause the same affects of the water-soluble chemicals. Also ecological effects and other effects that include bone damage and death. When you look at all the chemicals with CAS numbers found in pit fluids, solids and produced water, more than 60% of the drilling fluids and more than 50% of both produced water and pit fluids and solids were chemicals found on the super fund list of toxic chemicals. Looking at what was discovered in New Mexico, a few years ago, as a result of another industry funded survey of residential, residuals and 6 drilling pits in New Mexico; it turns out that 93% of the chemicals found in the pits where on the super fund list and as in Colorado there are groups of chemical products tested in Mexico that did not match the know chemicals; but on the list of the

admitted chemicals used in New Mexico. Which raises the questions about the design of the industry funded studies and yet even their industry-funded studies demonstrate the toxicity of what they are using. As far as fracking chemicals are concerned it is estimated, based on the data available, only 5% of fracking products on the market provide full disclosures and that 20% provide no specific chemical ingredients or no ingredient information at all. Without full disclosure, it will be impossible to establish effective water quality monitoring programs to track the fate of the chemicals. Although some of the chemicals used in fracking are also found in household products, which industry tells us, if anyone would swallow, they would be rushed to the hospital immediately. He wanted to remind them of the nurse in Durango who ended up in intensive care for days and almost lost her life. It is full hearty to think just because COGCC can ask a company for full disclosure of what is in a product, that the company will provide it. Under current rules, by the time it will take to get the product information needed to the first responders and health care professionals and when it is critical to know immediately up front how to treat a patient; it is questionable that any lives will be saved and permanent health damage can lead to the need for long term health care can be avoided. He hopes the Board would defer any action on the resolution you are preparing regarding the Bill until you have a chance to see split estate, until you review some of the data from industry and until you had a chance to look at the Durango resolution so your decision can be more fully informed by some information that comes from somewhere other than the industry. Paul respects the Boards process.

Commissioner Houpt asked Mr. Light if he was going to submit what he presented today and he stated yes. Randy Fricke – New Castle resident, past President Grand Valley Citizen Alliance, on the Water Committee for GPCA. Randy stated he had a statement with him and copies for the Board

Chairman Martin asked if it was the letter he sent.

Randy stated no this is completely different. Randy wanted to follow-up with what Paul Light just said about reviewing data that he has presented. Before you make a decision, there is a lot of evidence coming forth not only from what he has presented, Dr. Theo Bold and several other scientific sources. Yesterday, he saw a front-page article in the New York Times; our nation's water supply is in terrible danger. The times did a study, you can go on line and look at info, and so along with our concerns here, we need to look at all this water data. Water is very crucial in this county and this State and he is asking them to seriously consider our water here. He has reviewed the database of the COGCC; it is in causes and orders database. It is a complete file of all the hearings and cases and fines since back to 2004 to the present time. That is contained in this letter. He made a summary of his findings. There is a pattern of chemicals that consistently show up; methane, different butanes, a whole series of toxic chemicals that show up consistently in the cases the COGCC has heard. He picked 2004 because the level of intensity of violation seemed to start 2003, 2004 because of the increased drilling here. If you ever have a chance to look at that data you will see case after case where the contamination, toxic chemicals, water wells, wells blowing up, there are some consistency and some patterns. Even though COGCC did find the gas industry in these violation cases there was only one case he saw where they asked for remediation only one out of a whole slew of cases. Another words those chemicals are still out there; they are still in the ground and flowing into our water aquifers and into our water sources. He is trying to raise the level of concern by everyone here that this issue needs to be considered. We need to look at our water in this county serious. He said he guesses that is his plea to this Board and he would like to work with the Board on this issue. He is working with a committee to address and research water issues in Garfield County. He would like to bring that information forward as soon as they make some progress on this serious issue.

Commissioner Houpt asked if he was going to read his letter for the record and Randy read his letter (copies provided).

Susan Alvilar – works in Parachute for Williams. They did have the opportunity to come before the Board and present information about hydraulic fracturing. The ability to do hydraulic fracturing is very important to the 250 Williams employees that work in this county and the thousands of contract workers. They drilled their first well in 1983, they have fraced over 3,400 wells since that time, and they have never had an instance of hydraulic fracturing causing contamination. They feel very regulated by rule 205, by the requirement to have a chemical inventory. They hired an additional person to maintain that chemical inventory. All the MSDS sheets they have on location and by 317B and form 36. She wanted to make two points; she thinks it is misunderstood about the surface casing that they put in place, which is over and above the COGCC rules for protecting shallow ground water. They do drill that initial surface hole with fresh water and then case it sometimes up to 2,000 feet in depth. That is what does protect the shallow ground water. The deepest ground water well they found was 300 feet where they did studies. They do have base line water quality studies and they received an award from the COGCC for the Homes Mesa ground water study; which was a baseline water quality study of springs and wells on the Homes Mesa. They have followed-up in the past two years with further samples of water wells in that particular area. Whenever anyone has questions about their water well and it is in a Williams operating area they proceed with haste to make sure that well is sampled. That information is also collect by the COGCC, Williams submits to them, and also by the county, and with permission from the landowners and the USGS Water Base, which they contributed money to be established. Any citizen can go on line and look at the database.

Bobby Hays – Trustee Town of Silt. He is not representing the town of Silt today although they may take the same stand as him. He is here providing information that is actually a concern he has with the water. There are many instances in our past history of the US Government and many aspects of issues that have occurred that mistakes have happened, and corrections have been made, and laws have been established, and rules have been enforced in order to control certain aspects and hold people responsible for actions that have occurred. He stated he can start with examples used in the US government; we have x-rays we use consistently today; in the past when they first started the government, the US Army actually had radioactive material they had people swallow and they would die in a few months. They started seeing the bad qualities and the bad aspects of what was happening and now today we have an aspect where people control our radioactive materials and how we handle it. The same thing happens within our medical fields; there were times people dispersed meds to people and they were having babies with deformities. We now have control and regulations on these types of instances. Even today, the medical field recalls may of their medicines they are actually presenting to people. He will not get into specifics of what is happening in Garfield County; he is sure they know better than he does. He has a concern things are happening and we need to take care of them immediately. He has experience in the construction field and for some of this investigation for geological features we have in the area. We do have a lot of natural fractures and uplifts, and up thrusts and geological features that are very prominent here that do create problems when they are drilling through these fractures. These fractures

do not have any governed regulations on them and people do not know what they are. When we take these drilling to deep depths we cannot control what the gases or the chemicals are doing. He is going to take a stand on that and say he does not care what they are telling us; they cannot control where these chemicals are going to go or not going to go. We do need to take some establishments and actually some kind of control; there are some regulations that need to be put in place is his main point. We do have in the area of Glenwood Springs, we have the hot springs, Penny Springs by Redstone, South Canyon there are some hot springs and there are various hot springs within the area which is an indication that the water table does go to deeper depths than just the a shallow point and then comes back up to the surface. His main concern; we need to regulate these chemicals and the industry. He wanted to reference Wyoming and Texas on drilling; they have a lot of formation that are flat and not the same as what is in this area. We have many formations in this area that are not just clay stone or clays, or silts; but we do have formations that allow a lot of permeation of chemicals and gases to go into. That is actually where they are extracting many gases from too because these gasses are escaping. He picked up the Independent Post and saw this meeting and he wanted to inform the Board he believes they need to put some regulations and control on this. The other point he wanted to make; in Wyoming when they drill it is a desolated area, in this area we are very heavily populated.

Kathy Hall – Western Slope Oil and Gas Association. Kathy wanted to show the multitudes of resolutions that have already been passed in opposition to the frac act. She has the full packet with her that she presented before which was the very words of Carol Browner that was in the congressional record, the COGCC and gave you a sample of a lot of editorials and articles written on fear tactic. They are trying to keep based on facts instead rather than emotions and they hope the Board will keep it to that point. There are 20 plus resolutions there from cities and towns all over the State that have actual drilling and operations in their areas; they didn't go to anyone who didn't have that activity going on. Just wanted to remind you that Alabama, Oklahoma, North Dakota, Utah, Wyoming and Texas have similar resolutions; you have the Club 21 that was just passed on Friday. She gave them a chart of actual fluids, or possible things that could be used and what they are used for in your everyday life.

Jim Felton – Bill Barrett Corporation stated he knows they are discussing the issue of resolutions today and just listening to the comments too; he guesses his point would be while he understands the importance of a resolution and the county taking some sort of position on this issue; what he is urging them to do is rely back on the science. There has been a lot of speculation about the mystery of what is taking place with the water here. There is no mystery to what is taking place to the water here. The benchmark studies are done; pre during and post drilling. He thinks there is a great body of knowledge as it relates to the water quality. He thinks to the extent that it is meaningful to this county goes to the fact that even Congressman DeGette says all stories she has heard has been anecdotal to the point that even Governor Ritter, who was recently named the greenest governor in the country, has asked her to back off a little bit as more of this information comes in. When you look at the science, look at the data, you look at 60 years of this practice; look at a million such cases of fracing that has been undertaking. He thinks they would be hard pressed to find any industrial process that has had the sort of record that fracing has had. As it relates to Dr. Colburn's work etc., we live in a chemical environment that is what comes with living in the 21st century. Look around this room, the particleboard, the treated wood, the carpet, the glue in the plywood something that is grossly misrepresented in any studies. The water issue is something that this county, this State has control. Of the fact that the administrators of the Clinton admin, the Bush administration to the EPA came to the same conclusion that the exemption was last signed into law; one of the co-signers was then Senator Brach Obama, should speak to the issues that substantial protections, safe guards exist. Particularly through the COGCC; two years, as you know Commissioner Houpt, very technical, very scientific, very rigorous examination a protocol of regulations that is called by the Wall Street Journal, the severest most strict in the country. He thinks this should give people a lot of faith and safe guards, the mechanisms and the processes are there. Susan Alvilar referenced the three components for the COGCC rules. For those who have not visited those provisions he urges them to do so; they are very rigorous and exacting.

Bob Mellette – Glenwood Springs – Conversation Chair of the Roaring Fork Sierra Club Group. He thinks the whole thing of supporting the DeGette Bill is a no brainer. Why should the gas and oil industry be the sole industry exempt from the Clean Drinking Water Act? Why do they want that; doesn't it imply that they consider the possibility that they might contaminate the water, and they do not want to be sued by people. Why should they be exempt? In addition, why will enforcing the Clean Water Act impinge or restrict their operations. Clearly, drilling and fracing are important industry for Garfield County. However, they can certainly continue to do that in a sensible and clean way. They do not need to be exempt from this important bill. We need to protect our water sources and our drinking water. He urges them, as County Commissioners to support the DeGette Bill. It is a no brainer and it is the responsible and reasonable thing to do.

Chairman Martin wanted to comment that they are not exempt from the Clean Water Act, it is the enforcement and the inspections put by the EPA to the State of Colorado. The State of Colorado took that on themselves; it is the responsibility of the State Health Department and Oil and Gas Conservation Commission to enforcement those rules. It did not exempt them from the Clean Water Act in any way, other than the enforcement issue is not done by Federal agency it is done by State agency. If this returns, the Bill returns it back to the federal agency to do the inspections instead of what was given to the State to do. If we have an issue, it is with the State of Colorado and their enforcement and their inspection and we need to direct that back to the proper channel.

Bob said Colorado should be enforcing it.

Chairman Martin explained they are enforcing it, if they are not up to your standards; we need to talk to them and say you are not doing it strong enough. That is where it needs to be, not Federal legislation to tell the State that we are taking it back and have the Federal Agencies come back and do it. The reason is; it was impossible for the EPA to have that money to come and enforce it. Therefore, they enlisted the States help.

Bob stated; ask yourself why is the gas and oil industry fighting this. Think about it.

Commissioner Houpt stated regardless what passes the State would be working with the Federal Government.

Chairman Martin stated they will be wrapping this up in the next 5 minutes; they will consider all resolutions, they also have one from the oil and gas liaison to consider and then they will have a work session and probably a special session to consider if they will support one way or the other or remain neutral.

James Golden – 648 Village Drive, Rifle. James stated to use the words of someone else; it is horrifying to fight our own government to save the environment. About Diane DeGette's proposed legislation, he thinks Garfield County should back her on this 100%. Not to back her on this would be exposing your citizenship to Russian roulette. A

matter of numbers is allowing your citizens to be used as guinea pigs to see what happens afterwards if this is not supported. To use your words, Mr. Martin, on a previous issue with the Department of Energy concerning the Rulison test site and how you felt the Department of Energy is using the oil and gas workers as guinea pigs in a game of Russian roulette and how close can you drill to it. You would be doing the same thing here by not supporting this bill. If you let this go without supporting it, you are exposing me and everyone else to that game of Russian roulette only it's not radioactivity its chemicals. It is the same thing.

Chairman Martin stated it is not; the State of Colorado also has the responsibility of issuing the permits to drill within that area not the Department of Energy. The State of Colorado and the Health Department, and the Oil and Gas Conservation Commission promised hearings; they have failed to do so. The Rulison site is still on the back of the State of Colorado; this issue is here to enforce the Clean Water Act not the Federal Government to be invited into your neighborhood, your bedroom etc. Enough is enough the State needs to take care of their own problems instead of deferring to the Federal Government and that is his opinion.

James stated good; he hopes the State does take care of its own problems and part of the State, as a constituent it is up to the State and up to you to support as well.

Bobby Hays wanted to provide information on the characteristics of water; your ground water does not travel as fast as the surface water. It may take 30 to 40 years for your problem to surface. Just because you cannot see it today, does not mean it is not there.

Judy Jordan passed out a draft resolution. About a month or so ago, Ed Green had dropped by and was told that Commissioner Samson wanted to see a resolution on the frac act and asked her to contact Kathy Hall. Kathy gave her examples of some resolutions that have been passed regarding the frac act and opposing it. Judy patterned the resolution in front of the Board from the examples Kathy Hall gave her.

Commissioner Houpt stated it is not consistent with the presentation Judy gave the Board previously. She is wondering why there was direction from anyone to tailor it around one party.

Chairman Martin stated there was not any that he had.

Commissioner Houpt said that is what it sounds like.

Commissioner Samson stated he did not think there was any direction. He asked Judy to get in touch with Kathy to get the information she had to help us get a resolution from Garfield County.

Commissioner Houpt stated; that would support one party.

Commissioner Samson asked did I ever say that.

Judy responded that she and Commissioner Samson never talked about it at all; she and Ed talked about it.

Chairman Martin said its one example of a resolution, not our final resolution.

Commissioner Houpt stated she does not want this to be represented as our county employee's position that they want us to take. She wants it to be understood that this was tailored around one party's recommendations.

Commissioner Samson explained; there are people here that want Garfield County to take a stand. He respects Commissioner Houpt's opinion; he knows what she wants, but it may not be what he wants. However, for you to say it is not fair for us, whomever us is, to present their resolution but for you to present yours; that is not right.

Commissioner Houpt stated she is saying; before **pogo** presented their position, our staff came forward with a very balanced presentation. This is very different from what was presented.

Commissioner Samson said to your understanding; it was balanced, but there were many people who felt it was not balanced. They felt that the comments and presentation that Judy made at that time needed to be answered and that is why they requested; and Commissioner Samson said he wanted to hear all the information. That is why they were here because they felt what Judy said, at that time, he needed some clarification.

Commissioner Houpt thought it was very important to hear from the oil and gas and industry and concerned citizens; what she is very concerned about is that we asked our staff to talk to one party to craft a resolution. If that is the case, she thinks they approached it improperly.

Commissioner Samson said he does not know who did that; but he has had all kinds of people asking for input and he met with Tara and asked her to come here before the Board. In addition, he thought it would be important for all three of them to watch Split Estate.

Commissioner Houpt said she would tell them that the title on this resolution is completely inconsistent with what our staff presented to us originally.

Commissioner Samson did not feel it was totally opposite, he has not read it

Commissioner Houpt said the title is.

Commissioner Samson said he thinks it is important for us, if it needed to be changed then they felt it needed to be changed.

Commissioner Houpt said if the direction is; staff, go talk to one party, what's that message.

Commissioner Samson asked Judy if anyone ever gave her direction to talk to one party.

Judy stated that Ed asked her to call Kathy.

Chairman Martin stated to get the examples of what had been done. We have the examples of Grand Valley Citizens Alliance, we have Durango etc. It is our duty now and our task to put those together, come up with a resolution that this Board, three members, will be able to present forward, support, and be able to say this is Garfield County's position. We do not take it off on the staff, Ed, or anyone else; we are not siding with everyone. That is why we did an overall review and the discussion, put it on TV, got the information, we had our contacts from Washington to local. It is time for this board to make a decision; let's make the decision, let's put this brain child together and if we can agree, we can, or if we can't the majority rules.

Commissioner Houpt said she does not want this coming back to anyone saying this is the position our staff has given to us.

Judy said she was not asked to give a position. What she presented a few months ago was strictly factual.

Commissioner Houpt said this takes a position.

Judy said this does take a position because that is what she was asked to do. She has not been asked to offer a position on this unless you (the Board) direct her to.

Commissioner Samson asked Commissioner Houpt if she was okay with this.

Commissioner Houpt said she is not okay with this resolution.

Commissioner Samson said we have not adopted this.

Commissioner Houpt said okay; but she does not want this to come back to them saying this is a recommendation from our staff.

Chairman Martin said the only one who would be doing that would be you. What it amounts to we have all this information to decipher and put down on paper what our position is and that becomes the position of the County. These are all examples and all positions. So let us go ahead, evaluate those, and make our own decision. End of discussion; you will have 7 days, do you want to put on the agenda, or do you need more than 7 days. Commissioner Houpt said they should watch the movie; they can do it together or separately. Commissioner Samson thinks they should watch together and have it open to the public. Chairman Martin stated they are trying to get on a special day. The 21st is getting booked. Commissioner Houpt said the 21st or the 12th and Ed will look into those dates with Fred. Chairman Martin said they would have their timeline and put it on the agenda.

- **Garfield County Commissioner Action Relative to 2008 Divide Creek Seep – Lisa Bracken**

Lisa commented about the nature of fracturing. It is interesting to her that they have these polarized viewpoints that it is safe or not safe, what goes in the ground comes back out, it's safe to eat it, it's not safe to eat it. Lisa stated she has no agenda just the truth. What she wants to talk about is the science; behind what fracturing is. Everything we hear today from both sides of the room; most of the folks who have an opinion want to say fracturing is okay let's not make that a contentious issue. However, the truth about what's contaminating the water is a lot more complicated and it is difficult; but it is the truth and we have to deal with it. It is the foundational aspect of what is going on geologically and hydraulically. Beyond the fact that industry does not like Federal involvement unless, it is to get an exemption. She thinks Federal involvement is appropriate in this case. Obviously, the State has done a very poor job and they continue to do a very poor job of regulating. They pinched Garfield County's head at the hearing. You can imagine what they do to us. It was embarrassing for her to sit there and see what they put her County through and Dr. Thyne. Fracturing; what it does do. It causes seismic pulses to travel primarily along existing fault paths, extending the energy from that pulse into the formation the way of new faults, small or otherwise. It also creates new pathways. The seismic activity causes the underlying rock layers to slip and shift creating more faults and possibly sealing others in a process that is often grossly underestimated. Industry knows this. Introducing extreme hydraulic frac pressure, enough to counter the weight of the compressed rock formation underground and the existing pressures from gas and water only intensifies the effect. These activities combined with the interception of pressurized gas pockets creates more disturbance much of which is unpredictable due to the irregularities and fluidity of tight stand formations, as well as the inability to predict pressure. If you couple all of this with the depressurization that occurs as gas and water, by as much as 1 to 5 million gallons, it is tapped off the formation and then collected at the well bore much greater shifts and instability arise. Compounded by subsequent frac jobs that can lead to even greater formation failure; again, industry knows all of this. Big time pressure encounters, gas kicks and over pressurized water as they begin to exit the well bore can put the whammy on the formation as well as the cement casing. Therefore, to summarize both instant and continued degradation of the formation occurs over time affected by numerous primary factors. Those factors are one; the nature of the rock, that is faults, fissures, and caverns, slip zones and other instability. Two; initial artificial seismic and hydraulic stimulation of the rock; fracing. Three; frac disruptions which cause the formation to respond with its own seismic reactions leading to even more highly unpredictable instability in a round robin cascading effect. Four; encounters of pressurized and over pressurized gas and/or water that is gas kicks, light or heavy. That happened in the Divide Creek Seep. 500 pounds per square inch came tearing up the well bore and tore the heck out of everything. Depressurization of the formation as the gas and water are produced and six; artificial re-stimulation of the formation through repeated seismic and hydraulic stimulation of the rock, and for each stimulation, you compound the other factors. It is significant. If you introduce fresh water aquifers and underground springs into this equation, you have a recipe for environmental disaster, which is what is occurring. To make things worse we will toss in extreme down hold density and now you have this level of geologic degradation going on every 10 acres underground. Unfortunately, all this underground interplay makes predictability a pipe dream. It really does and engineers know it and it can produce effects that are made worse over time. That is a key word time; we are just now beginning to see what is going on. Some adverse affects may show up relatively immediately but some may not manifest until the well is long into its life span or perhaps after. What you have is an industry saying there is no evidence; it is all antidotal. The reason for that is, if you were to have a criminal investigation and you allowed the criminal to control the crime scene, you let them bury all the evidence, you let them propagate a false alibi and made them accountable to no one, you won't find out what is going on and that is exactly what is happening. Now some how the EPA figured out how to apply the superfund rule, which she is sure, they are looking very hard to bury that option. It is the one thing they overlook, the EPA slipped in and found all this contamination, and they are on the trail; which is great. The beauty of all of this, she has lived in Divide Creek for over 20 years, she observes nature and she learns from it. There is one rule that is a true beautiful thing; nature tends to curtail the activity of one organism as it begins to devastate an entire environment and jeopardize a symbiotic ecosystem. This industry has been behaving so aggressively, so greedily that their very manner is beginning to expose the way they do things. What are the unfortunate consequences of their actions? Therefore, the truth is coming and she could not be happier; she can relax a little bit. Instead of me always saying people pay attention this is what is going on. Industry is doing it themselves; eventually the truth is going to come out sooner than later. She is asking the commissioners; she has explained what she has learned through her research, through scientific papers, industry paper, petroleum engineer journals; this is what she looks at. This is the truth that has emerged for her. It is complicated; it is difficult you cannot produce tight stands without fracturing. It is kind of like the South saying we cannot have cotton without slaves. It does not make it right; it is economical but it does not make it right. That is the hard thing we have to look at; what does fracturing allow to happen under ground. When you inject bad chemicals, they can make their way up into aquifers. It is not just the fracing chemicals it is the hydrocarbons themselves, the benzene, the butane, and stuff in our water that is showing up. Dr. Thyne who was retained by Garfield County for two purposes; one was the review of Phase II hydro geologic study. In that, he concluded there was a temporal trend of increasing methane in ground water samples over the last 7 years coincident with the increased number of gas wells installed in the study area. That is an important conclusion and worthy of further study. She thinks Garfield County is in a unique position to retain Dr. Thyne to continue his work in this regard. We are getting there; we still have Phase III to go which we have been excluded from, Phase I, Phase II and probably Phase III. We have been excluded from all the phases and that is unfortunate. Chairman Martin asked "we" being who.

Lisa stated her, her family, our land, and our water well. For whatever reason it's just stunning to her; they were going to be included in it but EnCana appealed to the commission that there had been so much testing, by EnCana that no further independent testing needed done and they have been excluded ever since; which is why she came to appeal to the Board to look into the seep that arose in 2008. Dr Thyne also did an analysis of West Divide Seep and in that he noted some significant things; importantly he validated what she was trying to communicate. That was very important to her; he is a very learned man. She is not, she just takes pictures and see what she sees and say in 30 years never seen this stuff in Colorado but here it's this and the COGCC says I'm crazy. Lisa read a letter Dr. Thyne wrote. What she is here to do; we are at mid-step, we had the quote hearing; which was a farce and industry dog piled your consultant. Which she thought was very inappropriate; the whole process was inappropriate, but some important things came out of that. Dr. Thyne feels that there is a trend toward migrating methane where there are intense areas of drilling. She lives in that epicenter and she has propane in her water, and it does not come from biogenic sources; but apparently, there is this question about monitor well 23. Nobody knows what it is. She recently uncovered some scientific data from Canada, which is EnCana's stomping ground. They also have been accused of contaminating the rosebud up there; seems everywhere EnCana goes that is their signature thing. However, there was a reputable scientist up north who has done a lot of isotopic work and it looks like we might be able to; she would like to send that information to Dr. Thyne if he does not already know it. It could maybe round out some of his knowledge base and we can get down to business with monitor well 23 what is really going on out there. Unfortunately the area seep in 2008 was way north of where all the activity was inappropriately concentrated in 2004. What she would like to do is ask the county to go along with Dr. Thyne's recommendations and continue to retain him.

Chairman Martin asked Lisa to ask Dr. Thyne for his report so he could read it.

Lisa said she had no idea he did not have a copy of the report; she got it from the county. She would like to leave as a matter of record; she is asking you to make a decision on the direction you want to go. She feels they are in mid-step; we have not completed a step forward because the consultant was unable to get his hands on the data he needed to form a viable conclusion. That is what she is looking for a conclusion. The county shares responsibility with the State for approving and allowing EnCana to lift the moratorium go back and drill again. She asked what they would like her to do.

Chairman Martin stated he would like the report and then they can discuss.

Ed said it is on the website.

Commissioner Houpt wanted to remind everyone she is recused from this discussion.

- **Change in Request for Department of Education Grant – Krisan Crow and Beth Shaw CMC**

This Grant is to provide training, placement and support services to prepare targeted individuals for employment, especially in emerging energy efficiency and renewable energy industries. The award is between \$2 and \$4 million dollars over 24 months. Targeted populations: Unemployed individuals; veterans; high school dropouts; individuals with a criminal record; disadvantaged individuals within areas of high poverty, etc. Strategy: Along with various community partners (municipalities, businesses, not-for-profits, workforce development and labor organizations), their plan is to seek funding to design, develop and implement two business incubator sites, primarily (but not exclusively) focused on green industries, as employment "gateways" for targeted individuals. This will include the identification of at least two start-up green businesses for each site and room for expansion to several more over the course of the award. This funding is geared toward areas where overall poverty is high, they have identified two appropriate sites within the Colorado Mountain College service area; 1.) West Garfield County and the City of Rifle; and, 2.) Lake County and the City of Leadville. They may reserve some of their funding requests for the development of one additional site in year two. In addition to the implementation of the two business incubators, CMC and educational partners will seek funding to provide comprehensive wrap-around support services to all of the participants to insure their best opportunity at success with their new employment. These could include; basic and industry-specific skills training; placement and employment counseling; on-site job coaching/mentoring; housing support; childcare and transportation. Timeline: 9/8 – Wrap-Around Services Description and Budget (Jill), 9/11 – Incubator Descriptions and Budgets (Beth), 9/17 – Meeting to review complete application (Ron), 9/21 – Letters of commitment from all partners (Krisan) and 9/23 – Submittal (Curtis and Krisan).

Krisan said she spoke to the Board about a month ago about an opportunity to apply for a Federal Grant Department of Education, and they were delighted to get a letter of support from the Board. They were within a week to two weeks of submitting the grant and realized there was another grant that came out (Department of Labor) that was a better fit. It was 2 years instead of three and they would be able to move it right into this grant. The amount of money they could apply for was \$2 – \$4 million. They are working on developing partnerships especially Garfield County on agree green industries and offering employment opportunities on green industries. Beth would be overseeing this project. She currently works with training programs in our community.

Beth stated the most important thing she would like the Board to take away is what this new grant is. It is designed to create jobs; it is called Pathways out of Poverty. Our focus is folks who are unemployed, under employed, who are living in poverty levels that have an opportunity to do, through a business incubator to be located hopefully in Rifle, and another to be located, they are partnering with Lake County and another incubator in Leadville to provide almost instant on the job training opportunities. They will be fielding letters of interest from local small business owners who would like to have the opportunity to build business and are willing to begin training people immediately. Probably the most important piece of any business incubator is that you have to have infrastructure in place. There are some challenges with transportation and childcare always; they would be an integral part of a business incubator. Since it is called Pathway out of Poverty, they would love to be able to come back.

Chairman Martin asked what the definition of poverty is. He said he sat on the State Poverty Commission and he learned that you had to have no more than 2 cell phones, your plasma TV has to be a certain size, your car can't be more than 5 years old and your house can't be more than 10 years old, and you have to have so much education. If you are not than you are in poverty, his answer is that is not poverty folks. Poverty is when you are deciding if you are going to pay for your medication or the food for your kids or live in your car, going to have time to live in your apartment or whatever. That is poverty. What is your definition of poverty and how we are going to get out of that poverty cycle? Can you give me that idea; what is poverty. Because as far as human nature; in fact all of recorded history no matter what culture, what continent, what religion, what gender, it will always exist.

Beth explained that Colorado Mountain College services nine counties; they use the Colorado data to determine that two of our counties have a significant number of individuals who are relying on State and Federal support in order to

feed their families. There are a lot of single-family folks involved, single parent families involved. She does not have the statistics for them.

Chairman Martin asked if it is a medium income and Beth stated absolutely. Chairman Martin stated its medium income adjusted by county to county and there is a medium income you have to reach, otherwise your considered poverty. To give you another example; the medium income of a two income family within Garfield County, one works for Garfield County Road and Bridge and made a total of \$60,000.00 and they are in poverty. In some areas, this is not poverty levels. We need to make sure we are doing our adjustments, identifying the target we say is poverty. Identify so people understand that this is the minimum standard we want to see people. If we can establish that, he can support it. One other question; is it stimulus money you are getting grants from.

Beth said it is federal money and they do not believe it is stimulus money.

Chairman Martin said if its stimulus money he would much rather take it out of his own pocket than take federal stimulus money.

Commissioner Houpt asked if they needed a letter of support that has different language in it.

Krisan said they will and they will be constructing that and bring it to Ed Green. One of the requirements is that we need to show there is a poverty level need in these two counties. We would not even be looked at; there are so many people applying for this, but the overall good would be for Garfield County and Lake County.

Chairman Martin said he wants to support them 100% if we have true poverty that we need to eliminate or help people out. However, when we suppress them or oppress them and keep them in poverty so we can keep programs alive; that is not right either. It is a hand up, not a hand out.

Commissioner Houpt stated they will be working with Ed on the letter and she will make a motion that we authorize the Chair to sign that letter of support.

Commissioner Samson - Second.

In favor: Houpt – aye Samson – aye Martin – aye

Executive Session:

Don stated they still have items to discuss in executive session; at least one of which involves the 1:15 item, which they need to have before then. We need to provide legal advice concerning application of Article 12 code enforcement out of the Boards land use enforcement code, specifically relating to application of the takings hearing process, to the code enforcement process, as well a discussion of policy generally on enforcement on Article 12 that leads to a public discussion this afternoon that is already on the agenda; discuss and receive direction on resolution of claims and proceedings on County Road 306; the Dunton Dickson matter; Cassie needs to talk about specific code enforcement cases relating to empty enterprises, Blizzard, Young Boast, North Bank, Battlement Mesa, Vezzoso, and Elk Creek.

CONSENT AGENDA

i. Approve Bills

j. Changes to Prior Warrant List

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - b; carried.

Executive Session Motion:

Chairman Martin stated we need to make a motion for executive session.

Commissioner Samson – I move we retire to executive session.

Commissioner Houpt – Second.

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

Commissioner Samson – I make a motion to come out of executive session.

Commissioner Houpt – Second.

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

Cassie Coleman said she would like public direction on the Enterprises case; whether to accept the terms of the stipulation for settlement as provided to the Board previously.

Commissioner Houpt – I make a motion that we do accept the terms of the settlement agreement and authorize the Chair to sign.

Commissioner Samson – Second.

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

Code Enforcement – Mr. Blizzard

Cassie stated she would like public direction on the code enforcement case involving Mr. Blizzard to enter into a stipulation as discussed in executive session.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

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

Code Enforcement - Young

Cassie stated she would like public direction in the code enforcement case involving Young, to dismiss the lawsuit that is currently pending.

Commissioner Houpt – So moved.

Commissioner Samson – Second.

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

North Bank Holdings

Cassie stated she would like public direction with regard to the zoning enforcement case involving North Bank Holdings, to remove paragraph 5 of their proposed stipulation and accept the amendment as proposed by the defendant, and authorize the Chair to sign.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

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

Comments from Citizens Not on the Agenda

4H

Kim Shriver brought the Commissioners some biscuits from the State Fair champion, Alden Rasic, from Parachute. Kim passed out updates as to what they have been doing and what is coming up. National 4H week is coming up the first week of October.

Commissioner Houpt said she has heard from some parents and they are so happy that Kim is there and she thanked Kim.

Glover Cabin Project:

Susan Alvilar, Williams. She was pleased to tell the Board that the **Glover** Cabin project is on track. The cabin is going to move next Tuesday by Bill Bailey House Movers. They will either move it through the middle of Parachute or around depending on traffic. The move will take 2 to 8 hours depending on the route they have to follow. The foundation is already poured; there is a 35-foot circular handicapped accessible sidewalk that is poured. There is electricity to the cabin location, they will set the cabin there on the 23rd, and on October 1, they would love to see the Board there all at 5:00 pm.

Public Meetings

- **Consider an Application for a takings Determination Pursuant to Article 12, Section 12-107 of the Unified Land Use Resolution of 2008, as amended – This Determination is Requested Due to a Notice of Anticipated Enforcement Regarding Two Gas Wells, GV 82-5 and PA 41-9, Located Within the Battlement Mesa PUD and Which Have Not Obtained Special Use Permits Required by the PUD Zoning – Applicant; Battlement Mesa Land Investment, LLC – Kathy Eastley**

Planner Kathy Eastley submitted the following exhibits: Exhibit A – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B - Application; Exhibit C – Staff Memorandum; Exhibit D – Notice of Anticipated Enforcement; Exhibit E – Resolution 82-12; Exhibit F – Resolution 79-132; Exhibit G – Memorandum of Surface Use Agreement (Recorded 10/31/2007 at Reception No. 736468) and Exhibit H – Surface Use Agreement dated August 6, 1990 (Recorded 7/8/99 at Reception No. 548481).

Chairman Martin entered Exhibits A – H into the record.

The Garfield County Code Enforcement Officer issued a Notice of Anticipated Enforcement (NOAE) on August 7, 2009 to Williams Production RMT Company (as mineral lessee) and Battlement Mesa Land Investments, LLC (as surface owner) for Extraction and Processing of Natural Resources for two gas well pads, GV 82-5 and PA 41-9, on lands within the Battlement Mesa PUD. On August 10, 2009 an application was submitted by Williams Production RMT Company for a Takings Determination related to the NOAE and a hearing was held before the Board of County Commissioners on August 17, 2009. Battlement Mesa Land Investments, LLC submitted its application for a Takings Determination on August 12, 2009 and requested delay of scheduling a hearing until the outcome of the August 17 hearing was determined. This hearing is limited to the application submitted by Battlement Mesa Land Investments, LLC for a takings determination. The NOAE was issued relative to Resolution No. 82-121 (EXHIBIT E), approved by the Garfield County Board of Commissioners, which contains the zoning regulations for lands within the Battlement Mesa PUD boundary. The PUD zoning requires a Special Use Permit for Extraction and Processing of Natural Resources within all sub-zones in the PUD. The County has not received application for, nor issued, Special Use Permits for either of these sites however the August 17, 2009 hearing for Williams Production resulted in a decision that would allow the continuation of the extraction and processing activity pending a 60-day submittal timeframe for special use permits related to the sites.

STAFF RECOMMENDATION

A taking of private property owned by Battlement Mesa Land Investments, LLC, identified as Tax Parcel Number 2407-081-00-152, has not occurred. **Staff recommends that the Board of County Commission issue a Determination of No Takings** related to the NOAE issued to Battlement Mesa Land Investments, LLC on August 7, 2009 regarding Well Pads APD GV 82-5 and PA 41-9, and incorporate the following facts in the motion:

1. The activity identified in the NOAE has been allowed to continue unabated pending application and approval of a Special Use Permit/Land Use Change Permit pursuant to Resolution 82-121 and the Garfield County Unified Land use Resolution of 2008, as amended;
2. Williams Production RMT Company, the operator of the extraction and processing activity, is in the process of submitting required land use applications related to the NOAE;
3. The surface owner rights to economically beneficial uses have not been limited or “taken” by the issuance of the NOAE;
4. The surface owner rights are clearly defined by the zoning that has been in place on the property since 1982;
5. The surface owner has many options regarding permitted beneficial uses on the site, including Extraction and Processing via special use review.

Notice of Violation for Well Pads APD GV 82-5 and PA 41-9 shall be issued if Land Use Change Permits for Well Pads APD GV 82-5 and PA 41-9 are not issued by the Board of County Commissioners prior to January 1, 2010. Per Deb Quinn - Withdrawn

- **Consider an Application for a Takings Determination Pursuant to Article 12, Section 12/107 of the Unified Land Use Resolution of 2008, as Amended – This Determination is Requested Due to a Notice of Anticipated Enforcement Regarding Setbacks on a Property Located at 5317 County Road 154 – Applicant; BHR Carbondale, LLC – Kathy Eastley**

Planner Kathy Eastley submitted the following exhibits: Exhibit A – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B - Application; Exhibit C – Staff Memorandum and Exhibit D – Notice of Anticipated Enforcement.

Chairman Martin entered Exhibits A – D into the record.

The Garfield County Code Enforcement Officer issued a Notice of Anticipated Enforcement (NOAE) on August 10, 2009 to BHR Carbondale, LLC for alleged setback and use violations on a parcel of land identified as 5317 County Road 154 (tax identification number 2395-011-00-050). This land is located south of the City of Glenwood Springs and west of the CMC turnoff (CR 114). The site is zoned Commercial Limited and contains a structure which houses a variety of commercial activities. The alleged violations have resulted in the applicant seeking a determination that all beneficial use of the subject site has been ‘taken’ due to the issuance of the NOAE.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commission issue a **Determination of No Takings** related to the NOAE issued to BHR Carbondale, LLC on August 10, 2009 regarding alleged violations at 5317 CR 154. Per Deb Quinn - Withdrawn

- **Resolution Concerning Application for Takings Determination for Williams Production (Continued from September 8, 2009) – Deborah Quinn**

Deb stated she put a written resolution on the consent agenda last meeting to memorialize the action that two of the three of the Commissioners took at the August 17, 2009 meeting when Williams presented its hearing materials and the Board made a decision as reflected hopefully in this resolution. The resolution itself was circulated to Williams's attorney, Ann Lane, who is here. She made several changes and comments that Deb had no problem with, and they have all been incorporated in the final that is before you today for approval.

Commissioner Houpt explained this was pulled from the consent agenda because Chairman Martin was not in attendance and Commissioner Houpt stated she did not have the benefit of sitting through the hearing to understand all of the details of the decision. Commissioner Houpt thought it would be best if Chairman Martin and Commissioner Samson voted on this issue.

Chairman Martin stated that he thought they did now you would like us to vote again on reconsideration.

Deb stated no; it is not a reconsideration it is just a memorialization in a resolution, similar to what you do once you adopt a preliminary plan resolution, for example.

Chairman Martin stated it was pulled from the agenda and we need to ratify it.

Commissioner Houpt stated it would have been voted on last time; but it will be voted on this time because Chairman Martin is back.

Chairman Martin state the approval of the hearing was given and there was a vote. Then to memorialize that in a resolution it needs to be ratified on that decision. All those in favor of the resolution and the action taken memorializing the hearing is an aye vote.

All in Favor: Abstaining Houpt - aye Martin - aye Samson – aye

Commissioner Samson was confused on this and Commissioner Houpt explained that this was an unusual hearing and she did not have any of the documentation with background on this. She explained there might be times when you miss a hearing, and you look at a resolution and say, how did they come to that conclusion. You have the opportunity to pull it off the consent agenda and have the two people, who made that determination, vote for the adoption of the resolution.

- **Consideration of Article XII Unified Land use Resolution Enforcement Procedures – Cassie Coleman, at the Request of the Chairman**

Chairman Martin stated this was a request from him in reference to the procedure and how we go about filing the different lawsuits, civil action, or functions that code enforcement takes without consultation to the Board of County Commissioners. He has always been under the belief that before we file any acts, we should at least be aware that action is going to be filed, unless it is so minor that it needs to be done otherwise. Such as traffic, violations and he always thought dealing with property, dealing with the action taken by code enforcement should have a clearinghouse, and that would be the Board. Again, it is not written that way in the code and he is aware of that; even though he did not agree putting it in there like that, he just wanted to bring it up for discussion.

Cassie said part of this discussion is also our takings process. The process that is unique to our County of sending a notice of anticipated enforcement. Then setting it, if requested by the alleged violator, for a takings hearing before notice of violation has been sent. The other issue, as they have discussed, is permitting continuing violations while there are pending applications for a land use change and then as the Chairman has discussed, the policy regarding; under the statute and in our code, it is the same that staff of the County Attorney's Office and actually the Sheriff and the DA as well, can initiate County Court or criminal court penalty actions without the authority of the Commissioners. However, our land use resolution requires specifically that we do have BOCC approval before initiating an injunction in district court action for that. Cassie stated this did come before the Board about a month ago; it was discussed in executive session. If you wanted to change that or not, and she believes when they came out of executive session, it was decided that the land use code should be enforced as written, which is in conformance with statutes. The Statutes were in your packet, the 30.28, 124, 124.5, 209 and 210 and the later two refer to building code violations; the former two regard zoning code violations.

Commissioner Houpt said she felt very comfortable having them make that decision.

Chairman Martin stated he does not. He would like to have that personal, take the heat, hear what is going on, support staff if necessary; but also listen to both sides, making that decision to go forward or not. Again, it is a philosophy, but he does not want the code, which it seems to be getting to, creating more and more criminals and that is not what the intent of the overall code was. It was to be user friendly, to have flexibility, and to be easily used by anyone and understood by everyone. He thinks they have gone too far in their restrictions, penalties, and overall approach to land use.

Commissioner Houpt said she thinks, she does not know if that is the nature of the new code, we as a commission made the determination that they were going to stand behind our code enforcement officer as he works with our code to make sure people are following our regulations and it just happens that he does a really fine job. She is not sure that she is comfortable making determinations on what we should delete from this code just because we have some people violating the code. She thinks what they have found is that our staff has been very successful in resolving these issues and helping people come back into compliance.

Chairman Martin said he did not think it had anything to do with not supporting code enforcement or the staff itself. He thinks it is just more involvement of this Board making those decisions. Again less government is better than more government, less rules and regulations for better compliance, and again that is his personal philosophy. In addition, he worked in law enforcement for 24 years; the stricter you are on rules and the stricter you enforce them, the more violators you have, and the less compliance. If you have some flexibility, and he knows that Chris uses flexibility, he can be much more done than just filing every violation. That is the approach Chairman Martin took and he has for many years. Don't just have it's the letter of the law, it's what the code says and that's what we have to do, we have to have flexibility in our codes to be able to deal with people on a one to one instead of just letter of the law. Commissioner Houpt said that is the nice thing about our code; we do have that flexibility. We talked about this earlier; the need to keep flexibility in there so that when you look at an individual situation and it may be a situation where there is an immediate need to have action taken; because of the safety of the public. That can happen or if folks need time to get something cleaned up and it is not going to be detrimental to public safety; then we have the opportunity to do that and staff makes those judgments on a daily basis.

Chairman Martin said they should also. He said that Commissioner Houpt's description of flexibility is somewhat different from his and how you apply it. Grandfathering all of the non-compliance issues that we have created now

in violations; all those non-complying uses of our land use code or how we apply it, is where he is getting into a situation where the Board needs to be making those determinations. Because they have existed for many years, is it really up to the code to make them violators or not. On the other hand, is it up to us saying that we put up with them for 18, 25 years, whatever it was? Should we make a determination on that with the new rules and regulations? That is the flexibility he is looking for; but he does not see it in the code because they follow the letter of the code. Again, it is his approach to life differing from your approach to life, and differing from the courts approach to life. Commissioner Houpt stated that is not true where we are going with this today. Are we supposed to be.....

Cassie said there are members of the public here to address this specifically as it regards to the takings process, and the notice of anticipated enforcement. Staff is here as well, Mr. Chappelle, and Mr. Jarman to address how this process works. If you want their input we are not here necessarily for any particular reason, it is discussion purposes publically as requested by Mr. Martin. However, Cassie does see an issue regarding the takings process as it exists now with regards to sending out a notice of anticipated enforcement, and then a takings hearing before a notice of violation has been filed. As far as that aspect of the code, she would like public direction from the Board whether you want that process in place, or if you want to direct staff to process a text amendment, and if you have thoughts regarding that. As you all have raised; also the policy regarding allowing violations to continue while there are pending applications, for either a text amendment, land use change, whatever that is and if it needs to be in code or not, and allowing for the flexibility. She pointed out that the statutes mandate Chris Chappelle, as our code enforcement officer, to send notices of violation anytime he has knowledge of a violation. However; the statutory language, and the language in our resolution; which is the same, provides that the County Attorney's Office have the discretion then to initiate a lawsuit. Because it says we may bring further enforcement action; so that is the follow-up question to the Board. Do you want to leave the discretion where it is, or if you want to mandate the County Attorney's Office to file further enforcement action every single time there has been a violation cited by Chris, and then no follow-up action from the alleged violator.

Chairman Martin said he would like to do it before we make those determinations or debate those particular ones. He would like to listen to the public and see if they have anything to say regarding this subject.

Larry Green, Attorney at Balcomb and Green. Larry stated he has a lot to say about this entire issue. For whatever reason since the adoption; since the 30 years he has practiced law in Glenwood Springs, prior to the adoption of the new code on January 1, 2009; he cannot recall that he was personally ever involved in a code enforcement action. Since January 1, 2009, he has been involved in three and his office probably has ten or fifteen going on. Something has certainly changed since January 1, 2009. Maybe it is just bad luck or bad clients; he is not sure, or maybe a more activist code enforcement officer. One of the concerns he has about the new state of things is; in a couple of instances, his clients have received these notice of anticipated violations for conditions that have existed for a decade or more. He thinks that maybe one of the things that Chairman Martin alluded. He thinks the County does need to make a policy decision about; are we going to start enforcing this code against conditions that have existed for years. Another concern; the way it appears that the code is not being enforced uniformly; he has talked to Cassie, and Chris Chappelle about this, but the words he hears is that our code enforcement is a complaint driven process and we don't do anything unless we have received complaints. That puts people who receive these notices of enforcement in an awkward predicament when they are alleging to have violated something and then on the other side of the street the same violation is occurring; but their guy on the other side isn't receiving any action. He does not know how to address the somewhat uneven enforcement if in fact it is complaint driven. This takings process, which Cassie talked about, is also a significant concern. He does not know if the Board has had a takings hearing yet; you may have had one. Two were scheduled today, one against a client of his; but he withdrew that request for a takings hearing because on Thursday, Wednesday last week, the County withdrew its notice of an enforcement action. Had we gone forward he does not understand what either party expects to gain from a takings hearing given the fact that there has been no action undertaken by the County. Only a letter has gone out saying we may bring in enforcement action and now you have 3 days to file this request for a takings hearing, and if you do not file it then you may be precluded from taking or making further complaint; if action pursues. Staff indicates that section of the code is in there in response to a court of appeals case that came out of a Boulder County matter. He thinks this is a misreading of the Boulder County case, that it would require this process. If it does, the effort that is required is to give a person, who has been the recipient of some sort of an enforcement action, the opportunity for due process to come in and complain about the notice that he or she has received. He does not think the procedure, that is in our code now does in fact afford anyone due process. With only 3 days to respond to an action what is it a person can do in three days. If we would have had a takings hearing this afternoon, no one knows what the procedure would have been. Would witnesses be sworn in, does he have the right to compel to have someone appear by subpoena; what is the issue at hand in these takings hearing. He thinks this Board should revisit the whole concept, the whole approach that is in the Section 12 of the new code. The thing he wants to say; he stated to Chairman Martin, he applauds him for saying this, that if in fact the Garfield County staff is going to be out there policing it's zoning code in the manner that this code allows them to do, that all decisions about whether court actions be brought, and what the enforcement action is; should be made by the election officials, by this Board, not by your County Attorney's Office, or your County Building and Planning Office. He thinks there is a lot of policy decisions behind how and what parts of the code are enforced, and the elected officials are the policy makers, and he believes as Chairman Martin does; the buck stops at that table, not somewhere to whom you delegated.

Chris Coyle, from Balcomb and Green said he endorses everything Larry has to say as well as he thinks that his client, as you know, withdrew his request as well. Based on conversations he had with Cassie. The issue, he agrees with Larry, it puts staff and the County Attorney's Office in a difficult position from a standpoint of these longstanding ongoing violations. You have issues, promissory stopple and other things the lawyers can make a call on; but at the end of the day, it really does cause the lawyers to become the policymakers. From his standpoint, on these long-standing violations he thinks that the Board ought to be, certainly have them brought to your attention that's fair, and make your decision after you have been fully advised. He would support Chairman Martins approach; he thinks the new code will require some shake out, and from a practical standpoint he thinks that Larry's remarks about 3 days, to determine whether you will be filing for a takings determination, is excessively quick. If you look at the law, a civil procedure, the way it is set forth in the Colorado Rules of Civil Procedure; what you hardly ever find is a deadline that short. If you do, it is always extended some way or another. That is a super short deadline in the practice of law. Particularly something that could be as burdensome for the County as a takings having occurred, and having that determination, and having that essentially, he guesses, the final hearing, and then

long term litigation. For example if Williams had been determined to be in violation and precluded from doing what they do, and they were to prevail, that there was a takings that occurred. This County could have been obliged to pay Williams a tremendous amount of money; because, just taking their presentation, the documents they prepared, at face value. If they lose hundreds of acres in mineral lease in this area, and if the County were to lose that, and it was not found to be immune from that liability; you would be looking at \$75, \$80, \$100 million dollars, it could be huge. That goes over 50 years; it is a crazy number, but the point is when you are making these kinds of decisions, particularly in big commercial usages, there needs to be some calm deliberation and not some high speed action. He stated he knows you have 3 days to file it, 45 days to have it here; even so, to expect Williams to put on a multimillion dollar actuarial claim in that period is not appropriate. Proceed prudently, cautiously, slowly, in this area and he thinks everyone will be well served.

Commissioner Houpt stated to Chris that he is talking about a few different things. Currently when staff wants to take an action, a code violation to district court, they come to the Board. They were just talking about county court issues that happen more often and are not as large an issue. The takings hearing is a new creature they are trying to understand. The Board certainly does not have a code in place that takes authority away from this commission. We do not have a staff that does not report to us; we have long sessions with the legal staff and with our code enforcement officers. She does not want anyone to get the impression they are giving this authority away. She got that from Chris and Larry; they thought that was what the Board was doing. She thinks they need to think carefully about how we approach violations that have been in place for a long time. You're a property owner and if your neighbor has been in violation for a long time and you have been trying to get something done about it for a number of years; finally something happens, are you going to come in here and tell us that you want us to grandfather that use in even though it has been bothering you for 10 years, and it has lowered the value of your property. Very different from what he was talking about with the Williams thing but it is real for what we are talking about with code enforcement. We have to be careful about what we advocate for here and make sure we are looking at all the potential circumstances across the county.

Chris said he appreciates that and understands it. He thinks it is well that these things are being brought up. He thinks that is a very appropriate consideration. Because you do have people who have been suffering for a long time with long time zoning concerns and violations and he thinks they should be addressed; it fair and it helps everyone. But what he is saying; he knows the Board does council with their council and you do make advised decisions, but he thinks the policy issues here need to be addressed and should be balanced over these long term violations. They are all over the place; you can drive all over the County and find zoning violations if you want to. The question is what are the impacts and what is the mood of the community about that particular issue. He said that is all he is advocating; let's just slow it down, let's take a look at these things in a calm light and move on. Make a decision. Commissioner Houpt said she thinks that is what they are doing.

Chad Lee from Balcomb and Green said he supports what Larry and Chris say; not just because they are his superiors, but because their reasoning is legally sound. He would like to talk about the takings hearing process specifically. He would like to make two recommendations to the Board. He believes the takings process is put into place to insulate the county from two separate types of claims. One is the due process claim and the other is the takings claim. If you read Article 12 it bifurcates the analysis between A, the taking of a vested right, which is a single stick in the bundle and the taking of all economic value of the property; which is a taking of most of the bundle of sticks. In order to function in its capacity and protect the County against due process claims; it needs to be later in the process, he believes. Due process requires that a minimum notice and an opportunity to be heard, and filing a takings application within 3 days of the notice is not sufficient to provide notice in many circumstances. He would recommend the Board consider moving it further back in the process and Article 12 ports to wave all of the landowner's rights if they do not file a takings application within 3 days of the notice. He thinks the County should look at that again and not make it mandatory.

Mike Sawyer, Attorney, Leavenworth and Karp. He wanted to speak only to the takings question. A taking is a deprivation of property and until that, deprivation has actually occurred or is at a point so reasonably certain that it is going to occur, it is very hypothetical for a property owner to be forced to come before this body and defend that type of claim. The Supreme Court for years under a much less conservative court has used the concept of exhaustion of local remedies as a means to discourage takings claims being brought into the Federal Court. The idea being there should be a series of opportunities at the local level to try and redress your interest and to avoid a taking, possibly through creative problem solving at the local level. Which discourages litigation in the Federal Courts; but again that process whether it is appearing, as mentioned by Commissioner Martin, in front of the commissioners to seek a determination. Whether additional legal action will be taken, whether it is going to court and having the matter tried as to whether a violation exists in front of the County Court, whether it is an appeal to a board of adjustment, or something like that. Until those actions have actually occurred, there is no taking. There has been no legal deprivation of a property entrance. Again, he would support what the other attorneys who have spoken say; the appropriate time for such a claim to be made is much later in the process when the prospect of property rights deprivation is far more concrete. He thinks that both the County and the property owners will benefit from, frankly not wasting your time or staffs time prematurely in dealing with those issues.

Cassie agrees with the attorneys; the takings process as it is now is premature. It puts the cart before the horse and not even that it puts the cart even before we have a horse out there. As Mr. Sawyer said, there has been no taking until there is a property right that has been divested, or is so certain to occur. The way our code is written now, she does not believe that is the case. The issue, as Mr. Sawyer referred to many Federal Court cases and as Mr. DeFord has advised you previously, **Easin** is a Colorado Court of appeals case that seems to not be consistent with Federal law. There is somewhat of a risk to the Board of getting rid of the takings process under the **Easin** analysis. Mr. DeFord has described this to the Board before and is here to discuss further. Mr. Chappelle and Mr. Jarman can certainly address the way that action is taken by staff with regard to County Court action, and it is her understanding there are about 3 cases that have been filed without specific Board approval that were filed in County Court seeking only civil penalties. Those cases have all dealt with a lack of a CO, or a lack of a building permit, nothing-involving health safety, public welfare emergencies, simply non-compliance with the building code or zoning code. In cases that are not long standing violations; but are long enough that their permits have expired and they have failed to take any action with regard to those. It is certainly not a wide spread practice and any time there is a public welfare, public safety concern that use would need to be enjoined, and would require an injunction by the court and our code requires our office to seek the Boards authority before pursuing action for an injunction. It is just a lot of

building code issues, some zoning code issues that Chris Chappelle sees everyday that have gone forward without specific Board approval. They are not long standing issues. The issues raised by several of the attorneys regarding allowing violations to continue just because they have continued or 10 years speaks to a lot of concerns with the code. One being it is, at this point, the policy has been that this is a complaint driven process. The attorneys have spoken to both sides of that she thinks. The first being, if its complaint driven not everyone is being cited. The problem with that being some people are involved in enforcement action while their neighbors may not be equally involved in enforcement action. The other side to that, what the attorneys talked about, is that it seems like an overzealous application of the code; but if that were the case we would not be having these situations where one neighbor is violating and the other neighbor isn't. That is what Mr. Martin talked about Chris using his discretion when he is out there working with property owners, and then leaving the discretion in either the Boards hands or County Attorney staffs hands to decide whether to further pursue these violations.

Chairman Martin said he also sees it as an inevitable problem of neighbor verses neighbor. New neighbor versus old established neighborhoods, and the changing of that, and using the code as a tool to make it change in the direction of the new people. Unfortunately, it gets used and he hates to see that. He also sees family feuds and the code being manipulated to make the family feud raised to a different level. He stated this is what he does not want Chris to get involved. He is involved in those and unfortunately that is the nature of the business and he has to have the discretion and the flexibility to say "wait a minute; this is an issue that is beyond the code and to bring it to us to get direction".

Cassie said the other side of that too is just a consistent application of the code. Chris, not getting in the middle of family feuds or neighborhood disputes; but at the same time equally enforcing the code upon all citizens of Garfield County. Whether they are Williams Production or whether they are an individual person with a building code violation; that there is a consistent application of the code, that it is not a piecemeal situation where everything is reviewed and it is so dependent on such a fact based determination and not looking at consistent application of the code.

Chairman Martin stated that is the legal frustration. The reality is just the opposite. Reality is, it is all single and all driven by personalities and issues, history and everything else. It is a difference in approach to life.

Cassie said when this approach is the takings process the other consistency argument is not every applicant is requesting a takings hearing. Not every applicant is using that avenue and it is certainly within 3 days for a property owner to get a notice of anticipated enforcement and to pursue that option. Usually requires retaining some profession whether it is a lawyer, a planner, or someone who assists them through this process and the code purports to require that within 3 days. Whether that is consistent with **Easin** or not, that is where that came from.

Chairman Martin said he understands it comes from there; but he thinks it is very onerous in reference to the average Joe. They may be a farmer, a construction guy who has no idea what you are talking about and they don't hire lawyers. They do not want to spend their hard-earned money and be tied up in court. That is what we set out to do; make the code usable, user friendly and be able to be interrupted by everyone, not just the legal profession. He thinks that is where the breakdown took place; he would suggest they take Article 12 and do a workshop on it and see if we need to make the adjustments.

Commissioner Houpt said the takings process as it relates to code enforcement; there are two different reasons for the takings process correct?

Don said he wanted to address that for a moment. In listening to various opinions of council, he does not know that they are that very far off in terms of his own view of the application of the takings hearings to code enforcement. To his knowledge in applying that concept to code enforcement, Garfield County may be unique in such an application, in part because of some of the recent history we have had in code enforcement. He thinks it is correct that the code, that the takings hearing process really covers two fairly distinct areas and he thinks the description that was given is pretty good that certainly one of those relates to taking all of the bundles and the stick is absolutely right. To the extent that any takings hearing process is traditional and that may be debatable; but to the extent it is traditional, that is the area it was intended to apply to. Not to code enforcement. Colorado Court of Appeals, in his view, gave them a real difficult set of facts to deal with in the **Easin** case. Interestingly he thinks fits some of the descriptions he has heard here today. Long-standing violation of the code, at least allegedly based on promissory estoppels yes that was **Easin**. He stated we have had that circumstance in this County. The **Easin** case, from his view, does not necessarily mandate a takings hearing as we have set it up. The problem he saw with the case out of Bolder and the problem we faced is that Boulder County had available all of the traditional remedies for any landowner. The potential hearing in front of the Board of Adjustment, the potential hearing on that case itself in front of the District or County Court, and yet in spite of that the court of appeals went forward and determined that the simple notification of violation, in spite of long standing practice, itself could constitute a taking of property. Don said as he told the Board before; publically we have at this coming one Federal judge found that opinion so far off the mark that he literally said, in open court, he would refuse to follow the direction of the Court of Appeals. He felt unbounded by that opinion and dismissed such a claim against our County. We are not always assured we are going to end up in Federal Court; we can end up in State court and particularly in the circumstances in this County, where there was at least some knowledge in the local bar that the Federal Court would not entertain such a claim based on the **Easin** case. We had the potential of having to defend that type of case in State Court. It is an unusual set of facts that would bring us to that case; he does not know if the Board has to maintain a process in your code to deal with every unique and unusual ruling. We had some of this discussion when the code was adopted and the decision was made to go forward and put it in place anyway and see what happened. So far, based on what Don is hearing, the experience has not been all that wonderful. It may not be the way to go and certainly, he is not going to tell them that it is not a mandated process; it is not. It may be one answer to the decision in **Easin** and it may be that it is such an aberration in that case it is not worth trying to address that. That may be something the Board could give direction. He wanted to comment; there is a question of the long-standing land use that all of a sudden the county jumps into and says oh this is a violation. Some of those have occurred under this code as well as its predecessor. The mere fact that use has been in existence for a long time does not make it a lawful non-conforming use. It first of all has to be one that existed under a lawful fashion, either before we had a land use code, or was lawful under a previous land use code and then it becomes a lawful non-conforming use. Don said they have the circumstances where Chairman Martin is talking about; we have a violation of code, this one, and previous one whatever. However, it has been in place for a long time and all of a sudden, someone comes into the neighborhood and says I do not like that, get rid of it. All of a sudden, the whole neighborhood is in turmoil. A few of those have occurred. A couple of things to keep in mind;

one of the reasons, historically, you have had long standing violations of the code is because we have not either had the direction from the Board or the resources to enforce the existing codes. So yes, there have been long standing violations that were not addressed simply because we could not, or we were not given the authority to do it. Never the less; they are violations of the code and it will be very difficult to draft a code that says, sometimes you enforce it, and sometimes you do not. It depends on whether it is a neighborhood feud, depends on whether its not, depends on how long you have been in the County, and depends on long or not. That is not something you can really put in a land use code.

Chairman Martin said we see also violations that were, again, common use prior to land use codes of 1973 or beyond. It was being used then, it was lawful then, the codes were created, and now we have created a violation. Again, those are the issues they need to be seeing, in front of the Board, and hearing the facts. If we used this in 1960, and at that time it was again general practice; now our new code says it is illegal. Now we have to do away with the non-conforming use based upon that. It was not created under a land use code, again that is some of the things he sees coming forward and it is prior to 1973 and the use thereof. Land use codes were not in place until after that.

Don said that would be a lawful non-conforming use.

Chairman Martin said that is right. We still see it, it is a violation, the neighbors complain about it, we have Chris going out there filing, and it does not make it. It does not live up to the code. At that point, Chris should have the ability to say, wait a minute; this is a long existing issue prior to 1973. We need to make the decision if we go forward with it or not.

Commissioner Houpt stated he does set that up. She asked Chris if he felt he had that opportunity.

Chris stated he is only as flexible as the code reads; but he tries to be as diplomatic as he can in the fields. However, occasionally it comes to the point where he feels he does not have the authority to bend and twist the code.

Don said he did not feel it was bending or twisting the code; the code specifically provides for a lawful non-conforming use, such as John as described.

Commissioner Houpt said if he could walk onto the property and see that it was put in place before we ever had land use codes.

Cassie said we have litigated this issue with this Board in the case that is not finished yet. She said they have specifically dealt with a preexisting legal non-conforming use. Because the fact that it existed pre-code pre any land use code, makes it legal. It is not a violation of the code to continue what you have been doing pre-code. That is specifically in here and Chris does have the discretion to say this use, preexisted zoning, or preexisting building code, and it is now lawful. Therefore, it is not creating a violation by the mere implication or enforcement of the code, and that is contained in our code. It has a specific section on nonconforming uses where this is all flushed out, and certainly, we have direction on that through our litigation.

Don said he did not know if the Board wanted to proceed to a workshop; but certainly, we need his office and the code enforcement officials, to understand where the Board wants them to go with this code.

Commissioner Houpt said there are many different issues raised today. Do we need a text amendment for the takings process as it relates to code enforcement?

Don said if you want to eliminate the takings process out of the code enforcement arena; yes, you need to do a text amendment for that. As you can see, there is some risk, probably minimal; but there is some risk in doing that. Given the problems, you have experienced with it, maybe it is not the way to go.

Chairman Martin said he thinks it would be there before we made the determination to go with the text amendment to remove it. Review it to see if it is still necessary; see if there is use to it as well as the other issues. He thinks non-conforming use is one of them that needs to be discussed and flushed out in a workshop. Two subjects, move forward with those, do a text amendment on one or the other; or just leave them the way they are. Go in to it and make sure this Board understands what we are up against in reference to decision-making and be armed with the facts, and how the code is written. Is it still acceptable and do we need to making any adjustments to it. He thinks that is the only fair way to do it and they can invite the public, get their input and make changes. That is what we said we were going to do with this code. He thinks these are the two items they need to start with.

Don stated that Cassie brought up a point to remind you; until there are actual changes, we will proceed the way it is written.

Commissioner Houpt suggested October 13, 2009, as there are meeting for budget hearings.

The meeting was set for 8:00 a.m. on October 13, 2009.

Chairman Martin stated it is set for two items; the takings issue and the other is the non-conforming use under the code, to review it and see if there are recommendation to changes, or recommendation to leave it alone, don't play with it.

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

- **Valley View Commons Resolution to Change Extension Date of Preliminary Plan Approval – John Niewoehner**

David Smith was present.

On Monday May 19, 2008, the BOCC approved the Preliminary Plan for the Valley View Commons Subdivision in Battlement Mesa. As approved, the Valley View Commons development will subdivide a 7.9-acre property into four lots to accommodate 56 residential multi-family dwelling units and potential self-storage units. This approval gave the applicant, Darter LLC, one year to submit a complete final plat application to Garfield County. On September 4, 2009, the applicant received a county grading permit and provided the county with a \$106,000.00 Letter of Credit (LOC). The LOC served to guarantee the site would be restored to pre-development conditions if the final plat was not approved. (This LOC expired on September 4, 2009.) On May 11, 2009, the BOCC approved a one-year extension of the preliminary plan approval thus giving the applicant until May 19, 2010 to submit a technically complete final plat application. On July 13, 2009, the BOCC gave the applicant until August 12, 2009 to provide a new LOC and perform certain site stabilization activities. On August 17, 2009, the BOCC agreed to provide the applicant until the September 14, 2009 BOCC meeting to provide the county with a new LOC and a schedule for completing the site stabilization needs. Staff request the deadline for submitting a final plat application be changed from May 19, 2010 to March 8, 2010. Staff has learned that the new LOC's expiration date will be March 27, 2010. Staff recommends the deadline for the applicant to submit a technically complete final plat application be changed from May 19, 2010 to March 8, 2010. (The time between March 8 and March 27 is required if the county decides to collect on the LOC.) Staff has received assurances from the applicant that all site

stabilization requirements listed in the resolution from the July 13 BOCC meeting will be completed by September 30, 2009. Failure for the applicant to submit a technically complete final plat application by March 8, 2010 will result in the loss of the preliminary plan approval. The county may choose to use the LOC to reclaim the site if the applicant fails to do any of the following: (1) perform the required site stabilization activities by September 30, 2009, (2) submit a technically complete final plat application by March 8, 2010, or (3) provide a new LOC that will continue to serve as a reclamation security after the LOC expires on March 27, 2010.

John stated the original staff report they were actually recommending that the preliminary plan approval should just run out when their letter of credit runs out. With the help of Deb Quinn, they drafted a little kinder resolution that says their letter extension is still until May 19, 2010; but they need to provide another letter of credit prior to the time this one runs out. That is what he is actually presenting in a resolution, which he has drafted, and he would like to read pieces of that. The recommendation was that we have the preliminary plan expire with the letter of credit; but they have rewritten it to say as long as they provide another letter of credit then they should keep the approval alive until May 19, 2010.

Dave Smith said the applicant has no real issues except; with the potential of one, and that is subsection H of the proposed recitals. The County is requesting that there not be any additional review by this Board prior to calling the existing letter of credit, which has been extended through the end of March. He said they do not necessarily have a problem with that, with the exception they would like to see, and put the burden on them, we could request a hearing in the event something goes wrong in this project. If we request, in writing, prior to March 1, 2010, otherwise if the silence is deafening you can call it without any additional action. They are moving forward with the site hibernation and it should be done timely; but for these recurring hiccups on the lending side, they will be getting a final plat application before the Board.

Chairman Martin said he thought they should be able to make that determination if you cannot come up with that new letter of credit to continue it; we should have that hearing and then make a formal action at that time.

Commissioner Samson asked if they just wanted to strike H.

Dave said he was just proposing to add a clause in the end that said something like unless a hearing is requested in writing prior to March 1, 2010.

Deb said she thinks Mr. Smith's suggestion would work well for both sides.

Commissioner Houpt asked if it still gave the staff the ability to request a hearing or have we waived that.

Deb said no, the applicant is waving notice of default. Unless they request a hearing and that would serve our purpose.

John said they do require something like 6 weeks to get a public notice; do we require X amount of time before.

Dave said this is just calling the letter of credit. It has the county's right.

Chairman Martin said you would not need that much time. It is not the public's; it is just the decision of the Board to either continue or pull the letter of credit.

John read number three on the resolution. It may conflict with what we just discussed; do you think it needs to be rewritten.

Chairman Martin stated he had one other question for John. In reference to September 30 to be totally re-seeded; that may not hit the cycle for re-seeding in the fall. It may be too soon for re-seeding to make sure it takes affect unless Mr. Anthony has a different time line. October and November is always a good time to re-seed for springtime growth.

John said Steve Anthony said the seed would just sit in September; nothing is going to happen to it if you put it down at this time it will stay dormant just like putting it down in October or November.

Chairman Martin said it could be blown away too; you need moisture to hold it down and the wintertime moisture is the best time to put it down. If that is his recommendation that is fine but it probably will not succeed.

Deb said she would suggest they bring this back on a consent agenda in the future after Mr. Smith and Mr. Niewoehner and herself talk about all the implications of the hearing. It was their intent to wave it completely; but adding the new provision about possible notice, there is a section in our code that requires that you notify neighbors before you forfeit, and it does require at least 30 days. March 1st does not exactly work so they will need to work it out and bring it back on a consent after Mr. Smith agrees to the language that we have. In the mean time, we have a new letter of credit, we have the re-seeding agreement in place, so she thinks they are okay for the time being and will bring it back to the Board.

Commissioner Houpt stated it sounds good.

PUBLIC HEARINGS:

- **Consider the Request for a Preliminary Plan Approval for the Glenwood Commercial Center – Applicant; Glenwood Commercial, LLC (David Hicks) – Fred Jarman**

Mike Sawyer, Jim Blankenship, and David Hicks were present.

Deb 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 asked if there were any objections to the notifications or the requirements thereof.

Mrs. Lynch said she would like to ask a question. She said she could not hear what Mr. Hicks said as to the last time he saw the notice posted.

Mr. Hicks stated last week

Mrs. Lynch said they have not seen a sign posted for at least the last 2 weeks. It was definitely not there the last few days and some of the neighbors have not seen it. She stated they did see Mr. Hicks putting the sign up; but we know where the sign was posted, and it has not been there. She does not know when it was taken down; but it has not been there for a while.

Chairman Martin stated; but it had been posted and he has testified to that through the affidavit that he did post it with proper notification. It was visible by a Hwy 82, is that correct?

Mr. Hick and Mrs. Lynch said it was facing Hwy 82.

Chairman Martin said if it has been removed after being posted; that may be another issue. Chairman Martin asked if there were any other objections, there were none. He asked what the Board felt; was the notification fully visible throughout the period, do we wish to accept or to deny based upon that?

Commissioner Houpt explained it is important to have signs posted because people can go on vacation and not be aware of a sign being posted at all. She asked if there was anyone else who checked the sign for Mr. Hicks.

Mr. Hicks stated he has other employees; they are not here today.

Mike Sawyer asked Mr. Hicks if he removed the sign and he stated no. Mike said his take on the notice is that the code requires three methods. That is to insure the greatest opportunity possible that the public can become aware; a landowner does not have complete control over whether a sign is removed against his wishes of having it posted in the first place. There is a reasonable standard that Mr. Hicks says he posted it, he saw it as late as last week and if someone came by and removed it, Mr. Hicks had been reasonably diligent in making sure that notice had been posted as well as the public had the opportunity to read the legal's in the newspaper, and the immediate neighbors all received notice by way of mail.

Commissioner Houpt said she was not going to challenge this; but she recommends, in the future, he recommends to his clients to make sure someone is checking the sign closer to the date of the hearing.

Commissioner Samson asked legal counsel what they had to say about this.

Deb said the determination is up to the Board; Mr. Sawyer is correct there are three methods of providing notice on posting the site on our prior subdivision laws; which is what this application was submitted under, requires the posting has to take place at least 30 but not more than 60 days prior to the hearing date, and is the sole responsibility of the applicant to post the notice and ensure that it remains posted until and during the date of the hearing. It is totally up to the Board to determine whether the fact that it had been apparently in place for five plus weeks, together with the newspaper notice and the mailing to all the adjacent owners is sufficient.

Commissioner Houpt stated they really need to check that sign. Both of you know that. Closer to the time of the hearing she thinks it is probably the most important part of this because people do not typically go through and read the legal's to see if anything relates to their property. Although all of these statements are true, she thinks in the future it is a really good safe guard so you (the applicant) is not challenged. In the future, as a safeguard to yourself, it would be good to have someone check it on the day of the hearing. You can then say yes, it has been posted, its' still posted and we are here.

Chairman Martin asked if the Board accepted the notification.

Commissioner Samson wanted to ask a question of Mrs. Lynch. He asked if she brought up the objection in hopes to delay that; or are you okay with this going forward.

Mrs. Lynch stated she is not trying to delay it; however, this has happened in the past and they have not said anything about it. However, other hearings; there have not been notices posted. They have been posted in advance but they are not up prior to the meetings and it does concern them. The notice was taped to the post; Mr. Hicks posted it very good himself and she cannot see how it blew off. She stated they want the sign up because they want people to see and to know about the hearings. She just wanted to bring it to the Boards attention because she thought it was important. As Tresi said; that sign should be there until the hearing, but she is not asking for the Board to delay the hearing.

Mr. Hicks stated that in the picture you could see the prior posting from the prior notice is still visible. The picture shows two of them and one has been there for 6-8 months.

Commissioner Samson stated he has no objections.

Chairman Martin stated they will accept and swore in the speakers.

Planner Fred Jarman 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 –Staff memorandum; Exhibit G – Application; Exhibit H – Application Addendum Letter and Plan set; Exhibit I – Letter from the Glenwood Fire Protection District dated March 25, 2009; Exhibit J – Comments from County Project Engineering dated February 25, 2009; Exhibit K – Memorandum from the County Vegetation Manager dated March 31, 2009; Exhibit L – Letter from the CGS dated April 6, 2009; Exhibit M – Letter from the City of Glenwood Springs dated April 2, 2009; Exhibit N – Easements of record on the Glenwood Commercial Property; Exhibit O – Pictures Provided by Adjacent Property Owner to the north (to be provided at hearing); Exhibit P – Letter from Christine Lynch dated April 8, 2009; Exhibit Q – Pictures provided by Christine Lynch's Daughter at Planning Commission hearing (to be provided at hearing); Exhibit R – Letter from the DWR dated April 21, 2009; Exhibit S – Letter from Building and Planning to applicant dated July 29, 2009; Exhibit T – Letter from Division Water Resources dated August 26, 2009; Exhibit U – Letter and Supplemental Info from applicant dated July 6, 2009; Exhibit V – Letter and Supplemental Info from applicant dated July 2, 2009 and Exhibit W – E-mail comments from the County Project Review engineer dated July 31, 2009. Two additional Exhibits X – Letter from Robin Millyard, Public Works Director Glenwood Springs, dated September 11, 2009 and Exhibit Y – Letter (dated September 11, 2009) from Jamie Campa along with a preliminary report from HP Geotech dated March 30, 2001.

Chairman Martin entered Exhibits A – Y into the record.

Planner Fred Jarman explained:

The Applicant has recently constructed four commercial buildings that hold individual warehouse and office spaces, which are being rented to businesses. The property is located just at the entrance to Glenwood Springs in South Glenwood on the east side of State Highway 82. The property is located in the Commercial General Zone District and is surrounded by the same on the east, bordered by BLM to the north, adjacent to the City of Glenwood Springs to the west and State Highway 82 to the south. Central water and sewer service are provided by the City of Glenwood Springs.

The property contains significant slopes that slope downward from the east to SH82 at varying degrees. The eastern portion of the property contains the most significant slopes, which appear to be in excess of 40% with sparse vegetation including low-lying scrub oak, sage, and pinion-juniper understory. The County has issued building permits for all four buildings with the final inspections on the fourth building expected to occur within a month.

REQUEST

The Applicant has developed the property in accordance with zoning as a use-by-right and has met the building code requirements. The Applicant is requesting approval from Garfield County to "condominiumize" the 99 office / warehouse spaces within each of the four buildings in order to sell those spaces rather than rent or lease them. This request requires the Applicant go through the County's subdivision process to create separate interests in real property. As you will see in this memorandum, because the property has been almost fully developed as a use-by-right in the Commercial General zone district, there are just a few areas where the County's subdivision regulations practically apply to an already developed property. The Planning Commission found that these issues mentioned above could be solved as the application moves through the process. The most significant issue is the geotechnical

issue as it has direct life/safety challenges associated with it. However, based on this, the Planning Commission forwarded a recommendation of approval to the Board of County Commissioners with the following findings and conditions:

Findings

1. That proper publication, public notice, and posting was provided as required by law for the hearing before the Planning Commission.
2. That the hearing before the Planning Commission was extensive and complete; all pertinent facts, matters and issues were submitted; and that all interested parties were heard at the hearing.
3. That the application can be in compliance with the standards set forth in Section 4:00 of the Garfield County Zoning Resolution of 1978, as amended so long as the following conditions are met.
4. That the application can be in compliance with the standards set forth in Section 4.00 of the Garfield County Subdivision Regulations of 1984, as amended so long as the following conditions are met.
5. That the proposed preliminary plan is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.

Conditions

6. 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.
7. The Applicant shall submit a letter from a licensed professional engineer (licensed to practice in the State of Colorado) that states that the drainage improvements were constructed properly and in accordance with the recommendations in the Final Drainage Report prepared by JLB Engineering Consultants (dated 5/25/2004) as well with the recommendations of HP Geotech Preliminary Geotechnical Study dated March 2001.
Specifically, the letter shall also provide a drainage plan, at the same scale as the Preliminary Plan and prepared by an engineer registered in the State of Colorado, which shall depict the following:
 - a. Limits of tributary areas, where practical;
 - b. Computations of expected tributary flows; and
 - c. Design of drainage facilities to prevent storm waters in excess of historic run-off from entering, damaging or being carried by existing drainage facilities, and to prevent major damage or flooding of residences in a one hundred (100) year storm, showing:
 - 1) Area subject to inundation; and
 - 2) Location and size of proposed culverts, bridges, ditches and channels.
 - d. Shall provide proof that all drainage easements, channels, and culverts have been designed by an engineer registered in the State of Colorado.
 - e. Shall provide proof that all drainage facilities have been designed based on a minimum of a twenty-five (25) year frequency storm.
 - f. Shall provide proof that the detention ditches and ponds are able to retain up to a one hundred (100) year storm for run-off in excess of historic site levels as required per Garfield County Subdivision regulations of 1984, as amended.
 - g. Shall provide proof that all culverts have been designed such that the exposed ends are protected by encasement in concrete or extended a minimum of three feet (3') beyond the driving surface on each side. Culverts, drainage pipes and bridges shall be designed and constructed in accordance with AASHTO recommendations for an H-20 live load.
8. Pursuant to the recommendations in the Preliminary Geotechnical Study prepared by HP Geotech in 2001, the Applicant shall install a rock fall fence on the uphill side of building four as a mitigation measure or demonstrate that there is an alternative acceptable method designed, approved, stamped and sealed by a Professional Engineer.
9. The Applicant provide a letter from a licensed professional engineer (licensed to practice in the State of Colorado) that states that the recommendations in the HP Geotech study were followed during construction of the four buildings and their associated retaining walls. This letter is to be tendered to the County prior to the hearing before the BOCC.
Staff Response: The Applicant provided Staff with a letter from Kurtz & Associates, Inc. (engineering firm) that states the structural design for all four buildings were completed / designed in accordance with the recommendations provided by Hepworth-Pawlak Geotechnical, Inc. (Exhibit V) This condition has been met.
10. The approved Preliminary Plan needs to depict the existing easements per section 4:50(O) of the Garfield County Subdivision Regulations of 1984, as amended that include the following documents: Book 349-page 562, #475777, #571178, #571179, #684562.
11. The Applicant shall be required to obtain a new access permit that correctly states the uses and the defined DHV prior to Final Plat. By this condition, the BOCC authorizes the Applicant to apply for a revised permit on the behalf of Garfield County. Alternatively, the Applicant may obtain a letter from CDOT that indicates that all of the presently proposed uses are acceptable under the existing permit and that CDOT has no issue with the improvements already constructed by the Applicant is the CDOT easement.
12. In preparing the Final Plat, the County requires the Applicant place the following notes be 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 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 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."
13. The development is also located in the RE-1 School District. As such, the developer is required to either dedicate a portion of land to the district or pay the appropriate School Site Acquisition Fee to be paid at Final Plat and included as a component of the Subdivision Improvement Agreement (SIA). This fee is generally calculated from the assessed unimproved market value of the parent property. This shall be calculated and paid at the time of final plat.
 14. The Applicant has quantified the disturbed area to be re-vegetated as 0.64 acre. The Applicant shall tender a re-vegetation security in the amount of \$1600 with the final plat application. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the County's Reclamation Standards. The Board of County Commissioners will designate a member of their Staff to evaluate the reclamation prior to the release of the security.
 15. The Preliminary Plan (and Final Plat) shall be revised to show all antennas and equipment exterior to the unit that Verizon will lease will be contained in an LCE associated with their Unit.
 16. Regarding Fire Protection:
 - a. The Applicant shall eliminate the parking space that is located in the most southwestern corner of the property near to the road to the Colby and Lynch properties.
 - b. The Condominimuization CC&R shall contain language that specifically states who will be responsible for the annual tests and inspections and any required maintenance on the fire protection systems installed in the building and the site of this sub-division. The fire suppression system required a fire pump to be installed on it to increase the water pressure to buildings three and four; it requires special operational procedures to keep it functioning properly. In the these documents it shall also state that all unit owners or renters are to supply a key to the door to their unit to the Glenwood Springs fire Department to put in the Knox box that is installed on each building.
 17. The Applicant shall meet with the County Project Engineer to address the following comments prior to the hearing before the BOCC:
 - a. Site Accessibility: ADA compliance was not part of this review. However, the following accessibility deficiencies were noted:
 - i. The handicap parking spot, at the southeast corner of building #2, has a handicap parking sign but lacks the required width.
 - ii. One handicap parking spot is on a grade greater than 2%.
 - iii. Some handicap ramps lack the lower guiderails
 - iv. The travel route from handicap parking spots transverses the parking lots. (There should be sidewalks from the parking spaces to doorways.)
 - v. Each building requires a van handicap parking spot. None was provided. (16-foot wide van parking space needed - - 8-foot parking spot and an 8-foot lane.)
 - vi. At least one of the standard handicap parking spots is too narrow and lacks the required 4-foot wide travel lane next to the parking spot.
 - vii. The handicap ramp from parking area to sidewalk cannot extend into the parking area. These walks need to be part of the sidewalk.
 - viii. One handicap sign was removed off building #1. (Looks like the building occupant does not like having a handicap spot in front their unit.
 - b. Purpose of Plat: On the Final Plat, add a purpose statement under the title of the plat. For example: "The purpose of this subdivision plat is to delineate the condominium units within the subdivision. (Personally, I would prefer calling it a final condominium plat instead of a subdivision plat.)
 - c. Sheet 5: This sheet showing pre-development topography does not need to be recorded.
 - d. Parking Requirements Per County Code (County's old Land Use Code, 5.01.02)

Note the following parking deficiencies:

 - Lot 1: Req'd Parking 23,265 sf / one space per 200 sf = 117 parking spaces; Parking Provided: 98 spaces
 - Lot 2: Req'd Parking 14,413 sf / one space per 200 sf = 72 parking spaces; Parking Provided: 54 spaces
 - Lot 3: Req'd Parking 16,765 sf / one space per 200 sf = 84 parking spaces; Parking Provided: 32 spaces

Note: The five parking spots in the front of the property along highway 82 are not striped. There are also a few parking spaces that are very awkward being too short or difficult to enter.
 - e. Parking Spaces as Limited Common Elements
 - Some units are not shown as having a LCE parking space (reserved parking space). For example, there are no parking spaces designated for Units 4-F, 4-W, and 4-V. Conversely, Unit 4-H has two LCE parking spaces.
 - Only parking spaces on the downhill side of buildings are designed as being LCE. [NOTE: In total, there are 92 units, 180 total parking spots, and 76 LCE parking spots (including handicap parking spots that are currently designated as LCE).]
 - Handicap parking spots cannot be designated as LCE. They must be GCE unless there is an excess of handicap parking spaces.
 - Each LCE parking spot must be designated as belonging to a particular unit. The plan cannot simply show that five parking spots are LCE for six units. The parking spots must either be designated as a LCE and belonging to a particular unit or the parking space must be a GCE. (Currently, the parking spaces are not signed as being reserved for a particular unit.)
 - f. Limited Common Elements Assigned to Each Building: Covered walkways are designated as LCE for a particular building. This will need to be addressed in the condo documents.
 - g. This discussion shall include the parking suggestions included in the letter from Leavenworth & Karp dated 4/1/09 and tendered into the record as Exhibit H.

Staff Response: Staff met with the Applicant on July 2, 2009 and ultimately worked through these ADA issues and determined that they have been adequately addressed. The remaining issue is the parking issue. The Applicant did propose a revised parking concept (Exhibit V) that basically calculates the parking spaces based on the total envisioned "retail" space in each of the buildings. Their concept ultimately calculates the parking needs based on the most restrictive parking rate (retail / office uses) rather than storage parking rates. Under their calculation, they determined that 189 spaces are required and their plan provides 190 spaces. Staff finds this to be a concept that could work; however, since the units would be rented / owned and "tenant-finished" accordingly on a first-come first-served basis, it is possible that they will run out of parking spaces and be under parked if the majority of the space is finished as office / retail. This issue still needs to be resolved.

Additional Conditions Suggested by Staff

18. Since the Planning Commission hearing, the Applicant provided a letter from JBL Engineering Consultants that

provided three actions that needed to occur to the Debris Flow Mitigation Pond and Structure to address the concerns raised by the CGS. These include:

- A. *Perform minor adjustments to the grades and back slopes per discussion in the field. Re-work the top of embankment to condition and compact the soil that is experience raveling;*
- B. *After these improvements are complete, survey the basin and provide data for our review. JBL will provide guidance for any adjustments necessary;*
- C. *Implement adjustments to grades and install the outlet structure and embankment protection to bring the basin into compliance with the approved plans.*

Mike Sawyer stated this project has been constructed as a use by right under the existing zoning for the property. They recognize this is something of an anomaly for how you normally consider a land use application that includes a sub-division. Originally, Mr. Hick's concept was to build and lease these as one, under one common ownership. Elements of the economy have required that be re-thought to some level. Mike said they are before the Board today on limited issues that pertain only to the sub-division of the property. He felt Fred did a good job discussing the number of the items in the staff report, including a few of the conditions that have since been resolved. As part of the Boards approval that would ask that they remove items that have been taken care of so they can truly focus on the things that remain between approval of the preliminary plan, and moving forward to a final plat. These building have not just been constructed; but certificates of occupancy have been issued on all four of the buildings. As Fred indicated, individual tenants who at the current time are leasing space; but several of whom will become owners of this property, as they have come in with a site plan, or a tenant finish plan for the property. That does go through the County review process one more time. In terms of approvals, that the County has already issued, three is a general certificate of occupancy, which has been issued for each building, and then those that have been finished out, site-specific certificates of occupancy have been issued. Mike thinks there are really three main issues they would like to discuss. The drainage hazard issues and some additional information that they are prepared and willing to provide to the County, the parking issue that Fred brought up, and the third one would be the C-DOT access permit. Starting with the drainage and hazards, he would like to give the engineer an opportunity to give a brief explanation of the information that has been prepared over the course of this project and where they stand in providing additional information to the County to meet the requirements and the conditions that have been presented.

Jim Blankenship stated there were a couple of issues. The geological issue and questions regarding debris and rock fall mitigation, and the question of the drainage mitigation, which he will address first. There was a drainage report prepared with the original development in 2004. That report included an analysis in the existing conditions and the impacts of the proposed development. It included mapping, calculations, and details of proposed mitigation measures. The site is essentially still under construction even though the certificate of occupancy has been provided. There is still some clean-up items to do and one of them is they have now gone in and they have surveys on the work that has been done, and what he is doing is taking that survey data; comparing it to the design information that was in the drainage report and coming up with adjustments that may need to be made. It is clear there are things that need to be done on a couple of smaller ponds on the site. The large debris flow pond appears to exceed the recommended levels that are provided by the geotechnical engineer; but they still need to construct the outlet and formalize a few of the facilities. The drainage will end up being in accordance with the plan; they will work with the County engineer to get whatever adjustments need to be made from the drainage report that was done. Translate those into site construction and give the engineer a plan he can look at and get them the letters of certification they need for the approval pending when the improvements are done. The rock fall mitigation, they have a report from the geotechnical engineer who has provided them with the perimeters of the rock fall mitigation and they will engage a professional engineering consultant, who does that type of work specifically, and will address the type of fencing needed and recommendations from the rock fall analysis that was originally done. They wanted to use the berming on the uphill side of the site that is part of the debris flow mitigation as a part of the rock fall mitigations. They want to make sure the berm is built correctly so they could take that and build into their rock fall mitigation analysis and come up with the plan that works. They will prepare those documents and work with the County engineer to get that item checked off as well.

Mike asked if Mr. Hicks had anything to add and he stated no. Mike stated with regard to the conditions which are proposed related to the drainage with the hazard mitigation; they are fine with the first paragraph of number 7, on page 21, but ask that the portion of number 7 on page 22, this begins with specifically "the letter shall also provide a drainage plan", and then it lists the specific criteria for a drainage plan. A drainage plan has been submitted to the County and they wanted to make it clear that a duplicative effort is not required because of this condition. Rather, what is required is that we submit a letter from a professional engineering indicating that the improvements have been constructed in conformance with the drainage plan that already has been submitted and reviewed by the County. Mike stated they are fine with the condition number 8; which deals with the rock fall mitigation, and number 9, which deals with the geotechnical engineer's recommendations, and they are fine with condition number 18, which incorporates certain representations, which they have made the County staff in terms of additional information that will be provided. With regard to the C-Dot access permit, they would ask that the commission eliminate condition number 11, or at least the portion of condition number 11 that requires an additional or new C-DOT access permit be obtained. They have provided staff with a valid, executed C-DOT access permit for the entrance to this project. As Fred indicated that permit does list residential uses as one of the uses that could be facilitated under that permit and that was due in part to the fact that when this project was originally contemplated the thought of some upstairs residential was kicked around. In the end, as Fred indicated, that is not the case; residential is not part of the Glenwood Commercial application. This access point does, in fact, service residential use to the south. There are a handful of residents including Ms. Lynch's residence; which do use that access as their sole means of ingress and egress to their properties. They believe that continuing the existing access permit, mentioning residential is in fact consistent. He guesses he would reiterate what Fred already said; Fred did contact Dan Roussin at C-DOT about this issue, and C-DOTS position is, so long as Glenwood Commercial continues to maintain its design hour requirements, they do not really care what the uses are in the permit. They see the requirement to go back and obtain a new access permit as not really being germane to providing a project that conforms with the codes requirements.

Commissioner Houpt stated; but you would be fine with the requirement of a letter from C-DOT. She said it would be nice to memorialize this.

Mike said to the degree that the commission does not believe that Fred's representation is to his conversation.

Commissioner Houpt explained Fred was saying a letter would be from Dan.

Mr. Hicks said they have requested that numerous times and all they get out of Dan is some e-mails stating they are in compliance.

Commissioner Houpt said an e-mail is great.

Mr. Hicks said Jim could provide that with a cover letter and his correspondence with Dan.

Deb stated in connection with the hearing in front of the planning commission, during the course of legal staffs review; there is a requirement in condition number 10 that the preliminary plan depict existing easements, and in your packet, on Exhibit N there is a map that shows existing easements. One of the requirements, in number 11, C-DOT indicates that all of the presently proposed uses are acceptable under the existing permit, and that C-DOT has no issue with the improvements already constructed by the applicants in the C-DOT easement. The easement on Exhibit N, that is referenced from book 349, page 562; take a look at that and what we wanted to see was a preliminary plan map that shows the improvements that have already been built. Because just based on where this easement is located, which is a C-DOT right-of-way, it appears that a number of improvements have been constructed within that right-of-way, including parking spaces, retaining walls etc. We wanted to be sure before this property is sold to unsuspecting members of the public that the applicant really had the permission of C-DOT to construct permanent improvements within C-DOTs right-of-way. They know how difficult that is to do, so they wanted absolute insurance that has occurred. Deb said they have not seen the access permit construction drawings to know whether these improvements were included or not. She thinks maybe the applicant can explain whether that access permit included all these; but they would like to see from C-DOT some acknowledgement that yes they know what has been build in their right-of-way, and yes they are okay with that. Deb thinks that is a critical item that needs to be addressed and we should not eliminate all of paragraph 11 for that reason.

Mike said he would like to give Mr. Blankenship an opportunity; he has been in discussions with C-DOTs engineers about the improvements about the right-of-way.

Jim said they do have access plans that were prepared and they were issued a notice to proceed from the State to construct not only the widening of the highway, for the deceleration lane; but also the large retaining wall that was built. It was one of the first ones of that type of retaining wall that was approved by C-DOT in the State. They do have the access plans, he has a letter from 2007 where C-DOT has accepted all the improvements that were provided for in the access plan, which was for the work in the C-DOT right-of-way and on that access permit itself. He said they could provide a copy of those plans staff and a copy of this letter accepting those improvements from the unit three-permit unit engineer; which accepted the project as the design was presented.

Deb asked if that included the parking and retaining walls that are adjacent to the building, or the parking adjacent to the building that appears to go within the right-of-way as well.

Jim stated all of that information was provide in the plans that were approved by C-DOT.

Mr. Hicks stated there are no private improvements on the roadway. Just to make that clear, there is no parking on C-DOTs right-of-way.

Deb asked; on the final plan, that is part of Exhibit V, along the southern portion of your property that is State Highway 82, there are parking spaces; 1, 2, 3, 4, 5 along that area. According to the easement map, that has been provided, that is within a separate deeded C-DOT right-of-way.

Mr. Hicks stated it is within a deeded easement; it is not within their right-of-way.

Deb stated it is still a C-DOT easement and Mr. Hicks agreed. Mr. Hicks stated he was clarifying there are no private improvements within their right-of-way. There are private improvements within their easement on his property, and those are shown on the drawings as well.

Deb said she knows they are shown on the drawings; they need to see some indication from C-DOT that they are okay with all of the private improvements made within their easement. You are distinguishing between an easement and a right-of-way.

Chairman Martin explained in the notice and the acceptance that would be part of the improvement process; it would probably be listed, and Jim stated they could provide that.

Mike said to clarify regarding condition number 11; the applicant will provide additional information to staff related to the application and acceptance of improvements within either the C-DOT right-of-way or the easement that C-DOT holds a very small portion of the property. And/or a letter and/or email from C-DOT related to the access permit issue. Mike thinks there are two separate issues; one is the acceptance of the improvements, and the other is that C-DOT does not really care if they get a new access permit. The final item, Mike feels they need to discuss, involves the parking. The County code, as it describes the calculation of parking required for commercial space, specifically excludes from the square footage calculations storage areas. For those of you who have had an opportunity to drive by or into this project; you will note that several of the units at Glenwood Commercial have large rollup overhead doors that are designed for contractors, plumbers, tradesmen who have storage needs. He would like Mr. Hicks to have an opportunity to discuss how his analysis of the existing tenant finished units there, and the storage that has already been put into place, how that relates to the number of parking spaces they believe are required to be on the site.

Mr. Hicks referred to the spreadsheet as Exhibit V; he prepared this exhibit to detail how they sit currently relative to the code, and with what he saw as the worst-case scenario possible build out at Glenwood Commercial. That is what he tried to memorialize in the spreadsheet. As you can see in building one, there are no overhead doors in building one. All the units would be entirely office retail. Building two is completely built out and he noted there are six units as contractor storage, warehouse space. Four of them used as office retail, and in building three he has one tenant that is using hers as storage with a small office. Mr. Hicks explained that figuring in each of the overhead door spaces you would have a small office area; he used 200 square feet, which is probably conservative. They probably do not have a 10 X 20 office; but he put that in, as that would be provided for. In the office units he put there is probably about 160 square feet that would be used as storage. Under that scenario, it yields a need for 189 parking spaces of which they have provided 190. For them to hit the need for 189, not one single additional overhead door space would be put into place as overhead door space. They would all be used as office. He said he put it to show, they could burden staff into the future, whoever is going to be required to do, okay how many square feet in this tenant finish are going to be office and how much is storage. He thinks what his spreadsheet shows is that beyond a shadow of a doubt, they will have parking under the code. He does not know what else to propose. The other analysis he did; it is related to this project sitting on the City boundary, could either be brought into the City or not. Under the City's code, he meets their requirements for general office as well if the whole thing was

general office. He could bring the project as it sits; drop into the City and he would not have to ask for a variance for their parking regulations. This was his analysis; he is comfortable with it and he believes that expending time into the future tracking this is probably a waste of time, and that is his opinion.

Mike stated; Mr. Chairman he felt they have presented what they wanted to in their affirmative case. Since this is a public hearing, they will reserve the right to respond to public comments.

Chairman Martin stated he was correct; but he would like to hold those comments, if necessary, until the entire public has had that. Chairman Martin asked Fred if he had anything to bring in at this time.

Fred stated he had a question about parking. Do you have a mechanism; he understands what Mr. Hicks is saying about the calculations. How would you suggest a tracking method for that and how could you put that in the CCNR's how do you let the future purchasers understand this is the scenario out here.

Mr. Hicks explained he was proposing that they state there is enough and go forward.

Commissioner Samson asked if 190 parking spaces would cover it even if it is all office.

Mr. Hicks stated there were seven units currently shown as having overhead door space. He said his spreadsheets assume that not a single one of the additional ones would be used for storage; they would be used for office, and under that scenario it's excluded. He guesses in the eventually that it was completely refurbished as something else. Fred stated that is really where he was heading. You could convert to seven and then all of a sudden you are under parked.

Jim stated it would require all the perspective owners to reconfigure their space.

Commissioner Samson asked how many they would be short then if that was the case.

Chairman Martin stated he thought the scenario was 80 some spaces.

Commissioner Houpt stated if someone was buying a unit; could not you just assign a certain number of parking spots to each unit you are selling. Then you would not end up with four units at the end who have no parking.

Mr. Hicks stated it is very difficult; if you assign all the parking, you would need much more parking than if its general use and so by assigning it, it becomes very problematic.

Commissioner Houpt asked; you do not have enough to assign.

Mr. Hicks explained it would require much more.

Chairman Martin stated the sketch is going to be designed on his square footage and what the building is to be used for. Then follow the code and say how many spaces are required for that particular use and you need to sell it for that use.

Mr. Hicks said he would be fine with a plat note that stated a maximum of so many square feet of office could be built in total in the project.

Fred said he is just looking out for plans reviewer; as every tenant finish comes in, just to make sure that we have this tracked out. Fred thinks it is doable.

Mrs. Chris Lynch, her husband Don and she own property located at 2554 Highway 82. She was not able to attend the planning commissions hearing held April 8, 2009; however, she did write them a letter. She understands the Board has a copy of that letter. You will see in that letter she has concerns regarding the retaining walls possibly not being built, as the plan calls for. Not enough parking, volume of daily traffic now; but especially after the buildings are full, and only one small access off and on Highway 82. She knows there were other individuals that also had concerns as to whether Mr. Hicks, the building of this project, is meeting the building code requirements. This project has been going on for years and his plans are always changing. It will still be months before it is completed. The planning commissioner said that they will check on concerns and she heard today they have been checking on them. We appreciate that. She would like the Board to make sure this is done and all requirements for this project are met before you allow condominiumization. If he is allowed to sell the offices or apartments and he did not build this project meeting all requirements, who will be responsible if flood damage to our property occurs, and this looks like it could be very possible for this to happen. She would like to know what is planned for building four; is that going to be offices and apartments.

Chairman Martin explained there were no residential units; he believes and asked if that was the testimony.

Mike answered that is the testimony.

Chairman Martin said there are no residential units; they are all commercial, in all of the buildings.

Mrs. Lynch said there would not be apartments. Her concern was that she had read in some of the planning that there was going to be some warehouse offices in the fourth building, and she knows the Board had approved Verizon to put in antennas on that building. When you approved that Mr. Hicks was saying that would only be equipment for Verizon and storage, and there would be a generator up there. She just wanted to make sure that there was not going to be people living or working underneath these antennas. In addition, he was required to put signs up saying that there were antennas going to be on these buildings, on the property, people visiting or people working there. She does not think there are any signs up and it concerns her with people working there or people looking to possibly purchase, or wanting to purchase offices. They do not realize what is going to be put on these building and she thinks it is important they do know that. Regarding C-DOT and regarding parking; when buildings one and two were being build; the road there was under construction and she was told, at that time by C-DOT, they didn't know about when he applied for the permit that they didn't know at that point there was going to be a building three and four. Someone from C-DOT had told her this. He said he would have to get another permit if building three and four, if they decided to put those up. There is a paragraph she wrote in the letter and there are so many people using that driveway with the Glenwood Mini Storage there. She knows at one point the planning commission was concerned because there was not enough parking spaces and one day when we came home there were parking spaces marked along our guardrail where they drive. There were about seven spaces painted for people to park there, and that is the road that we use. It tells her there is not enough parking spaces in that area. After she mentioned this, the spaces were taken away. There is also a huge dumpster located just as we drive up the driveway. There were parking spaces marked there; but this dumpster is there and a building has been built to enclose the dumpster. However, the door is usually open, they are not kept closed and it is very dangerous when they come down the driveway because this big building is rather large and she has some pictures, you cannot see the cars when they are coming down the hill from the office buildings. That is taking some of the parking spaces that are shown on the plan; unless he has shown you that building does take some of the parking spaces. We do have concerns about the number of cars that will be going in and out of the driveway, going into 82. There are not many businesses up there now; in the morning when you try to go out there is a line of trucks and cars trying to get out on 82. Back to C-DOT, she stated she did call them when she heard, not this time prior to other hearings, to find out if

Mr. Hicks had gotten another access permit, and she was told that he had not, but they felt the County Commissioners should contact them and talk to them about it. They would decide to give an access permit or not; and she was told this within the last year. She hopes the Board understands how important this is to all of us and that you take a very serious look at all of the issues before you make your final decision. She submitted pictures; she stated the first pictures, you approved the antennas, if you look, you will see that Mr. Travis's house is higher than Mr. Hicks' fourth building. She knows he will be building towers on the end of that building to put the antennas in; but it still concerns them that the homes are higher than what the antennas will be. In addition, you can see, standing in Mr. Travis's yard looking down, you can see the height of those buildings.

Mike said he thought it was important to respond to a few of the items. In the letter Ms. Lynch submitted; she raised certain concerns about the adequacy of hazard mitigation to prevent harm from emanating on the Glenwood Commercial property and going off site to the neighboring properties. He would like their engineer to briefly discuss the adequacy of the hazard mitigation that is on their proper, and where the hazards that affects both Glenwood Commercial as well as the neighbors, where they emanate from.

Jim stated; to the extent of the debris flow; the geotechnical engineer and he have both an extensive reconnaissance on the site and established the basins; our independent analysis came up with a very similar conclusions. The site is across several different intermediate debris flow basin fans and those fans, and those fans travel from the southeast to the northwest across his site. In addition, the impacted property owners from the development of this project in particular would be more to the north, just based on the configuration of the natural topography. The mitigation measures that are in place have been designed so that they will accept those offsite impacts from the hillside, and also from the adjacent properties that do sit above this property; that are currently developed, they mitigated those and pass them through down to the historic basin. The measures are in place to address the hazards and the hazard the mitigation design is to respect the natural course of the drainage coming down the hillside through the project. The same debris flow that comes through portions of this side also comes through neighboring sites on both sides. He feels their mitigation measures have addressed that. They are providing the necessary, and required regulatory measures to mitigate them.

Mike said that given the hazard emanates from the southwest and moves to northeast; southeast to the northwest, and given the location of residences' which are generally located in a southerly direction from the subject property, based upon the engineering that has been done is there any affect of the work that has been done on the Glenwood Commercial site to increase, or exacerbate the already existing hazards that exists to the properties to the south.

Jim stated no; in fact, the sites to the south there are some big retaining walls. They sit quite a bit higher until we can figure out the drainage fill or refills go uphill, they are passing it through and accepting what comes off the properties to the south. By design and as they have gone through the conformations through construction, and will continue to do so that those mitigation measures when they put these drainage and debris flow back into the basins that they in a historic basins; which would be to the north.

Chairman Martin explained to Ms. Lynch; they had to design their drainage so it would not allow anything to get off their property on to yours for the next 100-year flood plain. All of the structures have to meet a 25-year flood volume; another words they have to be big enough to hold everything and they cannot come on yours unless it is greater than a 100-year flood. The engineer had to put his mark on that and it was approved by the State and reviewed by Fred and the engineers to make sure it is constructed properly.

Ms. Lynch said one question she had; did they put up the concrete wall around the property, now none of the debris, from their property, will come down there but it is diverting it. The one picture she showed there is a fence and then a concrete wall and it is heading right toward our property. If they say, it is not going to happen I do not know.

Chairman Martin explained they say they have to design it for historic use and drainage.

Commissioner Houpt asked to see the pictures.

Mr. Hicks stated there is a retaining wall along the east side of the property; but there is a drainage way between his property line.

Mike asked when he submitted his C-DOT access permit application; can you describe for the commissioners the development that was proposed, and explain how the traffic count, that was ultimately approved, was calculated.

Jim explained as part of the access permit, the process is we have to submit a site plan and supporting documentation. You've heard there was a component of residential as part of the project, so that one time that was factored into the site plan, so they presented, along with their access permit application, a site plan showing four buildings and it also quantified square footages and number of units. C-DOT is in the business of building roads, so they do not break down their classifications as your County code does as far as the level of different types of residential, different types of commercial, different types of retail, they tend to simplify things just to make it easier. The design hourly volume was based on the square footage that was in the site plan; which was the square footage for all four buildings and the number of residents that were anticipated. If someone at C-DOT thought there were only two buildings, he is not sure where that came from. That is nothing that was submitted by them as a design team to them. The original applications included all four buildings, site plan showing all four buildings, and presenting the numbers that were in the access permit, which included some residential and square footage. He stated it is really based on square footage; even if there was 1 building or 100 buildings; our design hourly volume is what the permit is based off. There was not a plan showing less than four that was submitted as part of the application process. In essence, it is somewhat irrelevant anyway because they are based on actual traffic counts generated by the use.

Commissioner Houpt asked if there was a concern about one way in or one way out with the population.

Mr. Hicks stated that C-DOT anticipated this reconfiguration of the access for all its properties back in the 60's when they widen 82. That is how the easements were put in place. There is part of it on the mini-storage property too. It was always planned that that would be the point to access all of these properties. They never provided for access anywhere else so there could be circulation. There is a spot to the east of Heightsman's property that C-DOT is eliminating; they said they would not allow an access point there to occur now or in the future. He thinks the answer is yes it has always been anticipated.

Mike asked Mr. Hicks about the antennas from Verizon and giving notice; are you and Verizon committed to complying with the terms of the SUP that this Board has previous approved.

Mr. Hicks stated correct and Verizon and he are in negotiations with the tenancy, which has not been completed. They are awaiting final completion of the condominiumization process and the associated declarations, CC and R's so that they know what project they are getting into. Based on the combination of this process, then he believes it

will go forward. He does not have any indication that it will not; but at the point that it does, then yes all the terms of the SUP's, the two of them, will be complied with.

Mike wanted to note as to the question of providing notice to persons who might purchase into this development with regard to Verizon; use, those are matters of record title. They will show up in title report and future owners will be given actual notice of the SUP and what is going on there. The final comment Mike has, the letter from Ms. Lynch does speak to certain hypothetical questions about what if there is a problem with the site in terms of the soil or the hazard mitigation. What has been approved and extensively vetted by engineers and State agencies, and the staff of this County; if there ultimately a problem, as this Board knows there are extensive private remedies that our State Legislature has enacted to deal with construction defects and site problems. Those remedies will continue to exist and provide a means for a potential buyer to seek recompense of the law. This Board is required to reasonably assure itself through expert reports and review by staff that those issues have been dealt with and he believes that what you have heard from staff today is that those issues either have been addressed, or as indicated in the conditions of approval additional information will be submitted prior to the final plat being approved.

Mr. Hicks wanted to give a few comments; the retaining walls, we do have a letter from the structural engineer of the entire project, stating we have complied in all the construction retaining walls. Jim will provide a letter once the drainage improvements are complete that we have also complied. On building four, there was some confusion there will be offices in building four and there will not be apartments. People will work in that building. The signs we talked about with Verizon; those will occur when we go forward with Verizon. The C-DOT application has always been four buildings, why they told her one he does not know. The parking on the road has always been contemplated. The access through there is over width for the design based on City, and he believes County standards, including the parking on the edge of the roadway. The dumpster taking parking the dumpster was relocated on site from a different area, so the parking that was taken up by the dumpster was replaced by parking from when the dumpster was moved. The plans, the drawings you have; those parking spaces are per the calculations, the spreadsheet he gave the Board. The dumpster was not after that fact. Traffic; several of you were here on the Board when he was begging C-DOT to allow him to put a stoplight in there. There is not much more, Jim and he discussed all kinds of things, and the retaining wall it is not the best solution in his opinion. It's was not the one he was trying to get; but it was all that C-DOT would allow them to do. He said he just brings it up for Mike's enjoyment and some for the audience that he would have like to have done more and was not allowed to by C-DOT.

Chairman Martin asked Fred Jarman if he had changes or any additions to that approval.

Fred went to page 26; he has one additional condition, you heard testimony about this today; but he wanted to make sure it made it into the conditions. Since the planning commission hearing the applicant provided a letter from an engineering company. They provided three actions they specifically called out and it still had to happen.

Specifically around the debris flow mitigation pond and structure and he referred to three things in the letter, A, B and C. It is adding this within that recommendation.

Commissioner Houpt stated on 11; she asked Fred what was within his comfort level in terms of the access permit. Fred said they are fine with an e-mail from C-DOT saying that; we understand what Mr. Hicks has constructed out there; we know what the use is. It stated as long as it says from them to the Board, we understand what the THD is and what is brought to you. The issue they continue to raise that Deb spoke to earlier; is one that he thinks they just need to make sure that those bases are covered. We have the easements, shown on Exhibit N, the improvements have been built, and then we have their Exhibit V was the copy of the actual, basically a document from C-DOT that says they have accepted the improvements. If that satisfies C-DOT, issues that we are having, he thinks that works but the need to hear from C-DOT. Fred thinks 11 get's them there.

Commissioner Houpt asked without changing it.

Fred said we would not need a new access permit; just an acknowledgement from C-DOT that what has been constructed is within their permit basis.

Commissioner Samson asked; okay with striking the paragraph on top of page 22 as they requested.

Chairman Martin asked if they were in deliberation or are we still taking testimony.

Commissioner Houpt stated they are asking questions of staff.

Fred said he thought they could eliminate number 9 (Fred read). He would like to keep number seven in its entirety; the reason they kept A through G in there, if they have it, Fred would like to see it. Also, number 17 you can strike everything and in its replacement you could add a plat note; should be indicated on the final plat they have 190 spaces specifically to this site.

Commissioner Houpt – I make a motion we close public hearing.

Commissioner Samson – Second.

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

Commissioner Samson – I would move that we approve the preliminary plat for the Glenwood Commercial Center LLC with the conditions of approval stated by our planning commission and staff and revisions proposed by staff.

Commissioner Houpt – Second. We are deleting number 9, we are taking new access permit out of 11 and indicating that we receive some kind of written communication from C-DOT, taking 17 out, but noting in plat notes there will be 190 spaces.

Chairman Martin stated and that all of the other requirements of the special use permits be met.

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

Public Meeting Continued

- **Waste Treatment and Energy Production, Produced Water Testing Results – Dorothea Farris, Mike Rutsch and Larry Giroux with Heartland Companies**

Dorothea Farris and Larry Giroux and Mike Rutsch were present.

Dorothea said that today's discussions made it very obvious that there is a concern over oil and gas exploration development. There is an interest among all parties in being environmentally sensitive and in addressing the issues they have to address. We are all concerned about the same impacts. They are concerned about citizen health, community water supply, the fact that the local community has to be responsible for its control. You have brought that up several times as well. She thinks they have brought up the interest in being open and transparent in our operations in management of the industry as it affects our lives. You know there was a demo project; she talked to each of the commissioners about it. No one was able to attend if we are able to do some of that again they will.

This is not about any particular project, it is about the issue and the concept that they need to all address. When you

review the policies, you review applications; you know what options are out there. Dealing with reuse and recycling water, dealing with addressing the issues of produced waters to ensure the water quality and perhaps either reuse, or knowing when it is injected into the ground; when it may or may not affect the water supply, it's going to be pure water. The evaporation ponds, we will manage those appropriately; all of that affects, she and Chairman Martin have had many discussion, about the traffic impacts and how to reduce the impacts so that the infrastructure and the road impacts, whether it is new road or just impacts on existing roads. Those are the issues. The point is there is a way all of us can act together in a reasonable and responsible way to address these issues. That is why Larry is here. Larry showed some pictures of the unit, they discussed with the Board earlier, in Buffalo, Indiana. The difference between the two pictures, the horizontal picture that is being run off waste heat from an engine, run by landfill gas. It is generating electricity and in this particular building, there are four engines; but only one engine is hooked up to this for demonstration purposes. That has enough energy coming off the stack, that usually goes up into the air, that they evaporate 5,000 gallons a day. That is one application for this of using waste heat. On the other side (of the photo) it is using landfill gas; which has approximately 50% methane content and this particular unit is evaporating about 15,000 gallons a day. It is the same unit in both pictures, same size, and if they hook up all four engines on the other side, it will evaporate 18 to 20,000 gallons per day. They were hoping the Board would have been able to come up and see this demonstration. They will be distributing a video. What comes out of gas and exhaust is a vapor a clean water vapor mist. This demonstration they had a lot of interest, many senior executives from Waste Management, at the regional and corporate level out of Houston. They are also looking into getting into produced water management business. They were there with a very specific interest. They had a senior technical person from EOG, which is a former Enron Company. They are very interested with the Exons and everyone else on what they are going to do with produced water. They also had the President and CEO of Dalbo; which is the largest produced water transporter and manager in the Garfield County area, in Utah and Wyoming. Currently they have several billion gallons of produced water and ponds throughout the region. He, Mike, and Patti are leaving Wednesday to talk with the majority owner to work out a deal to move forward. They think that is the best and quickest way to have an impact on produced water as a solution. They hauled in about 15,000 gallons of produced water from Pennsylvania. A couple of reasons; little closer and it is the worst produced water. This particular water had about 200,000 parts per million of solids; salt in particular. Which are about 20% solids? The water out here is in about the 8% range of 15 to 16,000 parts per million solid. It is a lot nastier water and they had very good success with that. They run it with the waste heat off the engines and process it that way. This particular technology, they can use gas from the oil fields, they can use gas from landfills, they can use waste heat off engines, and there are very large compressor engines out there they can use waste heat from. He stated there are many heat sources to do this. The technical person from EOG had a very good concept and it is very simple. They use a lot more water over there than they do here because of the geology. To take the concentrator right there, produces the water, or inject the water; when it comes back up the flow back water runs through their process and condenses it. They can probably condense up to 50% of it back into clean distilled water. It does a couple of significant things; it reduces traffic obviously and the water they are injecting back into the ground is clean water. It has not treated water with some of the contaminants, or the chemicals that were in it before. It also obviously reduces costs for transportation. What they get out of it is about 20% solids will come back out. Our processes will solidify and it will be in a form they can landfill. Acceptance criteria for accepting a product like this, it has to pass a paint filter test. It is a simple paint filter, moisture comes out. They are in the process of negotiating a national contract with Waste Management to accept this product nationwide; at a favorable rate to make it competitive. The other component to this the BOC's, the hydrocarbons and things like that. Roger the President of Dalbo had indicated that the State of Colorado was concerned and on him about this issue. They have two ways of treating the BOC's in this; first of all they could put a stripper in front of this process, which takes out the hydrocarbons. Those hydrocarbons will be fed back as an energy source. The second is a patented technology, sort of a clay compound that they are demonstrating now. They recycle those instead of going into the air; they would be stripped out and used for fuel. They are in the process of submitting their air permit. They will use it to evaporate septic water. They will talk to the city at a later date about maybe even some produced water; depends on the logistics of it. Their main thrust right now, in order to expedite this is to get, the State has some new rules and regs on air permitting, which is taking longer. Originally, they were at a 3 to 6 month timeframe to get it approved. Now they are in a 6 to 12 month timeframe. They are going to use that as temp-plate to get it permitted at the State. They will work with Dalbo and get air permits there. They do not know exactly what the strategy will be with Dalbo; what they will work out with them, but they will have some type of business relationship with them so they can eliminate the need for more ponds. I hope that reduce the number of existing ponds they have now and greatly, significantly reduce the amount of traffic on the roads not only in Garfield County but also in the Country. They are expanding their business into the Pennsylvania area. They are going to be educating the producers like EnCana, Shell, and Williams about this availability of this technology. They can have small portable units going around, or they can have the larger stationary units. The energy source, as he stated they could use waste heat. There are waste heat credits available; if you use biomass there are carbon avoidance credits available. This adds more revenue streams to the process to help solve the problem to reduce the cost to make it feasible.

Dorothea stated that she neglected to say, she assumed they all knew, that Harland manages the Pitkin County landfill and the South Canyon landfill.

Larry stated this was a sister company, this is Heartland Technology Partners. There is a lot of energy out there that they can convert to beneficial use. They have talked to Pitkin County at the staff level about doing something to either using landfill gas or maybe some kind of biomass to take care of the septic water being generated at that end of the valley. Right now, it comes down here; again taking trucks off the road.

Dorothea stated again the issue of tree waste. The question comes up every now and then and that process has not been made quite clear to everyone about how it is going to happen.

Larry said they are geared toward using renewable energy as much as they can and waste heat energy. Fossil fuel energy, if it is being vented to the atmosphere, he thinks they do when they frac a well; they can use the lower quality gas. Their equipment is very tolerant to poor quality gas. They just need a certain amount of BTUs there and they can evaporate the produced water.

Commissioner Houpt asked when looking at different grade use; do you have both portable and stationary units, look at Garfield County and the way energy development has been scattered around different portions of the County.

Would it be your recommendation and your focus then to look at portable units? Especially if you are talking about taking trucks off the road.

Larry said he thinks there are two concepts here; in the fracing mode, you would probably look at portable stuff. The flow backwater comes back over a certain period and then the water lines drop off drastically. There is infrastructure out there now that would require stationary models; where there are ponds in place and there are pipelines feeding the stuff. He was told by our landfill there was a pipeline for produced water. Being able to treat that and use the pipeline system there, he is not saying they will eliminate all trucks, but he thinks they could significantly reduce trucks. A comment from the President of Dalbo; he would prefer to get rid of trucks if they could manage it. Trucks are a headache; they break down, they cost money and all this. He continued to talk about Dalbo and what they are doing in other areas and the reduction of truck traffic.

Chairman Martin stated; you have your air quality permit and the standards you have to meet, what about a water discharge permit. Don't you need that from the Health Department?

Larry said if they condense it and discharge, they would have to get a permit if it goes into a river if used for irrigation or livestock. This is basically distilled water, it's not a good thing for livestock and irrigation; but for fracing it is.

Chairman Martin asked; the storage of that or the battery tanks that you would have to have for storage and recycling, keeping a constant supply for the factors, you would still have to fill the battery tanks wouldn't you, as your process the water?

Larry said they could use open ponds for the clean water.

Chairman Martin explained that was one of the issues they were facing today; trying to get rid of the ponds because of visibility and the impact.

Larry stated again; the whole tanking arrangement, you just drive down the road and you see all of these portable tanks. The assets are sitting; not being used. If that was the desire of the Commissioners and working with the companies, he is sure something could be worked out. He cannot commit anything for them; but he knows they have assets, he knows they want to address some of the needs out there and the elimination of ponds, whether it is produced or clean water ponds, is a very high priority.

Commissioner Houpt stated that is actually something that would be evaluated, if you were talking about clean water.

Larry said; where does the water go, is it best going back into the river, is it best being re-used by the oil industry...

Chairman Martin thinks the infrastructure could be in place for both permanent and portables. The Board has encouraged a lot of recycling pipelines above ground and below ground. Dalbo is one of the largest water haulers and they are hauling all the way from Utah as well as Cisco. There was also a pipeline that caused a little bit of a sinking problem on I-70. There is a pipeline out there and it supplies a lot of water.

Dorothea stated they just wanted to make the Board aware of their interest.

Larry explained the timeline they are working under; with them going to New York, and hopefully hammering out some kind of deal, they think they could get the impact of this technology seen very quickly. They have to obviously jump through some permitting hurdles; but he thinks they can bring some technology to the table pretty quick.

Chairman Martin said they see that it is reality and it can happen; it is just the permitting and the bureaucracy to make it happen in Garfield County. I hope that we can encourage everyone to use this type of technology.

Larry will send everyone a copy of the video

Chairman Martin said when they finish the project in South Canyon landfill and make it operational; the Board would love to come out and see that.

Larry said they did, last Friday, complete all the stack testing. He is very confident that everything is fine. They are testing the solids, testing the stacks; results should be back in about 10 days. Larry will share that with the Board also.

Executive Session:

Don stated since the last executive session his office has been involved in two matters of claims and litigation that involve immediate consideration by the Board; one claim of Calvin D. Walker, he needs to advised the status; the other concerns potential conflict of interest in child protection case, which Cassie has to address by Friday.

Commissioner Houpt – I make a motion we go into executive session and Commissioner Samson Seconded.

In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin asked for a motion to come out of executive session.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Don stated there is one item they need public direction, Ms. Coleman has pending for a child support case on Friday. Without revealing the identity of the participants, the problem they are presenting to the Board is council for the father, previously represented of the Department of Human Services in child support matters; specifically in this case, in an action against the father, who she now represents. Previously Don stated they have informed council that, under some circumstances, the Board would waive the County's conflict of interest rights under the code of professional conduct; in others, they would not, unless she was an active participant. Don needs the Board to tell him that if under the circumstances of this case they are willing to wave the code of professional conflict provisions regarding active representation in cases, which you previously participated.

Chairman Martin stated are you willing to wave and the motion would be if not willing to wave it needs to go forward.

Commissioner Houpt said that because of the nature of this particular case I make a motion that we not wave the conflict of interest and we request that this particular attorney be able to represent their client in this.

Commissioner Samson – Second.

Chairman Martin stated the motion is not to wave conflict of interest in this.

In favor: Houpt – aye Samson – aye Martin – aye

Letter – EFF Fund:

Commissioner Samson said they had in their packet; the letter they received concerning the Colorado State Forest Service, sending participants to the EFF fund. Can anyone explain that to him?

Chairman Martin stated the emergency fire fund; he stated that was in the budget and that goes through the Sheriff's office in reference to his budget.

Commissioner Houpt stated they do that annually.

Letter – CCI:

Commissioner Samson stated the next was a letter from CCI; they want someone from each county to participate in the legislative committee member appointment. It states the committee will meet Friday, October 9 at 10:00 a.m., and this was supposed to be done by August 28.

Commissioner Houpt said historically they have taken turns doing that.

Commissioner Samson informed the Board he would not be available. He asked if they needed to send someone to that.

Chairman Martin stated he and Commissioner Houpt would probably both be there. Commissioner Houpt is on the Board of CCI.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**SEPTEMBER 16, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

A special meeting was held with the Board of County Commissioners on Wednesday, September 16, 2009 where the following topics were discussed. Chairman Martin, Commissioners Houpt and Samson were present. Others present included County Manager Ed Green, County Attorney Don DeFord, and Clerk & Recorder Jean Alberico.

The agenda included the following items:

Direction/Discussion on the Budget concerning Excess Revenues.

DOLA Exemption Letter

Silt – Mosquito Control Budget and Vehicles

DIRECTION/DISCUSSION ON THE BUDGET CONCERNING EXCESS REVENUE

Ed began the meeting by stating that every year they have to evaluate how they will distribute the property taxes. The ultimate conclusion to that is that the Board sets the mills or a general fund, and the road and bridge fund and so forth. Before we do that they look at what is coming in and what is going out without that, and then they make an appropriate distribution of property tax to the different funds. Teresa Wagenman has done the projections; which are the two columns on the left and this morning they did a straw man allocation of the property tax on the 2010 property tax line.

Teresa Wagenman said they started doing some 2009 end of year projections and that will give them a picture of where they will end fund balance wise. This takes us over to 2010 and we look at the net income or loss for all the funds based on their budget requests. Those two things combined give them a 2010 projected ending fund balance. They then look at that and based on those fund balance estimates is how they decide how much property tax will be allocated to each of the funds. The preliminary property tax estimate right now is approximately \$71.5 million (highlighted in yellow).

Ed stated this is a significantly increase over last year.

Teresa stated that last year it was \$44.5 million. They then distribute the property tax and allocate it out amongst all of the funds. All of the areas shaded in purple, are the funds that received property tax. You can see the amount allocated for each fund and on the second page, you can see they took the entire \$71.5 million and allocated it all throughout the funds.

Ed said the important thing in respect to the general fund is they have about \$36 million dollars in expenses for 2010. That could likely go to \$38 or \$39 million in 2011; net loss.

Teresa stated last year's budget was about \$34 million dollar net loss and this year it was approximately \$36 million dollar net loss.

Ed said they need to build a fund balance in the general fund to the level that they can cover that in 2011 and 2012 when property tax starts to tell. That is why we put a lot of money in the general fund from property tax.

Teresa said she wanted to make one correction; fund 119, it says road and bridge and that is actually the new public health fund that is being established as of October 1. Because it is a new fund, they have no beginning fund balance for 2009.

Ed stated the other reason for pumping up the general fund is you have more flexibility in distributing the money from the general fund than you do in the others. Some of these others; once they are in there, that is it.

Teresa stated to note in red the budgeted transfers from the general fund that they are expecting for 2010.

Ed wanted to preference this by saying they really only had an opportunity to talk to road and bridge about the expense side. Ed stated they did that yesterday and called a few projects and a few pieces of capital equipment out of their budget. For the most part the budgets look good; they are right in line of their directive of zero to 2% increase. The departments did a great job. There could be some adjustments as they meet, next week on the 23rd; but he feels this is pretty close.

Teresa said they used up the entire \$71.5 million; there is no leftover there.

Ed said you could see you certainly see you have surplus in the contingency account for oil and gas mitigation.

Commissioner Houpt said she thinks they need to really look at that as we plan for the coming years; because they put that together to address impacts, and part of that, in her mind, is addressing environmental concerns that constituents have, and bulking up some of the studies in environmental health.

Ed said he is noticing if they get into difficult situations, as far as personnel costs in 2011 and 2012, you could transfer funds there for one thing to run Judy's organization, to run Jim Rada's organization, to fund increased staffing, in public health, human services to accommodate the needs from the oil and gas industry.

Commissioner Houpt thinks that could be rationalized and thinks there is a connection there. Also she stated they need to remember that they established this so they would have a healthy balance so when and if we need to have some environmental mitigation left in their lap this would be accomplished.

Don passed out copies of the oil and gas mitigation fund resolution.

Commissioner Samson asked if there was a meeting the 23rd.

Ed stated yes to go over the expense side of the budget with Teresa and him and they will present that to the Board on the 13th.

Chairman Martin stated he wanted to go back to his old idea on the gas mitigation fund at \$11.6 million we received to put in there this year; giving them a balance of about \$18,017,585.00, something like that. He said they see that coming back, maybe not at \$11.6 million; but they definitely see \$8 million or better the following year. He thinks they need to go ahead and take care of their everyday citizens and to do a refund back to them with a computer program. He has talked to Georgia and John Gorman and it is possible to do this through a computer program and not cutting 38,000 checks but to set a \$100.00 limit on a tax refund and actually take it off their county tax. He has an example of what is paid in county taxes; three different funds he believes. He stated he had Georgia pull his own and he is paying almost \$500.00 in county taxes alone. He suggests they do that and another suggestion that was enlightening; we need to take care of the senior exemption. The state does not have any backfill money or anything else and the senior exemption in Garfield County is \$380,000.00 rounded off to \$400,000.00. Which gives the county \$4.2 million dollars they could refund and they could do it electronically, not only this year, but next year and still have an increase of what we had over the last year on our oil and gas mitigation fund. Use that money, transfer it to the general fund for those expenditures, and compliment the general fund at \$4.2 million a year to make sure there is no drop in services. Actually lowering the mitigation fund because of the impact of the cost of property drawn up by the development of oil and gas and again treating everyone equitably; again that is on the 13.655 mills only. Making sure everyone understands this does not take into consideration all the special districts, the library, the schools etc. this is only the county mill levy and we are giving that back to them for purposes understanding we are trying to tighten the belt; but are trying to help those folks who are trying to pay their property taxes. It takes care of the seniors; this is one of the things we really need to look at. They are on fixed incomes. This mitigation fund will be able to help them for at least two years.

Commissioner Houpt said this is very new to her and she has not had an opportunity to analyze this notion. She knows that for the past several months they have been moving numbers back and forth to figure out how we are going to meet their current and future responsibilities. They have talked about not giving employees raises, talked about freezing their employee base; they have talked about the potential of cutting programs if things continue the way they have. She said she appreciated that everyone is struggling; but because we received this money and haven't completely analyzed what that means into the future, and the reason they have earmarked these monies for oil and gas mitigation is because we don't know what of mitigation they will have to look at. She is not willing personally to switch gears and say well let's write a check; because she thinks they need to have a better understanding of the overall needs of the County at this point in time. We have been having extensive discussions about the fiscal concerns in this county and she does not think they can turn their back on that. She also would like to know if there are any legal constraints; we have a resolution in front of us that outlines where these monies will be used and it is specifically for oil and gas mitigation. We can use it for staffing because we recognize that as a direct impact. (She read the resolution) She said they have some pretty serious mitigation, she thinks to do in terms of infrastructure that is in place and environmental concerns that people were directly impacted by activity throughout this county that we need to look at before we make a decision on parting with a good portion of this money. She asked Don if there were legal constraints were there.

Don said he wanted to start with the premises that this resolution is a creature of the County Commissioners. You created the fund; it is not a required fund, but the Board created it to address certain issues you saw on the horizon. What he is about to say that there may be limitations on how you use the money that is in the fund; are subject to you changing the conditions, which you can do. It may be a function of making this resolution fit what you want to do at the end of the day.

Commissioner Houpt said to better clarify; is there anything over and above the resolution.

Don said he mentioned to Ed and Lisa he needs a little more detail on how these funds will be derived, the purpose and the basis for distribution. He thinks they can find a way to make this work. He knows that when they talked to DOLA generally about refund issues to taxpayers, the position of their representative was that, and Don agrees, there is no case law, nor statutory provisions that prohibit it. There are none that authorize it. This is a key issue for Don because counties, as preachers of the legislature, have to be authorized to do certain things. With no case law out there and we know that this has been done by other counties around the State, for different reasons, different monies; it has never been challenged. What you would have to do, if you are looking at this type of distribution of funds, he would say rather than a tax refund; that is a different thing. If you are distributing funds, you need to see whether it is equitable because if it is not, then you are more likely to have a challenge. Just listening, right now, to what Chairman Martin was saying about his thoughts on how to approach this; he thinks they should be careful if they are going to redistribute funds that you receive as taxpayer money. You need to be careful and not tie it to tax payments because then you start to run into the uniform taxation issues that DOLA mentioned to us and are a constitutional provision. Some of the things in the oil and gas mitigation fund resolution right now provide a guide. You want to look at how you could distribute the funds and address social impact from oil and gas development perhaps, something like that. Or, you want to look at other authorized county purposes; are there some programs or some segments of the population that you are already authorized to protect through senior programs, through child protection programs, that type of thing. Something you can enhance and then distribute money. You have enough leeway that you could probably, legally can do this; but we need to know the specifics on how you want to approach it substantially and then see how it can be fit into a proper frame; but he thinks they can find it.

Commissioner Houpt wanted to point out that the DOLA grants are going away and they have relied heavily on those grants in the past. This is almost, although it is a huge amount of money in comparison to what they have received in the past in this distribution, it will probably be somewhat of a wash since they will not have any DOLA funds to....

Ed said that this year they took advantage of about \$1.2 million in DOLA grants. \$600,000.00 for the Sheriffs annex and \$600,000.00 for the Human Services annex.

Commissioner Houpt asked – in years past.

Ed said usually it is right around that, \$1.2 million to \$2 million.

Chairman Martin said unless there was a big project; the designated haul route, \$4 million. Chairman Martin said maybe there is a misconception of what he is saying; we are not taking the money and giving it to people. He is giving them a chance to not send the revenue in; we have not received it. What we use is the money we have in hand to backfill that revenue that would not basically come in. You would have a deduction on those taxes on a fair and equitable level of \$100.00 for those 38,000 parcels. Everyone gets it; it is all even. It is basically a social impact that has taken place and the senior exemption; we do a backfill on the tax that would go to the special districts, and that would be distributed. Those would be credited to the senior's tax bill in the computer program. We are not really taking the dollars out and giving \$100 dollar bills to everyone. We refined that to say we are giving you a tax credit deducting that automatically from your payment to the county.

Commissioner Houpt asked if they were doing that for commercial entities too, for the oil and gas companies. Chairman Martin said if he was to take the formula, as Don talked about on property tax, and a fair and equitable formula then 80% of the \$12.3 million dollars would go to oil and gas companies. He thinks that is unfair to the people who are struggling right now. He thinks the money needs to go to those as an offer is saying. We are struggling, we know your struggling, we have tightened our belt and we know you have, but we are trying to help you along as well. This is not mill levy deduction; this is a credit and they will do it two years in a row to get you on your feet. Remember, this year and next year are the highest assessed value ever and it is the highest revenue they have ever seen, or probably will ever see.

Commissioner Houpt said we can't predict what will happen after that and we are going to have a very low budget after that, and she is concerned about this county not looking more in terms of a five year budgetary plan than a year by year plan where we will distribute money because we are flush at this point. She stated they have talked about some tremendous cuts.

Chairman Martin said, as we should because they have expanded so much, put so much in place, capital improvements they have been able to pay for and they see the reduction of their expenditures. He said they are being a little more thoughtful about how they are approaching the future; true, we should. Because we got maybe a little too fat, or a little too high on the hog and we need to tighten our belts, that was the message, and our folks responded. They did a great job; zero to 2% increase. We need to show the public that we are also in the same boat they are. We are helping them along and think it is the greatest gesture they could ever show the seniors, or the citizens of Garfield County; showing we are a true team, we are going to get through the hard times.

Commissioner Houpt thinks they really need to analyze what kind of approach they need to take to reach the most people. She is not convinced, today, that it is giving each person a small break on his or her tax bill. She thinks they need to look at programs that are being cut at the State level and be prepared to backfill.

Chairman Martin – No.

Commissioner Houpt thinks they need to be prepared; these are the social programs that you are concerned about... Chairman Martin said he understands but that is a State issue.

Commissioner Houpt continued but the elderly.

Chairman Martin said we need to take care of the citizens of Garfield County more than we need to take care of the State.

Commissioner Houpt said we are not taking care of the State; she is talking about the people of Garfield County and the programs that could be lost. We need to be prudent and conservative about the budget until they fully understand what is going to happen in the next several years.

Commissioner Samson asked when these decisions needed to be made.

Ed said they would present to the Board an adoptable budget on October 13; the decisions the Board needs to make do not need to be made until December 15 roughly. That process will include setting the mill levies, setting the final budget to all of the things we traditionally do in December.

Commissioner Samson asked; if we were to do what Chairman Martin wants done, we have to let the Treasurer and the Assessor's Office do their thing, and they would have to know by when?

Teresa said it would be nice to know preparing the budget too.

Commissioner Samson said; let's go back to his original question, when do these decisions need to be made?

Commissioner Houpt said that is why we scheduled this meeting.

Commissioner Samson said so we have to make this decision today.

Chairman Martin explained you need to put your numbers together to see how it affects everything.

Commissioner Samson said he has to see it all on paper first.

Commissioner Houpt said she would need to see more than just the next couple of years on paper; because she thinks there are huge implications with this type of thing and she thinks their responsibility is to make sure that our programs are sustainable and strong and we are able to take care of the budget. We have debt, we have responsibilities, we have a very large staff, and we have put together a very conservative budget and that was done because they were having some fiscal problems.

Ed said a month or so ago they updated the projections through 2013; expense verses revenues and what the impact would be on fund balance. We need to take this data and integrate that into that analysis. The last time they did it; they were a negative \$22 million over a four-year period.

Chairman Martin said that is based on revenue on your property tax exemptions.

Ed thinks this will change that picture dramatically.

Chairman Martin said you are talking \$8,400,000.00 over a two-year period of lack of revenue or less revenue coming in; but if you look at what was expected under Federal Mineral Leasing, and severance tax, it was way beyond \$8. Million expected to come in. We did not expect that to come in; you are talking, of the two funds, \$23 - \$24 million dollars that came in, in one year unexpected. You cannot put out \$4 million dollars to the citizens to help them along, and he feels that is obscene.

Commissioner Houpt said, John, we have a declining budget and that is why it is prudent for them to understand what we are going to be looking at. She does not want to start laying people off because she gets \$100.00 off her tax bill. She really wants to know what they are doing before they make a decision.

Ed said that part of the October 13 presentation would include the latest analysis of the four-year trend. That will give you a better understanding of the future as we can see it.

Chairman Martin said it was also based upon the average and what they had projected for that period of time on revenue. This is a huge bump in that reality that offsets any of the declines you are thinking of.

Ed said the decline, as we knew it.

Chairman Martin thinks they will still see a large revenue; he doesn't think they will see less revenue next year. Based upon what is out there, based upon the future, based upon the production etc. He thinks that is a panic alarm that does not need to be hit. We do have reserves, we have a way of budgeting, we have a way of approaching and absorbing those losses if there are those. We also need to take care of the people that we are supposed to be serving, and we are not doing that.

Commissioner Houpt said they do need to in-services too. In her mind that is their first responsibility to make sure that the services are at a level that are meeting the needs of the people in this county.

Chairman Martin said they need to be responsible for themselves and make their own decision too instead of us making all their decisions. That is why he says a refund back to them to let them do what they need to do; make decisions on their own is even more important.

Commissioner Houpt said if it were a more substantial amount that could help them perhaps.

Chairman Martin said when you are on a fixed income and you get a hundred dollar deduction on your taxes; that is a great windfall.

Teresa went back to October 13; Linda Morcom told her that the Board has something else at 8:00 a.m. and she had sent out an e-mail scheduling the budget meeting.

Commissioner Samson said they were going to do the land use workshop at 8:00 a.m. and move the budget to the afternoon.

Don asked if it has been noticed yet and Theresa stated no. Don said if it has not been noticed; it would be better to notice it for the noontime.

They all agreed on 1:00 p.m. for the budget meeting.

RFTA:

Ed stated they had some other issues - RFTA. He talked with Dan and came to an agreement on an amount of \$465,000.00. He understands from the City of Rifle, they are hearing that RFTA will eliminate the Hogback service effective April 1, unless Garfield County pays an additional \$180,000.00 to them.

Commissioner Houpt asked if Rifle was contributing and Ed said he doubted it.

Commissioner Samson said they contribute some and Ed said they contribute \$20,000.00 right now.

Chairman Martin stated his question is; is the level of service declining even though more is being paid, and the answer is yes. You are getting less service for more money.

Commissioner Samson asked to back up; we gave how much \$400 and what?

Ed said that is what we have programmed in the budget for 2010 is now \$465,000.00.

Commissioner Samson said, they are asking for what amount of money.

Ed replied an additional \$180,000.00.

Commissioner Houpt asked Ed if Dan had talked to him about that and Ed replied no.

Ed stated they spent \$625,000.00 last year; but the reason they did was about \$187,000.00 was for new equipment for the hogback route and that was a onetime expense. They segmented the \$625,000.00 into two parts operating and expense.

Commissioner Houpt said they really want us to be members.

Ed said he knows. He has provided the Board, about 6 months ago, the net cost increase would be about \$715,000.00; taking over and doing ourselves. That does not include rolling stock; we would have to buy some busses and they are \$42,000.00/each, so a couple hundred.

Commissioner Houpt said and then we would have to hire people.

Ed said yes, he talked to Matt and they would need an additional mechanic.

Commissioner Houpt said she is very weary of jumping into the bus service.

Don said one other thing; this is not a money issue but a timing issue. Don said they need time to make sure what they have to do with the PUC in terms of a certificate of convenience and necessity. He said they might not need one; but they would have to check. They also need to see if they have to have IGA's if they provide in-service within municipalities.

Chairman Martin said we do.

Don said that would take time; but it is not a money issue.

Commissioner Houpt thinks they would be doubling what they would put in at the end of the day.

Ed said he did not think it was doubling; he thinks the cost would probably be \$8 to \$900,000.00 the first year, maybe \$950,000.00.

Chairman Martin asked if that took in the contract with the senior programs. Would we run that or would you continue the contract, again that \$600 and some thousand is with or without the senior program.

Ed said that is without the senior programs. When talking with Dan they have no interest in jettisoning the seniors.

Commissioner Samson asked if the \$715,000.00 amount; it does not include anything you would get from the municipalities.

Ed said except for the \$20,000.00 contribution that is included.

Commissioner Samson said hopefully they would get more from Rifle, pickup something from Parachute, Silt, New Castle etc.

Ed said New Castle is a member of RFTA.

Don said so is Glenwood Springs and that is one of the problems we will have to work with; if we are providing service within the RFTA service area, that may be a problem with the PUC.

Ed said there are public bus stops we can use.

Don said not necessarily. If it is a PUC regulated activity those will stop.

Commissioner Samson said there is a lot of work that needs to be done; but his other point is he has the impression that the RFTA board, as well as Blankenship, have given a signal that they would just as soon as do this. Yes or No?

Ed said that was the impression he has received.

Commissioner Houpt asked; you know what they want, they want what they have asked forever since they started, because they have paid for service through Garfield County without Garfield County participating for years. What they want is for Garfield County and Rifle to become members. Rifle has benefited greatly by this service and she is amazed and appalled they are \$20,000.00 and think that is okay. We have, throughout our county, benefited, not just the hogback but all through the Roaring Fork Valley as well. We have in the past few years given, she thinks, a

respectable amount of money to RFTA; but she would not balk at giving \$645,000.00 to keep the hogback going, because other people are paying for the rest of Garfield County service. Why shouldn't we contribute to that; but she will say she thinks if you look at the work that RFTA has gone through for licensing, approvals, and obtaining stock and getting personnel in place for operations, and mechanics, and drivers, and insurance, and everything. It is a huge outlay and bigger than our just making a decision right now, and she thinks \$715,000.00 is very conservative estimate on what that would cost. She would be supportive.

Chairman Martin said he will counter her with that one and 1,100,000 free rides in the City of Aspen last year. Not one penny came from the riders.

Commissioner Houpt said they are putting a whole lot of money in that system, John.

Chairman Martin said that might be; unfortunately, we have put in the same amount of money into it.

Commissioner Houpt stated no we did not.

Chairman Martin said \$600,000.00 as opposed to that.

Commissioner Houpt stated they put millions in and Chairman Martin said they need to, because it benefits them, and you have to remember that it is the Roaring Fork Valley bus. It does not take in....

Commissioner Houpt said Roaring Fork Valley is Garfield.

Chairman Martin said it is a small portion of Garfield; it does not benefit Sweetwater, it does not benefit Parachute, it does not benefit the people down on Baxter Pass and a few other places. Three fourths of the county is not served by RFTA.

Commissioner Houpt stated it is; that is not true.

Chairman Martin stated yes it is; go to Utah boarder and there are needs out there.

Commissioner Houpt said to look at the population.

Chairman Martin said it does not matter what the population is; three quarters of the county is beyond the Roaring Fork Valley.

Commissioner Houpt asked; why would you send a bus out to a place where there are few people living.

Chairman Martin replied because people live there and they want transportation as well. Therefore, they use their own transportation.

Commissioner Houpt said that is so unreasonable. She would really be in favor, she will go on record saying she is in favor of giving RFTA the amount they need to keep the hogback open; which is what she is hearing is \$645,000.00. she is not opposed to staff researching and coming up with true numbers on what it would take to run our own bus system; but she has looked at Eco, Summit, and RFTA and it takes a lot.

Ed said the numbers they used here were pulled from Dan Blankenship.

Commissioner Houpt explained that is within their system. They already have everything in place and we do not.

Chairman Martin said we have a contract that identified and defined the services we were to have for the money we paid. Is RFTA living up to that presently; the answer is no they cut their service at the level of service. They are in breach of that contract because they have failed to live up to that contract, right now and we have not pushed that issue.

Commissioner Houpt asked if that was true; are they in breach of their contract?

Don said he does not know what services have been cut; if the service has been cut represented in that contract, they are in breach. He does not know.

Ed said since September they have cut the number of runs to Rifle in mid-day is pretty significant.

Chairman Martin said; and if so, we need to have less money coming to them under that contract. Now they need more money to do less and that is his point. He feels they need to sit down with Dan and say what is the level of service you can provide and we will pay the appropriate amount. Not more than what we are paying now because you are giving us less service.

Commissioner Houpt asked if Dan was coming in to talk to the Board.

Ed said not that he knows of; but they could have him come in.

Commissioner Houpt said they should probably invite him in.

Don asked Ed; this is a budget issue for 2010, is RFTA going to at some level ask us to renew the contract for 2010, or are they going to let it expire (regardless if they are in breach).

Ed said he thought they would ask Garfield to renew the contract with a request for an additional \$180,000.00.

Don asked if they needed to get that to Garfield pretty quick and Ed replied yes. Ed said they just found out about this a couple of days ago.

Don stated if they are going to ask us to renew the contract; they should tell us what the scope of services would be so we can do a contract, and what the dollar amount is so it can be put in the budget. That might focus this discussion a little bit too when we know exactly what they are proposing for next year.

Commissioner Samson restated that we had contract for \$625,000.00 for a certain amount of service, and we are not getting that service.

Ed stated not since September.

Commissioner Samson asked if that ran from January through December and Ed replied yes. Commissioner Samson said that for the last four months we would be shortchanged.

Commissioner Houpt stated that Dan needs to come in and talk to the Board.

Ed said for now he guesses they will just keep the \$465,000.00 in.

Commissioner Houpt asked how they came up with \$465,000.00 and Ed stated that was what he and Dan agreed on originally for 2010. Commissioner Houpt said if that is what he proposed; that is what should be in there unless they want to change that.

Commissioner Samson asked; that is for service from?

Ed stated Rifle to Glenwood.

Human Services:

Ed stated as the Board knows; when Bruce was here Monday, he thinks it was a little off track. He stated that Commissioner Houpt made a statement that it comes out of the general fund. Ed stated it does; but it comes out of a specific part of the general fund, the sales tax.

Commissioner Houpt said she did not say that and is very well aware of where the money comes from.

Ed said each year Georgia and Ed's staff get together and come up with their best projection of what that is going to be. Commissioner Houpt and Ed sit on the grant committee and part out the money. This year it was \$504,000.00;

they had a total of about \$979,000.00 in grant requests. That is roughly half of what the requests were that they could meet. If you provide funding for any organizations outside of that sales tax, he thinks they will be setting a precedent not only for that one organization; but also for any others to come in and ask for additional funding from other general fund sources.

Commissioner Houpt said the discussion was not centered on adding different money to it; what you had come up with, after they had designated the grants, was additional money. Therefore, there is additional money out there. Ed said there is additional money and they talked about that just before the meeting, and how much additional does exist.

Lisa replied \$109,000.00.

Commissioner Houpt said she thought the question was taken to the Human Service Commission on what they wanted to do with that, and so the question really has to go back to the Human Service commission on whether they want to open it back up for Mountain Valley to apply for part of that. Because we resolved this contract issue; but that has to be a question to the Human Service Commission.

Commissioner Samson asked why that is.

Ed said it is carry over from prior years. Basically, if we don't distribute all the money, then they carry it in a contingency they can use for emergencies down the road. We move that money from one year to the next and we have accumulated \$109,000.00. Ed said he agreed with Commissioner Houpt; as long as they stay within that \$109, they are okay. If we go beyond that, we open Pandora's Box.

Commissioner Houpt agreed and she was talking about those funds; but she thinks since there is different information than the committee had before; it is reasonable for Bruce to make that request, but he should make it to the Human Service Commission.

Ed stated that Lisa Dawson is going to make a presentation to them on October 14 to discuss that.

Georgia asked about the sales tax; if the sales tax revenue comes in lower than what they have....

Ed said we suck it up; it is paid out of general.

Georgia stated that was not clear and Lisa said she would talk to them about that on the 14th.

DOLA EXEMPTION LETTER:

Teresa said in the years past they have always calculated this excess revenue limit and how any amount over the 5.5% limit; they had to either delimit to capital or return it. They talked with DOLA last Friday and the County is exempt from that. Apparently, they have been sending letters; but no one has received them. We were referred to the website where they post the exemption letters for those counties waived. This is the exemption letter.

Chairman Martin stated; you can go ahead, distribute that through the general fund, and boost up your fund balance in general fund and other funds that may need it. He thinks that is the way you need to direct it instead of all capital.

Ed said to take a look at these; he wants to make sure the board is happy with the projected fund balances (in the purple) for 2010. These numbers are after we apply the \$40 million, the \$15 million, and the \$3 million. Is that the fund level you want to see in the general fund \$21 million, \$11.5 million in road and bridge, roughly the same in human services, about \$4.3.

Commissioner Houpt said this is consistent with the analysis you have already done on five years, and so it puts us in good standing for what we are moving into.

Ed said they think so.

Teresa said she forecasted today a 2% increase in the five year forecast she did each year, and she looked at the 2009 budget and we are looking at a net loss of \$34 million and this year it's \$36; next year they thought it was \$38. She thinks the forecast of the 2% increase each year is pretty reasonable.

Ed said they increased the capital fund slightly; you may want to start thinking about building a building here in Glenwood.

Commissioner Houpt said she thinks they do.

Ed said that gives you plenty of flexibility there. Ed said they do have the \$500,000.00 for employee increases of 2%. Ed asked if they still wanted to hold that in advance; that decision or based on this do you want to distribute a 2% raise.

Commissioner Houpt asked if he was recommending any other level.

Ed stated no.

Chairman Martin said he thought they should hold it in advance at the present time.

Commissioner Houpt asked in advance because you may raise it or?

Chairman Martin said no; you carry it within the budget itself, but not a distribution of the funds at this time.

Commissioner Houpt asked why.

Chairman Martin said he thinks it is wise to do so; that is his approach to budgeting and he feels that it can be used at the proper time, but he does not know if announcing a 2% raise right at the moment is the best thing to do. He thinks they need to see what the economy does, then go ahead, and be allowed to do that through the year.

Ed said we could do that in December and make the appropriate distributions.

Teresa said it is built into the budget.

Ed asked if we would have time, by January to have that in place.

Chairman Martin stated yes to make adjustments.

Commissioner Houpt thought it was important for employee morale to let them know that we honor them too, and so she does not want to hang it out there too long.

SILT – MOSQUITO CONTROL – BUDGET - VEHICLES:

Ed received a call from Betsy in Silt and they are struggling with their budget. She asked if the county would be willing to pay the \$4,000.00 cost of mosquito control in the next year's budget for them.

Commissioner Houpt remarked that we are kind of taking on their budget. They seem to be coming to us fairly often. Do they have plans for building their budget?

Ed said they received some mineral severance and mineral lease tax revenues and she said that was a big help; but they are still faced with furloughs, and wage freezes.

Commissioner Houpt asked if that was something Ed will bring to the Board and he answered, he could.

Chairman Martin stated that was a program they wanted to do countywide.

Ed said right, they paid about \$130,000.00 per year, and they distribute some of those costs to the municipalities. They pay a small part of it.

Chairman Martin said if you do the survey, all around Silt is where the hottest spot is and down by the school in Parachute. It is a health issue we really need to look at.

Commissioner Houpt said she doesn't disagree with that; she just I don't know... she wants to help the communities and thinks there should be some discussions about how other communities, that are struggling, would like to deal with that contribution as well.

Commissioner Samson wanted to bring up a point; he feels in this budget that they need to set aside whatever amount of money it is for these types of situations for next year. The requests that come to us next year, we will have "X" amount of dollars and we decided we will spend that amount and no more unless it is an emergency.

Commissioner Houpt said the problem with that is that then you turn it into a first come first serve.

Commissioner Samson said not necessarily, because the burden is on this Board to say; okay you are here, its January, but there may be something come in July or November.

Commissioner Houpt asked Ed if it would be possible to figure out what the average is over the past five years the numbers of requests. She stated she would not even know how much to put in there.

Ed said he thought they could do that; they have the numbers.

Teresa asked if these were unanticipated requests and Ed stated yes. Teresa said they have about \$75,000.00 in there now for unanticipated requests.

Commissioner Houpt said she would like to look at a few years.

Commissioner Samson said he is not just talking municipalities here, school districts, baseball field in Coleridge, etc. This cannot be an open door just because they come in January and we give them money and give them money. Can we?

Commissioner Houpt said she would really like to have a sense of what we have been giving so we do not undercut it. However, she does not disagree with Commissioner Samson. The problem is; for example with Silt, they come to us regularly for requests like this, because they really are pretty desperate. She agrees that we should not be viewed as the bank in Garfield County; but we do want to help and we are able to help. So, we need to come up with some kind of policy that allows us to work logically through these requests.

Commissioner Samson asked; didn't we forgive them a debt of \$80,000.00 just recently.

Ed said yes, for the road and bridge shop.

Chairman Martin said we retained the privileges to be there; even though they own it outright now with the forgiveness, we still store things there at certain times.

Ed said the other thing Betsy asked was consideration that the County donates some of the deadline vehicles to them. The latest model vehicle they have is 2000. All of their stuff is at least 9 years old.

Commissioner Houpt suggested they send a message out to all of the municipalities in the county that we are considering having some kind of program for that. Because she loves Silts resourcefulness and she thinks they do; we need to work as a community but we have several different communities in this county and what will happen is what Commissioner Samson has warned us against. We just need to figure out how we approach these requests.

ADJOURNMENT

Attest:

Chairman of the Board

SEPTEMBER 21, 2009

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on September 21, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, County Attorney Deputies Carolyn Dahlgren and Deb Quinn 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

DISCUSSION OF SOUTH BRIDGE ENVIRONMENTAL ASSESSMENT

Ed stated we had a joint meeting held on Wednesday night, September 16, 2009, with the City Council of Glenwood Springs, it was decided to move forward with the environmental assessment on the South Bridge project. We came to some conclusions at that meeting to support three EA's and we need to confirm that with the Commissioners today if that is indeed the direction to provide to the City of Glenwood Springs.

Chairman Martin asked for comment from the Board. Being none, the public was invited to speak.

Dave Johnson –Unfortunately, I missed that joint meeting but would like to make some comments relative on this particular item related to Alternative 5, the Cardiff Bridge Route. I want to say upfront that I live along that particular alternative so I do have a vested interest. However, this has been said many times that one goes against the need and purpose of the original project. You would be bringing the traffic back against the fire and rockfall hazard by switching back into that area. I think the constraints of Park West and Sopris Elementary should be part of that decision. It has been said that it would be unfair not to include that alternative in the EA's. I think it is unfair to include that and spend needed money and resources by including that in your EA. It is also unfair to the property owners along that route that you are going to hold hostage to a proposal that really does not fit the needs of that route.

Chairman Martin – A comment back to you and I as I told the group, it is no mystery that the scope is way too small for what they are trying to accomplish. My approach was in reference to Alternative 5, which is the old Cardiff Bridge is that it needs to be a neighborhood circulator and there needs to be two other bridges that go across both for Park West and Glenwood Park. There is one further south the County that needs to do other things to the Prehm Ranch Road to Westbank, which opens up another discussion as well as doing CR125 and the improvement of CR125 over to CR108. All of those issues need to be discussed; this is my position and still is but to go ahead with the money that is allocated for the scope, that was included in the scope – it can fall out. It does not mean it is going to be selected or anything else. I really think the outcome is going to be whatever is chosen will be on the shelf and it will be there for a while because there is no money to build it.

Dave Johnson – I think that is what a lot of property owners on any of those routes are most concerned with is the timeframes involved in making such a huge decision on the circulation of traffic. Is it safety or is it traffic circulation; I think that got lost in the entire discussion.

Commissioner Houpt – I would like to respond as well. When we first met with the city and all of the numerous alternatives that have been put together came to us, they were talking about emergency only. I think that was a mistake; I think as you study an area you have to be realistic about how that route will actually be used. I have been pushing them to be more realistic about what we are actually putting together. What we are putting together if we do any of the alternatives that we chose to look at the other night, is more than perhaps a circulator route. People in reality will start using those routes and you will see a lot of traffic.

Dave – Indeed and I do not know how that affects the earmark and how it was originally intended as a safety egress and now that we have all these other potential looks that should have been from day one. We all know the people along the routes are the ones impacted. The traffic has impacted the County for 30 or 40 years and that is what we are looking at it and it is uncomfortable. Being part of that from way back when I understand the gravity.

Chairman Martin – The earmark is too limited in the scope in which we are trying to solve the problem. We need to step back and offer a different solution; an entirely new scope but again we have to stay within this earmark and that is what the earmark is saying, it is an escape route and a local circulator.

Chris Steuben – The last meeting I attended was about 3 months ago and I expected more that a 24-hour notice on the email. I have been following this for a year and a half. I think the purpose and need was established by the earmark and that the purpose and need was to provide access to Hwy 82 and south Glenwood. It was a redundancy in our bridge system so we could not be caught as we were before in the Coal Seam Fire. It was to promote better traffic conditions, emergency evacuation, and plus part of that was minimal impact on the residents. If you look through the white pages, Alternative 5 impacts the most residences and most properties. All through the process, the white papers were supposed to be used to compare properties and individuals have been trying to change the white papers. The white papers are the facts of the area. What is there and how they compare. The CAG meetings were an attempt to change the white papers at many levels rather than play on a flat field. Alternative 5 has never met the purpose and need. Sunlight Bridge and the new Cardiff Bridges exist in the same hazard area. That shoots the redundancy pump out of the saddle. This is a very important thing to be able to get out of town. We had a narrow escape for many people. Alternative 5 was kept for the CAG process by one or two individuals reading the notes several individuals kept bringing up Alternative 5 and would not let CAG move forward unless it was included. That is the only reason CAG kept it going. After the CAG was done, the project working group got together and this was a group of people, city engineer, County was supposed to be there, CDOT, RFTA, feds and we attended that meeting. They screened most of the alternatives and provided you with a recommended alternative. They gave a recommended status to Alternate 10 A or B. The reason they screened out Alternative 5 is because it did not meet the purpose and need, because of a 4F with the Rosebud Cemetery, you would have to move graves, and then later on my property was moved to a 4F status because of historical purpose, which I did not want. It prevents me from doing other things with my property. I think the PWG did a good job, I watched the process and I was very skeptical when I first went in there but the process works. They eliminated properties for reasons a lot were 4F status. You have the rodeo grounds and it will now be a park, coke ovens, the railroad, RFTA and all those things you cannot and the cemetery – they are all deemed 4F and there is a special set of laws that address this status. You have to avoid those in all possibilities. They gave you this recommended status a little over one year ago and this is all that has been done. We are back to the same three recommendations. As Craig Catskill explained to me that you are much better off if you have one plan to present to people that has all the facts behind it. They took the citizen's recommendations and took them apart using planning, engineering, and what this community wants – all of those things. I recommended that you only do an environmental study on Alternative 10 because of time constraints, because of money, and because you have placed an undue burden on many residents. That was part of the need.

Chairman Martin – Agreed.

Chris Steuben - I would urge you to discontinue trying to send too many messages out on the environmental level. We know we need a bridge there; this is the third time in the same place. How many more times are we going to look at it? A dozen; we know we need a South Bridge; we know where it needs to be to get the funding behind it so we do not have to suffer for another two or three years or longer. All these people have to notify if they are going to sell their property they need to know they are in this zone. It does not meet the standards even if you say this is the best route, it does not meet purpose and need and you will not get federal funding for it.

Chairman Martin – That was the other discussion, if we should do it locally so we do not have to go through the federal funding and then go ahead and have more of a community activity. We are talking \$30 million just to start out with one bridge and you need more than one bridge to solve the problem.

Chris – But we need to start.

Chairman Martin – You still have to do your EA and still do the different areas. It does not mean that just because you select it, the bridge would be there. The EA is to find the facts that can be thrown out or substantiated. That is the process you have to go through; it is required.

Chris – I know the process; I have been following the process.

Chairman Martin – I am telling you right now there is no funding to build any bridge no matter where it is located.

Chris – There will not be until you have a definite plan.

Chairman Martin – That is true but then there are questions that need to be answered.

Chris – Send out three plans and hope that someone picks it for us.

Chairman Martin – The final selection if you use federal money is the federal process. The federal folks will make the final decision for us and that is why they need more one choice. That is why we need to be making that choice ourselves using our own money and staying out of the federal process.

Commissioner Houpt – If we get behind this as a community on one option then the federal government will support that – they will not get in the middle of a debate. You are correct Chris.

Chris – It could go on and on.

Commissioner Houpt – On the other hand when we met the other night and I am sorry that people did not receive notice, I was not aware of that and I wish you could have been there. When we were talking about all of the various alternatives that were still on the table the other night, there was not just one that did not have problems. There are problems with every one of the alternatives.

Chris – Some of them do not meet the purpose, need, and have not or would not no matter what we decide.

Commissioner Houpt – It could possibly meet the purpose and need of an emergency access.

Chris – But it does not meet the purpose and need of the earmark and we would lose \$5 million dollars.

Chairman Martin – Actually about \$2.5 million to complete the EA because you have your consultants and process. That earmark is only to go ahead and establish the need and the location. It does not have any construction funds that would build the bridge or to purchase property or anything else. Even though you go through this process, you make a selection or you present a selection for the federal government to choose for you, it does not mean that the bridge would be built.

Chris – No, it is a process that will cost millions to accomplish. You are already at \$1.2 million and that is before an EA. If you do three EAs that could very well go up to \$3 million dollars.

Commissioner Houpt – The way it was explained to us is that there is an economy of scale here, a lot of the work that you would do for one would be done for the others as well. The cost is not going to be significant.

Ed got the impression and it may have been through mental speculation that the first EV is about \$.5 million and second is about half of that and the next one is half of the second one. Therefore, you add them up and it comes to about \$875,000 to \$900,000 for the three EAs.

Chris – That is if everything goes according to plan. I am very skeptical after watching this that a decision can even be reached. I just ask you not to place our properties and our residential community in this type of a situation. It is an undue burden on your constituents.

Commissioner Houpt – Do you see any of these options as not being an undue burden on people who are living in the area of South Glenwood? There are people who would be impacted regardless of what route is established. I do agree with you the Alternative 5 is the one that our consultants are skeptical about and they think it can pass the test of the EA anyway. I did not see one route that was not going to injure someone.

Chris – you are going to injure more or less, that is what you have to choose - the fewest, and that is in the purpose and needs to choose the route that inflicts the least damage on the residential community.

Commissioner Houpt – Thus the purpose of an EA so we can figure out the environmental implications as well as the implications of the neighborhood.

Chairman Martin – It also opens the door so various alternatives can fall out and there is a factual basis.

Chris – It has fallen out several times and it keeps being brought back and I am very skeptical of this process working.

Chairman Martin – Again, the most resident will fall out anyway. I think Alternative 5 just needs to be a neighborhood circulator for emergency and not the entire community. That has always been my point of view, it is why we did what we did with the city, and that was to deed back the bridge and area so that could decide what to do with that circulator back in 1997.

Commissioner Houpt – I would not support that level of impact for a second bridge. What we are looking at presently is one alternative – one fix. John has a vision for more for more bridges; I think we are far from talking about that because then you are talking about impacting every neighborhood in South Glenwood. What I would like to see and have people understand that the EA process but it allows everyone to understand what the impact of these of all of these alternatives are going to be and it creates the opportunity for everyone to see the illustration of why one route is less impactful than another route. Perhaps we can have buy-in from people and get this bridge built at the end of the day. If you only access one route, you will not have buy-in for that route. You need to look at the alternatives that are brought forward. Maybe Alternative 5 should not have been a part of that mix, but the argument was made that if we only look at one alternative and did all of the South Bridge near the Airport alternatives because we were not looking at any other access point. It is a balance and not a final decision on where this is going to go.

Chris – I have to say that I disagree with your decision and I intend to do what I can to get Alternative 5 eliminated from this EA process.

Chairman Martin – It goes through a public process. That is where you need to put your public input to show the resistance or the impacts that are greater and it needs to fall out official in that forwarding to the federal government to make the final decision. I still think we should make the decision as a local decision.

Chris – I am voicing my opinion.

OIL AND GAS - FRACING

Terrene Hughes, I live up 6 Lazy K Road, which is off Divide Creek, CR 311. I presently have six gas wells around me in a half-mile radius with four more proposed. My concerns are the air, the emissions of VOC's that we smell on a regular basis unfortunately. We have had to move twice due to the smells being so bad. I would love to see some monitoring of the VOCs. I have talked to Jim Rada and he has had very little funding to do it. I think if the oil and gas companies could provide some monitoring of the air so we know what we are breathing that would be greatly appreciated. Bill Barrett in particular has said he is interested in providing some air monitoring. People say it is not dangerous but it smells bad and you get headaches and nausea from breathing the stuff. I know there is fracing in the ground and the companies telling us what they are putting in the ground and no longer a secret. I think if any of these wells or rigs were closer to a larger population there would be tremendous outcry from the public on the smells and noises that are produced from the rigs. I think they stay in rural areas on purpose so there are not enough people who scream and yell. I am asking the Commissioners to protect us and let's have some studies and the oil and gas pay for them for what are we breathing. It is dangerous; it is not dangerous; what are we putting in the ground. I think we need to protect the people that are living around these rigs. It is very important and I appreciate you people addressing that issue and standing up for us as the ones living around these epic centers, which are heavy duty.

Chair Martin – We do have our studies and we are continuing our studies on Phase 3 on water quality control. We give Jim Rada the wherewithal to continue his air monitoring. We have contacted the State of Colorado who needs to be doing their job as well which they issue the permits, they issue the permits to the air quality and monitoring and they need to here and monitor that as well. As far as the fracing and fluids the State of Colorado and the health department, the Oil and Gas Conservancy folks need to be doing their job and be out here monitoring that and not defer it to the federal government who would even do a less effective job. I would say our issues are with the State of Colorado as well as locally and we all need to be working together. You are bringing it forward and we all need to live up to our responsibilities.

Commissioner Houpt – Jim Rada will be into today to talk about the air-monitoring program. We did receive funds through the severance tax that was beyond what we anticipated. We have always committed that money to impact in the County. I think your request is timely; I think it is important to expend the air-monitoring program in place and I

am having a different opinion than Chairman Martin does. I think that local state and federal officials need to work in tandem to make sure that folks who are living around energy development are protected. We will be discussing this later today and I hope we can do something more.

PARK WEST – SOUTH BRIDGE - ALTERNATIVE 5

David Thompson, I live in Park West so I would definitely be negatively impacted by Alternative 5 for the South Bridge. I am listening this morning and I still have a hard time understanding why we are going to continue put time and energy into an option that everyone seems to think it is not a viable solution. It does not make sense.

Chairman Martin – It goes back to the option of not doing anything at all or to go ahead and do that you have to have a range of options according to the process.

David – I understand that but we have many other options and at the last meeting, everyone agreed Alternative 5 was not an option at all so why are we still including it. It does not make any sense. It is irresponsible to be continuing to spend money on something that everyone says, “I just do not think that will work.”

Chairman Martin – It is a group decision, it might not be an individual one but it was the consensus of the overall group that is going to continue the processes without lease argument, put it in and move on and get the process going. I think that is where you are at however; it was a group decision to move forward.

David – We are going to continue moving forward and there will continually be opposition.

Chairman Martin – That is exactly where it needs to be – out front in the public arena so that it can be debated fully and it can fall out and then the federal government will see that this is not the place to put the bridge. It falls out of the process and another alternative would be selected unfortunately.

David – You leave it up to the feds to choose for us, they might make the wrong decision.

Chairman Martin – That is my point and why I think we need to be doing it but the process says the federal government makes the final decision because it is federal money.

Commissioner Houpt – I am struggling with something here and it would have been nice to have everybody at the meeting the other evening, but sometimes when people do not show up at meetings you assume that everything is okay and there is no concern.

Chris Steuben – I am concerned; we have not been informed throughout this process.

Commissioner Houpt – We had a meeting the other evening that was an update and the concern about the historic nature of your barn was raised. Then it was also raised that you did not want it to be an historic structure but that was about all the comment we had in terms of push back from individuals.

Chris – It is the unintended consequences.

Commissioner Houpt – We have different alternatives in front of us, Alternative 10 impacts a ranch and those folks are not in support of the roadway going through their property. Alternative 8 goes between the church and Beau Jo's; Alternative 5 goes right through your property, the six plex and the cemetery. My question to you is this is new updated information. We have heard you speak in the past but we have not seen you for a long time and this Commission has not been at the table and we were having an update and moving the process along. You as a property owner that is going to be greatly impacted are here today telling us that this is a real problem for you. I received the same message from the Jacksons last week. It is a real problem for them. Therefore, you both have....

Chris – My problem is that I went before the Commission probably 20-years ago trying to go the other direction. Give me agricultural zoning, keep me that way. No, you are a residential area; we will never pocket zone it, on and on. Over these years, I have tried to work with the developers and people to get a residential development that fits with everyone else. Now, all of the sudden because it is an open area and people do not want it to go through their property, you are going to change the entire area there from a residential to a commercial area. That is what it will become. My point being no one wants a bridge there; it is a residential area and impacts a lot of people. It does not meet the purpose, need and I could go on. Why this should be eliminated along time except for the persistence of people that do not want to see the bridge in a logical place on their property. I am not saying that the Jackson property is correct but if you are going to do an environmental study, why don't you do it somewhere up Four Mile where Four Mile Creek comes in – someplace that is a possibility. This is not even a possibility. For two years now you have put everybody on at a liability who wants to sell their property, Dave included, he wants to get out of town and sell his property. He has to disclose there might be a bridge in my front door. That is totally an unfair burden.

Commissioner Houpt – If you go down the other route you are going to have the same level of burden on a number of people whose homes face that road right now as well.

Chris – They have a distance from it Tresi, it is not as it is in their front yard or their back yard. This is right in Dave's backyard. 18,000 cars in his backyard. It will run David's investment. In addition, the same with the Gorman's, the Smiley's, the same for all people down that road. This is the whole purpose and need thing. They said to impact the least amount of people. Not the most. To sit here, hold it, and hold it until everyone is upset. That is what you are doing. More and more people are going to be upset. I do not want my property marked as historic because someone might want to put some employee housing there or seek federal funds for a different purpose. An unintended consequence has happened. I do not appreciate it. Those are my concerns about what is going to happen here. The Jackson's have 5 acres or 7 acres that is not part of their conservation. Doc has known this was going to happen a long time ago and he is well prepared. This same route – this is the third time Tresi that people have come and said, this is where we need to put the bridge. Doc has known this a long time. If you want to move up the creek, a little bit, it makes more sense to me – you have developers on both sides of the river that want to develop their property big time.

Chairman Martin – That is a driving force. We need to move along. I appreciate your comments and your concerns.

Commissioner Houpt – When are you going to go to the City?

Chris – As soon as they have a meeting. I have been told this over and over again that this is not a valid concern and yes we here we are keep moving down the street. It is like being attached to a steamroller and it is just dragging me along – No.

Chairman Martin – I thank everyone and understand the frustrations. It is a process that we all go through and it is a difficult process at best and that is why we should be doing it locally but we are mixed in with the federal government and their process and they are controlling everything including their money. It is a reimbursement; it is not that wrote us a check and gave it to us but we have the process and then the city submits those for reimbursement.

Commissioner Houpt – I cannot move forward with the decision that we made the other night with City Council because for me a new discussion was raised that is very important.

Chairman Martin – Then what you need to do is go ahead and ask for a continuance to get back to the City to make that known so that we can make another final decision in reference to either supporting Alternative 5 in the EA or not. That is what we are here for now.

Commissioner Houpt – Ed, this is what we need to do, we need to schedule and maybe what we do is go to their Council meeting so the public will all be there as well.

Chairman Martin – If we do that we need to go ahead and continue a meeting or schedule a special meeting so we can make a decision on that particular issue and make sure it is posted so we can send out and make that decision together in a public session.

Commissioner Houpt – In all fairness to the people who were at the meeting and to the City Council, we spent a lot of time talking about this and I feel as if it is very important to make sure that you study different alternatives when you do this type of process so we know all the implications.

Diane Steuben– This has been going on for 2-years.

Commissioner Houpt – Diane, that is why you go through an EA because you look at different things; it turns into more than just a community discussion, it turns into an in-depth study of what the actual impact is going to be. What I really want to do is get the response from the City Council folks to what you are bringing forward during this phase of discussion. I know that this discussions because I have been in on transportation discussions for a number of years; they take a long time and it is all very important phase. I am not saying I am closing the door to what we discussed the other evening. I think it is a very important meeting and we made great strides. I just think that we opened it up for public comment and because we did that, we need to make sure we evaluate everything that comes forward. I will make every attempt to be at the next meeting. Ed if you could figure out how we should move forward on this that would be lovely.

Chairman Martin – We will contact City Council to see if we can make a special meeting at that time to reconsider our support for Alternative 5 to go forward on the EA.

STAFF PRESENTATION ON SELECTED CITY, COUNTY, AND STATE VENDOR PREFERENCE RULES – KENT LONG AND LOCAL PREFERENCE DISCUSSION – MIKE SAMSON

Ed stated the Board has in their packet a very extensive analysis of conference rules and Kent Long has provided that to you and is here to discuss the submittal.

Kent presented the summary of the request by the Commissioners to look into vendor preference laws and rules during an August 3, 2009 meeting. Kent stated that a survey has been issued to staff to Western Slope contractors through the Western Colorado Contractor's Association. The return date for completed of the surveys is Monday, September 28, 2009. LaPlata County did a survey of their citizens of their town. As a background for this, Commissioner Samson on behalf of the Board asked us to look at possible changes to the current vendor preference rule, which is Rule 5.7 of the Garfield County Procurement Code. In researching that, I was able to find some articles, which were the lead document in your packet. I tried to find balanced articles for pro and con and found a study out of out of California or all of their counties and their preference rules. In addition, a snapshot of New York and their counties. Then vendor preference rules. I did some research on my own of basically picking the county name and seeing if I could find a vendor preference rule. We found a lot out of New York and Florida not so many out of Texas and California. I was also able to find an informal general attorney opinion out of Florida and then some other studies on state preference laws. We have given you an extensive amount of material. We have also put out a survey, which is on the County website, and it has been put out through the Westerns Colorado Contractors Association and another association recently asked and posted it on their website for dissemination to the members of that association. At this point and time those survey results are scheduled to conclude on September 28; we could include that in your packets on October 5. At this point and time I can answer questions you may have and explain what we have noted in the various different types of vendor preference rules that are out there and the various different types of definitions like seeing what constitutes a local resident.

Chairman Martin – this is good information, I am very interested in the results of the survey coming back to us, and the recommendation from Kent was to continue this for final decision in October. There are many contractors here today and would like to hear from them as well.

Commissioner Samson – This goes to the next item of discussion and I believe we can blend the two. Are there any states that say specifically there cannot be any local preference given or that there must be local preference given or is that basically left to local municipalities and counties to decide that issue.

Kent – There are three tiers of ordinances that you are going to see: city, county and state levels. Cities have jurisdiction to say within our city you are going to do this or that and it is the same with counties. The states are looking primarily at what is going to happen with state level. For example in Colorado under the State Procurement Code and state statute, Colorado uses a preference if and only if there is a tie between two vendors on a competitive sealed bid. In that particular circumstance, the resident bidder from Colorado will win over a non-resident bidder from another state. At the County level, the current rule with Garfield County is a fairly common rule it is a reciprocity rule which basically says if a non-resident comes into Garfield County and in his non-resident jurisdiction he would receive a preference of 5% then and all resident bidders in Garfield County will receive that same 5% preference against that non-resident bidder. That is common; city and county of Denver has it, we have it, other jurisdictions throughout the country have it. A different type of preference rule that I have seen is Mesa County is one, which allows a vendor preference within the discretion of the contracting office. If you have to take in other factors when you do that, is the quality of service the same; is the quality of the goods the same; will the timeline for delivery be the same or is it extended; any type of engineering concept better or worst; how is the past performance. Therefore, it allows some decree of discretion with the actual purchasing and contract office. What Kent found interesting was out of California was what they call a second change rule, which a resident vendor who may have been within 5% of the low bids but was not the lowest bid to offer to match the low bid. In that circumstance the resident bidder did match then the resident bidder would win on that second chance over a non-resident bidder on the county level.

Commissioner Houpt – That would not fall out well in this County.

Kent – There is also considerations that you need to think about with regard to what is a resident bidder. Is it limited to someone in Garfield County and if so; what is the definition of someone in Garfield County. Some of the counties out of California require that you have to have a minimum of 25% employees and 25% of your work within the jurisdiction. The obvious reason for that is it keeps companies from creating sham corporate offices, which are nothing more than PO Boxes within the county.

Ed – With respect to Mesa County, it brings up the concern about best value procurements; and, do you only apply the preference to that portion of the best value evaluation that deals with price or does it cover the entire best value evaluation.

Kent – From what I can tell so far, it covers the entire best value procurement. Some of the counties also make a distinction where a preference is give for goods only or services only or both and then it becomes even more complicated where the preference will only be given at certain dollar values for goods or services. I have also seen out of the Florida school districts, which have quite a bit of power in Florida, where the resident bidder was defined as someone within that particular school district plus all contiguous school districts around that school district. That is another consideration for you to think about when you are trying to define what is a resident bidder. The current is it is a business or individual who lives in Garfield County. Therefore, you have a lot of factors to look at – I would like to have time for staff to go through this and create a summary that lists the options that we have seen out there and also get the results of the survey and come back to you on October 5 with a better synopsis of all the information that we have been able to gather for you.

Commissioner Houpt requested Kent to make the date of return to October 12 so that Mike can be here.

Commissioner Samson - Today, I would like to hear from people here because many called me and he told them to be here to present. I also have questions for them. At that time, if you could take what is garnered here plus what we have in the survey then be prepared to have your study presented prior to October 12 so we can study it present study before 12th. Make the decision on the 12th.

Commissioner Houpt stated she appreciated the analysis and all the options. This is very interesting.

Public input

Jeff Johnson from Rifle - I was told that the reason that there is not a preference was because a local contractor came to Garfield County and said that it was actually hurting them. I am a local person saying that you should put it back and I do not know how many it takes to put something back but apparently, it only took one to get rid of it.

Chairman Martin – You are wrong; it was more than one. It was a group of people. That is why we always deal in public with facts.

Kent – Clarification – We currently have a vendor preference rule that is Rule 57 – it is a reciprocity rule.

Chairman Martin – It means that you get it here; the other people that bid will get it elsewhere.

Ed – That comes straight from the State Regulations for the County.

Chairman Martin – That was one of the factors that we are talking about.

Commissioner Samson – Let's clarify that because I was not on the Board and this had been my pet project. When was it and what specifically was said because it is my understanding that three or five years ago a group of local contractors came before this Board and said something to the effect “that we don't want a local preference because it hurts us when we go to other counties and that was taken out.”

Commissioner Houpt –Do not recall that presentation. When we were working on our Code for the past couple of years I know we have been talking about this issue and I have been asking that information be brought forward supporting or not supporting having local preference because when the economy fell I really thought it was important that we have local preference. In addition, before that, because we were working, not on the Code but we were working on many projects – a lot of RFP's were going out and many people looking for work. I do not know where it came from actually.

Chairman Martin – It was before Commissioner Houpt's time on the Board.

Commissioner Samson –The legal man is going to clarify this issue.

Don – This is more historical than legal. I do not remember the precise discussion because it goes back many years certainly more than five-years– more than 5 years. It occurs to me that many years ago, there was a discussion of this issue but I cannot tell you that we had a specific preference such as the ones you see in front of you. I have to say if you go back far enough the Procurement Policies for Garfield County were more of an informal process than a formal written policy. It seems to me the time we started to codify those processes that could be many years ago, there was a discussion on this issue and I think it has come up periodically. I cannot tell you that there has been specific language that was put in and then taken out and that type of process.

Chairman Martin – It was not placed in the Procurement Code because of discussion, etc.

In was in the old Courthouse and probably in 1998 that we really got into it. The Procurement Code as rewritten from available, who can do this project and then it came to a formal process. That is when Ed came on and just before that is when we started that process. That group was struggling, it was hard to get a bid and if someone came, I and was willing to do the job then we awarded it. It is different now. Jim, if someone comes in, you get a preference, and you bid outside, according the statutes, those other folks will get that preference point as well which affects the overall bottom bid. That is one of the reason we did not do that was simply not to hurt you so that you could go to Pitkin or Eagle County and get a job without them getting lower preference points that you. Now, times have changed and we need to hear about it.

Jeff – We are here contingent on the economy and here as a proponent for local preference. It is basically good for the county, if you look at the leaky bucket principle where every dollar spent locally tends to recycle and I might get paid by the County and then I might get my haircut or something. That person may go to the supermarket and purchase something. You have so recycling of that dollar. When you do not spend it, locally obviously, that dollar leaves and you have the leaky bucket. The benefit locally and socially because when you are supporting your local businessman, contractors or professionals they tend to do thinks pro-bono and support Little Leagues, local organizations that are non-profit. There are many benefits to having a local preference. The process that the County has is a design-built process. That process needs to be looked at in terms of the disadvantage it may put to local contractors and design professionals. The reason for that is the evaluation process tends to cause joint ventures between design-build firms, a contractor and a design professional that get together on a one-time project and they are graded less through the RFP process than a company that does design-build. You also here when the design-build company, Front Range or not, gets a job that they claim they use local subcontractors. I would like some accountability on that and tracked. It is very easy to say I am going to us 90% local contractors, get the job, then go out, and shop my contractors after the fact.

Commissioner Houpt - Do you view local preference as being just Garfield County or would it include Eagle, Pitkin and Mesa.

Jeff – I am biased; I would say within in the County, if you want to do Western Slope. That is your decision I am just here to ask for some type of local preference.

Chairman Martin – That is a different question if we get a policy in place with the different elements of the policy.

Ed – This was a big discussion item at the County Manager’s meeting in Montrose and it is the single biggest thing they are struggling with in and I think all the counties in attendance would prefer that it be on a regional basis just so that could draw talent from that region – Mesa, Pitkin, Eagle and Garfield.

Commissioner Samson – Kent, in your survey, did you sent it that out to local counties so we could have a feel for that subject.

Kent – We have not but I had a discussed with Dale Hancock last Thursday and he mentioned there is a Website - ACCA I believe – County Administrators. We can contact them and put it out.

Chairman Martin – Ed and Dale attended that meeting in Montrose last week. They should have that fresh information coming back.

Ed said it is something that all the counties are struggling with now.

Mark Gould - Handed out the “Legislative Intent for City Council – Glenwood Springs and Award Evaluation”
Legislative Intent: It is the intention of the City Council whenever possible to use, without significant additional cost to the taxpayers, local businesses for construction services or procurement of goods and supplies (excluding sole source procurement, emergency procurements, small purchase procurement, used supplies procurement, or professional service procurement to those instances when awarding contract in the amount of twenty-five thousand dollars (\$25,000) or more, pursuant to competitive procurement with City funds. The City Council intends to give local businesses an advantage in the bidding process so that monies received from such contracts will be spent by the employees of local businesses in the local economy. Local business preference may be used as one factor in determine the award of a bid over twenty-five thousand (\$25,000).

The first thing is a couple of data points: Why should we be looking at local preference? Why is this good for the community? Why is this good for our community? First, we in this particular industry construction are in an economic downturn that we have never seen before. We are looking at a downturn that in the old day’s downturns lasted 12-months; this will last a minimum of 30-months. This particular down turn will probably take out somewhere in the neighborhood of 1/3 of the contractors in our region. We have the commercial development concept that will go down here in the next 12 to 24 months because you cannot get a new commercial loan. The banks are shrinking their balance sheets and the commercial mortgage backed securities are almost non-existent anymore. About a \$750 billion dollars worth of mortgage-backed securities are coming due between now and 2012. We have a crisis on our hands so what is the benefit to the community. The benefit is having a healthy construction industry in our area so that as we come out of this we have more than just Denver based contractors or huge constructors, contractors that are owned by foreign corporations. We know of some of them that exist even here today in our County. We look at what is local. I think you should talk about what is local as our region. For a simple concept, it should be ever county that touches us, Mesa, Rio Blanco, Eagle and Pitkin. We should do this and as an example, in Aspen I was awarded a job last week. Aspen has a 5% local preference for the Roaring Fork Valley and in their mind; they want to take care of everybody in the Roaring Fork Valley. The Roaring Fork Valley touches Aspen. We look at this particular policy. The City of Glenwood says that if you are an Eagle, Pitkin or Garfield County you are considered local if you have 75% of your autos and 75% of your equipment are registered within one of those three counties. It has a fine line, Part D –in his submittal says “the only way you can get a local preference in Eagle or in Pitkin or in Garfield is if they have a similar preference to Glenwood. Glenwood is a simple 5% local preference capped at \$10,000. You have heard me talk before about how few of dollars there can be in a bid. I lost one in New Castle to an out-of-town contractor by \$2,080 for a \$6.5 million dollar contract. That would have been fabulous to have New Castle look at the expenditures. I was spending 70% in Garfield County and the firm that was awarded was spending about 25% in Garfield County. What does that tell you? What factor should we be using? Probably a minimum of three acts of how many dollars will be spent in the community if you can get it revolving. That is a conservative estimate. Their economist will tell you it is five during tough times. What I am doing in Glenwood is attempting that the policy is not one I would ask this Board to necessarily look at in particular. It is a modification of that one. It is narrowed specifically so you now. At a \$35 million dollar expenditure that the city of Glenwood Springs is going to spend and this particular policy would be pilot that they are looking at to influence having local subcontractors be included and have their be teeth in this concept. For you what I would like you to start doing is a) would be use your best value procurement and I would tinker with the best value procurement.

Kent was asked how many percent is based is based on cost and how many percent is based on evaluation. It is 70-30.

Kent – Best Value – There is some confusion about Best Value. Best Value actually is a term that comes from the federal sector and it translates in the State of Colorado to most advantageous. Other states use Best Value as Colorado uses most advantageous. When we do an RFP, we are evaluating the criteria that were set out in the RFP against the proposal. Generally, those include past performance and costs and if engineering is involved then we are looking at an engineering concept. If it is a design build there are other criteria about site plan, landscape and those can be weighted with a point scale or no points at all.

Ed – It can end up where it is 25% of the total evaluation.

Mark Gould – Currently, Pitkin County is a 70- 30 and they take 70% based on cost and 30% based on a system. It could be past performance, do you have quality in this particular area, what are your financial strengths. I would suggest you start using that system a little bit more and it would help in the discussion of last week when we had the discussion of airport taxiways, there is a little bit of discretion in there and I would add in that 25 or 30 basis points of that system. I would add a local preference within that system so you are looking at an overall system. I was not prepared to come up with a proposal and show you but I will do that before your October 12 meeting to have something to compare. The facts are we need in Western Colorado to make sure that as we are working though this downturn there is a way for local contractors to survive. I think it is beneficial and the sooner you can get to a bet value proposition... talking to Jeff Nelson and Jeff said the water line at the Garfield County Airport is out now and is under the low bid process versus the best value process. We have worked both and we would suggest that you consider going to this best value because you know as a procurer of your services that lowest bid is not always the best bid and there should be a consideration and part of that twist could be local preference. I even addendum in the

water line – you are going to spend \$1 to \$2 million dollars on a new water line; I have that addendum in to this bid that it is the best value bid versus low bid.

Chairman Martin – There have been bids that we looked at and the lowest bid did not receive the award simply because of past performance or ability or other factors and the bid above it received the award. Again, we have looked at those ideas and we try to stay consistent and try to keep local folks employed.

Kent – Shooting from the hip, what is your take on a second chance rule? You said you lost a bid in New Castle at \$2080, would you have matched if you had the chance.

Mark – In a heartbeat, I would have doubled it. What you want is the rules upfront and thinking through this deal, it is 5% of a \$30 million job and that is a huge dollar, which is \$1.5 million bucks – a huge dollar. The fact is when these dollar amounts are \$5, 10, 15, 20,000 dollars it's a no brainer for the low person and you say, how can that be fair for the person that put their time in and what it is, is knowing the rules up front. If you know, the rules up front and you play by those rules and you know that you have to beat somebody or the second chance rule. What that does is that says, "Locals we are going to give you the local chance but you are going to meet the low bidder so it never costs the County any additional money." That is really what it is. It is saying, we want to help our contractors but we do not want it to cost us a dime. If that is where you went with this, the contractor gets to choose whether he can find a way to lower his cost structure so he can be and compete at that lower number. Anything you can do to help and when I say local, my local is big local it is Mesa, Rio Blanco, Garfield, Eagle and Pitkin; it is not really just this group – what is the region and what is happening in the region. If people choose not to play but they have an option to play. If the rules are in place before you bid it, then someone from Denver knows that they have to guarantee they are going to get the job they have to 5% below so they do not have that option. Would I have given \$2,080 away in a heartbeat to New Castle to have that job? I spent \$5,000 on a legal brief to tell the City that they could make that decision – that is was in their best interest because what is surprising to me is the low bidder that you don't give the bid to does not have any standing in a court system. You cannot be sued if you tell you are giving it to person that second bidder that is \$2,000 higher, the first bidder cannot sue in court because there is not footing in court so it cost me \$5,000 just to write an attorney brief so clearly the \$2080 I would have given it up in a heartbeat.

Ed – Question – is that not brokering a bid.

Mark – It is really a hybrid of – if you have a 5% local preference then you can be 5% higher and get the job. The only difference is you are still giving it to the second bidder if he has a preference versus the first bidder – the difference in that bid is the County or the region does not want to spend any more money so they say, we will give you the preference but we will not give you the dollars. It is really not much different when you take it into zeros and ones. Yes, it is costing the local bidder a set of dollars but it is no different. A 5% local preference is really saying you have to beat me by 5% of I get the job. All this hybrid does is say we do not want the County to have to pay one more dollar than the low bidder.

John Kirsten – Kirsten Construction in Parachute. We have construction business in Rifle we typically employ 120 – 150 people at the peak of the busy season, obviously, this year is different and that is why we are all here. I think what we are hearing is there some support for and some legitimate concerns about the economy and the local contractors keeping our local citizens working. It is a big issue and there is more than one issue at stake and it is not just a 5% or 10% - I think there are several contractor methods employed within the industry and that you guys use. We are asking for transparency in the process and an open mind going forward. The past is the past and we are asking for some help in maybe choosing any method for your contracting methods or some policies that we can adapt to the current financial condition. Maybe is a CMDC, Design Build, Negotiation, it is preference, maybe a percentage – there is a number of options. Maybe a focus group or a special meeting to get many of the local contractors involved for input. This seems to be developing rapidly and I appreciate the efforts on you guy's behalf. I know there is a survey out there. Many of the local people have not been made aware of it yet. Could we make some more efforts locally being Garfield County? I understand WCCA and ABC which we are a member of both has a survey circulating however they are biased out of Mesa County so they have some members here but predominately Mesa County contractors and I'm not sure how much support they will give a Garfield County only item. Perhaps some more efforts in a local newspaper, perhaps to building departments, and make some efforts to contact the subcontractors and contractors directly to get their opinions would help. I as a general contractor get a lot of input from subcontractors and that is how some of this got started after one of our previous proposals, we were undated with phone calls on your selection and why and why was there no locals, etc. and my comment was, go to the County Commissioners. We do not want to do that because we complain we will be blacklisted, so I guess we are here.

Chairman Martin – John, we do not have a blacklist.

John – That is the perception. I understand these contractors may not like these out of town contractors but at the end of day, it is the only option they have for work. So they will bid to them whether they like it or not. They would still prefer to work locally and I think we would like to see a local being Garfield County. You can also adopt policies, which we have implemented on commercial projects in the last two years – Fire Station in Battlement Mesa being one of them, an \$8.5 million dollar building. We started in the fire district, set a preference and worked out as far as getting bids for the owner to review. What they do with that afterwards, to disclose upfront and how to handle that issue. Again, I am not opposed to working with adjacent counties however, I will warn you that us working in Garfield County and living in and paying out taxes here our wage structure is about double typically of some of the other adjacent counties.

Chairman Martin – Workforce and subcontracts is huge.

John – We cannot compete with our people here and back to what Jeff Johnson was saying, keep in mind, the trickledown effect. We are laying off employees and they are the bread winner of the family, their wives that are teachers and nurses and they relocate, we lose more than one job.

Chairman Martin – It is a multiplier effect in reference to the dollars that go back and they say circulated. We want to see at least four or six is what you shoot for.

John – If you can stay 90% or better locally through design and subcontractors. Many of the contractors will say, we say we are using 90% local contractors. What about the architects and engineers and their consultants – they are not a factor of that number. I guarantee you. Therefore, the true number is 60%, 70% but it is not 90%.

Commissioner Houpt – It sounds as if we need better way to figure out a better way of distributing the survey because I was talking to Kent earlier and he said most of the responses were from Mesa County and it makes sense

from your explanation as to why that would happen. Wondering if we could do some kind of mailing to contractors and subcontractor throughout the County.

Kent – We can try to develop a list and we can publish it in the Post Independent and Citizen Telegram.

John Kirsten – Maybe a little review of that process, I was out of town and just had opportunity to glance at it this weekend; it seems to be a little weighted toward the percentage preference and there are some comment areas on the survey. Perhaps we can bring up alternative contracting methods such as design build, CMGC and negotiated stuff also which you guys to practice. We are highly in support of that method on a local level. The survey is titled a little more towards just yes or no – do you prefer a local preference and if so what percentage.

Commissioner Houpt – Some people have opinions and there is a real value.

John – Many people will just check the boxes and keep going.

Kent – There is a general comment part to the survey where we do ask for any additional comments. Therefore, respondents do have a chance to tell us their thoughts.

Floyd Diemoz – I'd like to bring up something, a little bit of hearsay but from the newspapers that I've read, in 2008 if you take January to June those six months, the dollars of building permits in the cities in Garfield County, and if you would take out the \$17 million in the hotels that are being built in the Meadows, we are down 90% so that shows you how dramatic it is. Maybe it is unfair to take that out but I was surprised that the project proceeded. It is a huge problem. One of the things that we have not really touched on is design build; what my concern would be, it is only from rumor that the County had the attitude that really there were hardly any contractors in Garfield County who can build projects and they have to have at least a huge volume before they'd be considered and I'm talking about buildings now. We are not talking about excavation. Very often, in what you are doing in excavation and utilities, it is pretty well set and easy to bid it. However, when it comes to buildings like the library, what would be the first thing to happen – Counties say yes we are going to build a library. What happens the next day? What do you as a County do? You go get an architect and draw and then have it bid.

Ed Green – No, we do a conceptual design and then we use that and integrate that into an RFP for a design build contract.

Floyd Diemoz – And when you do that, I assume it is somewhat similar to what the federal and state government does it is really a rough idea of what you want, so it is very crude. Then of course, you are going to have people bring you – looking at what have you here – how do you then do your criteria. Because, if someone is going to draw something up for you and give you the plans and do all the engineering, there are \$10's of thousands of dollars spent to do that. Depending on how big the project \$20,000 to \$40,000 to bid a job. Therefore, at what point do you expect detail in what you are going to be receiving. Therefore, you are going to say, okay fellows you have five of you who are doing it, what do you expect they are going to give you. Are they going to give you something that they spend \$5,000 or \$50,000 or how does that all go together.

Ed Green – We do not ask that question, we ask for the best proposal.

Floyd Diemoz – Okay and the best proposal, when you look at it means what?

Ed Green – Well it is the best proposal in accordance with the evaluation criteria that we establish. Price, design....

Floyd Diemoz – You are doing certain amounts of it but then how do you take it when a smaller contractor is going to have other people that maybe not on his forces and this is something we have done for tens of decades and we find other people, whether it's an architect or a landscape architect whatever to come together and we put something together. But it is the case, if I do not have that group in my company, then I am shoved aside.

Ed – No, the example right now is Neenah, they got the last bid and they do not have their architect imbedded in their organization but they have teamed with that architect on a number of projects in the past and it has established a good strategic relationship with that architect. Therefore, they act as one organization based upon that past teamwork.

Floyd Diemoz – Okay, so the County does realize this, because I thought maybe that was something you were skipping over and it is really important because you can have someone who is not a huge volume contractor that can do a very fine job on a job in his realm. It is not true that the County says, you are not big and have everything in-house that we just do not care for you.

Ed Green – Light Construction was another one that was awarded contract for the joint venture with the City or Rifle for the Justice Center and the Police Building. They do not have imbedded architectural expertise in theirs; they teamed again with a contractor they had worked closely with over the years.

Floyd Diemoz – My only point is, design build, there has to be a certain amount of fairness in really looking at a person and when you look at a person it is very easy to find out what kind of a contractor they are.

Ed Green – We are looking at the entire project team.

Joe Mueller – Live in Garfield County and have construction company – Mueller Construction Services, a general contract and I'm a member of Western Colorado Contractors Association and I did receive a copy of the survey through the notice of the WCCA so it is getting out there at least to some people. I applaud the County for taking that step, it is a good step to get some good contractor feedback and I think publishing it in the newspapers will get some more responses to that survey and it will be interesting to see. I am in agreement with Mark Gould on some of his comments concerning the best value and that we should probably incorporate some type of local preference in the best value evaluation. Recently I have been fortunate to secure a couple of contracts with Pitkin County, they were RFP's and they were looking for best value and we were able to put together in the county's eyes the best value for them and the price was only a portion of that. I think our local preference should be a very board description of local, I would agree, counties that touch our counties is a pretty good way of describing that and if we are going for a best value way to have some way of local preference build into that is a great idea. I am adding comment here to the discussion. Some specific comments concerning the counties recent design build decisions on some of the projects; I am a local commercial builder and we are not bidding these projects and it is not because we cannot build then, it's because we have had a very difficult time in securing an architect willing to put forth the level of design necessary ahead of time so we can put forth a reasonable cost estimate and hoping that we are evaluated okay in the end against used to be three and now it's ten. The amount of time and effort to put forth a design build proposal from a small contractor standpoint is enormous. Even for a million dollar building it is not that we cannot build it, it is a monumental task to get the design build and our marketing people which is me and our photographer is me and to put together a slick brochure with the glossy's and all of that we spend thousands of dollars to get to a point and oftentimes we just cannot stack up to someone that's been in business 30-years or does \$100,000,000 a year in volume. Therefore, I would like to see the County on some of these smaller projects in particular less than \$5

million dollar, go with a more traditionally – get an RFP for design services and then put the thing out to bid. That is a process that lends itself to my firms being able to look at it versus trying to find a local architect to bid with.

Ed Green– The reason we do not do that quite often is because then it puts us in the middle of the architect and the contractor and we have to arbitrate changes on a continuous basis. If you go to design build you tell the constructor, that is a very interesting problem but it is your problem because you have the architect too.

Joe Mueller– Sure, we have just had problems with architects willing to bid their services out. Typically that is not something they do.

Ed Green – Design build reduces change order traffic immensely.

Joe – I think if you would have a best value process and you look at the contractor’s history of change orders, we would stand against anybody on the amount of change orders – we do not where you find going a more traditional route.

Ed – Another thing Joe, I can appreciate the situation you now and there are many desperate folks. Go back 3 ½ - 4 years ago and we were struggling to find anybody to do any job on our projects and the Justice Center is an excellent example of that – we have one bid for a \$9.5 million dollar project.

Commissioner Houpt – We need to look at our whole process as we go through this discussion.

Anita Pruitt – Rifle Chamber of Commerce. Obviously, we are not in the contracting business but we certainly have been huge proponents of shopping local and to use Mr. Long’s words, we would consider it most advantage if the County would look at local contractor preference. We are also in discussions with the City of Rifle. I have had conversations such as one point that you just brought up, two years ago you could not get anyone to call you back and now we are in a totally different situation but where a lot of contractors are in survival mode and we would like you to look at your process and we appreciate you taking the time.

Chairman Martin – That will be a continuing process.

Kent Long - Just to clarify one thing, explain to you what the County requires for a recent RFP. Essentially they are looking for a guaranteed maximum price, it’s a design build, the RFP comes out and you have roughly a month to month and half to review the concept drawings, produce a literally about a 40% construction document set, architecturally, mechanically, electrically, structurally, and then allow time for the contractor that you have teamed up with to price it to the point where they feel comfortable that they are going to give a number that’s design build. I am just trying to explain the process to show David and Goliath that we are looking at there, where a local person who is an architect or contractor really is put at a disadvantage to produce something of that nature to get a project. Now, the reason you are getting 28 – 30 people in the design build RFP is because of the economy. I would say three years ago, the only reason you only got one was because no one wanted to go through the process. Not that the economy was bad. Now we waive a carrot to the process and we shoot from the hip. Last time I checked David was the winner so maybe we could do something.

Chairman Martin – You are referring to architect.

Kent – Yes.

Chairman Martin – And we go out to be every two years. We have to renew it.

Commissioner Houpt – I think this is a really important point that has been brought up by several people today and maybe we need to not only look at local preference and how we rate that but at the implications of design build on these projects and make sure we are not making it impossible for local companies to be competitive in our process.

Ed Green – One thing I did in the past when we were doing commercialization and productions issues, we would front companies.

Chairman Martin – No. I understand. It cannot be a loan we cannot be a bank.

Commissioner Houpt – It is onerous to be put in the position of going through that much investment just to compete. I think we need to take a good look at that as well.

Ed Green– The other thing we need to consider is what the best approach is for the residents because they are the ones paying the bill.

Chairman Martin – Agreed and that is what our job is to make sure we get the best value out of that dollar.

Commissioner Houpt – We should bring it forward with this but I have never really seen that analyzed. I have never seen the pro and cons of all of the various approaches that we could take.

Chairman Martin – We need to give final direction.

Commissioner Samson – Recommendation is to continue this to October 12 and have Kent continue with the survey and gathering of information and put it in our packets so we can have it before the 12th and we can study it and discuss it then and whoever wants to talk and we come prepared to listen to that and make a final decision.

Commissioner Houpt – But would you agree that we have broadened the scope of looking at evaluating of local preference and how design build impacts that and have a full package so we can truly address the concerns of the folks you are here today.

Chairman Martin – So moved and Kent if you can go ahead and live up to that time.

Kent Long – I would like to extend the survey deadlines to give this response period in the Post Independent – we can give you initial information as of the 28th for your October 5 packets and then supplement that.

Commissioner Houpt – We do not need it by the 5th so take as much time as you need. We need it for the 12th.

DISCUSSION OF HIDDEN GEM PROJECT – MIKE SAMSON

A group called the Hidden Gem Project requested to come before the Board to present their viewpoint on closing public access to motorized vehicles in most of the US Forest Service land. Over 755,000 acres are limited to foot traffic at the present.

Reason it was on the agenda and Commissioner Samson stated it is not necessary to come to this meeting. Many groups have submitted both pro and con reasons. Since Mike said he has been a Commissioner, this is more contact that he has received against the Hidden Gems. Please communicate this to others and stop contacting me continually. Like to say just because we supported the Thompson Coalition and support the idea to work with all stakeholders to get an amicable solution, we as a commission do not support this Hidden Gems project.

Commissioner Houpt – Also has received emails; people are getting involved and supporting the notion for facing and she invite various stakeholders to submit their concerns. She understands both sides. She stated she has not – received a formal presentation and not make a determination. Come in and talk to us. The Thompson Coalition Resolution is separate; that coalition has publically stated support for recreation and is different from Hidden Gems. We as a commission do not always take a position. It is valuable for everyone to come and speak.

Chairman Martin – He has several many years on the wilderness workshop initiative; this is not supported by the US Forest Service and BLM and it affects 6 different counties. The US Forest service was left out. Salazar would not support this unless local governments support it and the US Forest Service. Nothing has happened yet. It is a public process and not just a federal putting a bill through. We need to have discussion and on the topic, we need to have it in front of us, then we can make a decision to support it or not. Many groups are forming opinions and strategies.

DISCUSSION OF LANDFILL POLICY – MIKE SAMSON

Marvin Stephens asked if Commissioner Samson would put this item on the agenda. No one is allowed to do scavenging at the landfill and the policy called attention to this fact. Marvin asked the Board, what are your recommendations? Currently, the landfill is not accepting the protective liners used in recycled ponds due to when shredded, they tend to clog the shredder. Marvin gave a review of his concerns and said some incidents have occurred in the past. Scavengers interfere with his work and besides that, many are afflicted with cuts and get hurt. There is a concern whether individuals who do scavenge the landfill have their vaccinations and tetanus shots. We at the Landfill see scavenging as a liability issue and something needs to be done. Pitkin County has a policy that people can use however, the way it is currently it shuts your operation down.

Commissioner Houpt – If you have a designated area of items people could use would this put a stop to it? She understands when folks see an item they could use, they stop and she is aware that people get belligerent.

Ed - Occasional we have some contaminated materials stored at the Landfill.

Commissioner Houpt –Do we have an area set aside to discourage scavenging anywhere else at the landfill?

Commissioner Samson – Marvin, would you be comfortable with a small area set aside for items people could or might want to use?

Marvin – Yes, he could make one. He understands that bicycles have small parts others could use. We just need to set the rules and see how it goes.

Don DeFord gave the history of the landfill stating that when this property was owned by BLM, they had a prohibition on scavenging due to the liability issue. That lease was signed in the late 1980. As long as we have a policy in place then scavenging at the landfill violates our trespassing rule and we not liability. If we establish a designated area and they are now permitted but we do set up guidelines with reasonable standards and a child comes into the area, picks up bike and drops it on him/her here is the worst-case scenario. It would not be a granitic lawsuit. It is a situation where first of all, if the landfill makes the decision, it may or may not be a use of that site.

Ed – We already have sites.

Chairman Martin – Usable stuff is thrown aside and we separate it out. We need rules and regulations for usable and/or recycle items. People are not throwing items away like antiques. Pitkin has a recycled area and they limit their scavenging.

If we can come up with an area then there would be limited uses. People need to know rules and regulations and be as safe as possible.

Marvin relayed a man come from Glenwood and was retrieving some bicycle parts; this was while I was doing a tour and inspection. The man was cut on a broken spoke. There is the liability issue and we need to weigh in on this issue.

Commissioner Houpt asked Marvin to check into what others are doing at their landfills.

Commissioner Samson asked Marvin to work up what would be the most advantageous policy for us and submit a proposal. He would like to have this issue back on the agenda for October 12, 2009.

HABITAT FOR HUMANITY’S LANDFILL CONCERNS – MARVIN STEPHENS

Marvin Stephens talked to this organization and they are asking if the Board is willing to let them dump items left at their place for free as it is costing them more money to bring item to the dump than they are taking in. We used to assist Lift Up and this is a similar issue.

Commissioner Houpt stated we have worked with Lift Up before in similar situations.

Marvin replied that Lift Up has new signs and it has become a non-issue. Habit for Humanity pays for the dumpster and the dumpster and goes to the South Canyon.

Ed said we charged Lift Up \$1per load.

Direction was given to Marvin to move forward and to get in touch with Habit for Humanity and get truck number; the County is willing to allow one dumpster load a month. Marvin understands this is what they want.

Commissioner Houpt –Charge the \$1.00 per load same as we did for Lift-Up.

A motion was made by Commissioner Houpt for Marvin to move forward and talk to Habitat for Humanity.

Commissioner Samson second. In favor: Houpt – aye Samson – aye Martin - aye

PERSONNEL POLICIES AND PROCEDURES MANUAL – KATHERINE ROSS

Katherine Ross and presented the Personnel Policy & Procedures Manual.

Clarifications were made as to county deputy, adding back in the County Manager as the review person, legal department and how they fit into the composition, when effective, review of the elected officials and their agreement to sign the Resolution and contents of the motion.

Georgia stated that Jean, John and I met with Katherine Ross and went over the changes and assuming those changes were made, she is comfortable. John Gorman said he did not have any objections. Jean Alberico stated she is comfortable Lou was not present but sent Katherine an email stating he is comfortable as well.

Commissioner Samson moved that we rescind the past Personnel Policies and Procedures Manual and directed our legal staff to a draft a formal Resolution to adopt the new Personnel Policies and Procedures Manual with the changes as noted and have it become effective November 1, 2009. Commissioner Houpt seconded the motion.

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

RELEASE TO CONTRACT #4 FOR CH2M HILL – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren presented the release for #4 to CH2M HILL accompanied with the technical and cost proposal in the total amount of \$93,005.00. The billing schedule for this project will be time and materials based on actual hours and expenses used on the project. This is based on 664 hours for the Hangar Access Taxiway project. Section 5.1.12 says that the “airport will provide an office space and pay for the phone lines or the contractor will and we can take out contractor because the airport will pay for that for CH2MHILL since they already have an office out there and we are already taken care of it and not pass that along to the contractor.

This amount is 7.15% of the total contracts so that falls within the range; this is County money and we abide by the County rules on this. The total amount is \$93,005.00 and is under the budget estimate.

Commissioner Houpt made a motion to approve the release to contract #4 Garfield County Regional Airport construction observations to construct hangar access taxiway with CH2MH in the amount of \$93,005.00 and the chair authorized to sign. Commissioner Samson seconded the motion.

In favor: Houpt – aye Samson – aye Martin – aye

Ed stated we received the additional money of \$1,414,000.00. Brian just had a call from Congressman Salazar so very good.

Chairman Martin – Grand Junction should have notified you.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

INTRODUCTION AND FIRST READING OF THE MODEL TRAFFIC CODE – CASSIE COLEMAN

Cassie Coleman and Don DeFord submitted the Ordinance for the Regulations of Traffic and Parking; Repealing all Ordinances and Resolutions in conflict therewith; and providing penalties for violation thereof. This Model Traffic Code includes “Highway” and includes all county roads county streets, county highways, and all travel corridors portrayed as numbered roads or rights-of-way on the applicable Garfield County Bridge Weight Limit and extra Legal Restriction Map adopted by the Board of County Commissioners. Additionally, the terms shall include all roads and rights-of-way deeded and accepted by Garfield County by official action.

Don handed out the draft Cassie and Don prepared and explained the Model Traffic Code. The reason we did this after some consideration that this was coming forward, I decided because the MTC is one of those County regulations potentially subject to challenge because it is a quasi-criminal enforcement proceeding and everything it comes up in court someone could challenge it. I thought it best that we confirmed in writing compliance with every step of the process so those documents are available if needed. In front of you is the Resolution confirming that this process you are undertaking today has occurred. That will be recorded and available for whoever needs it. I have asked

Alesha Frederick to be present to accomplish the reading of the Ordinance so we have a separate 3rd party who can and is available to confirm that it has occurred. Fortunately, for all of us, the statute allows this process to be very brief so long as the document has been presented in full to the Board of County Commissioners and in writing prior to the reading of the Ordinance. We only need to read the title. This Resolution confirms that the Board of County Commissioners, all 3 of you have received a written copy of the full Ordinance including a complete copy of the Model Traffic Code as we propose to amend it through this Resolution. That should be in front of you and first before Alesha embarks on her process; I would like to confirm with the Board that you all have received that document.

Chairman Martin – Yes; Commissioner Samson- Yes; Commissioner Houpt – Yes.

Don – With that said, I would ask Alesha to proceed to read the Ordinance that we have proposed for final adoption on October 12 by title only.

Alesha –Good Morning, as Mr. DeFord has said, I am here to introduce an Ordinance titled, “An Ordinance for the Regulation of Traffic and Parking repealing all Ordinances and Resolutions and Conflict Therewith and Providing Penalties for Violations Thereof. This Ordinance adopts the Model Traffic Code that you, the Board of County Commissioners have had two previous Work Sessions on.”

Don – With that you completed you will see in the Resolution that the only other action you need to take today is to authorize the Chair to sign the Resolution placed in front of you and it will require that the Clerk appropriate publish this Ordinance at least 10-days prior to the meeting at which it will be finally adopted or proposed for final adoption. We are asking that you set it for final adoption for 10:15 on October 12 and that adoptions you should understand is actually a public hearing and you can accomplish amendments if you need to at that hearing. Right now, we need to proceed for publication of the Ordinance as proposed. I am asking the Chair to sign the Resolution I have handed you and then we can proceed.

Commissioner Houpt so moved. Commissioner Samson seconded the motion.

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

Chairman Martin – For the public listening to this, this gives you the actual document to review so that you can make constructive comments on that public meeting either for or against it; we will take all of that comment. We can make amendments if necessary at that time. So, as long as that is understood that this is the process we are starting, so that you can get involved in the decision making of the Model Traffic Code.

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

Another clarification: It did involve the court system, District Attorney, Sheriff, County staff, Road and Bridge as well as Administration involved as well, so we had a variety of coverage.

Please read and make comment

EX SESSION – LEGAL ADVICE: PROVIDE THE BOARD WITH LEGAL ADVICE CONCERNING NEGOTIATION AS THEY RELATED TO THE RIFLE AIRPORT PUD AND SOME CHANGES AND NEGOTIATIONS BETWEEN THE COUNTY AND THE OWNER OF THAT PROPERTY AS THOSE CHANGES AFFECT OPERATION OF THE AIRPORT.

This was postponed until later in the afternoon.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Authorize the Chairman to sign a resolution concerned with an amendment to the approval of an extension for the “Valley View Commons” preliminary Plan – John Niewoehner
- f. Authorize the Chairman to sign a Resolution for a Land Use Change Permit through the Limited Impact Review process for the F11-E Storage Facility on 3.12 acres of a 44.61-acre parcel in the Rural Zone District located in Section 11, T7S, R92 W, Silt. Applicant is EnCana Oil & Gas (USA) Inc. – Dusty Dunbar
- g. Authorize the Chair Pro-Tem to sign the Resolution of Approval for the TCI Lane Ranch Planned Unit Development and Preliminary Plan Applications. Applicant is TCI Lane Ranch, LLC – Fred Jarman

h. Authorize the Chairman to sign the Resolution of Approval for Glenwood Commercial Center Preliminary Plan Application. Applicant is Glenwood Commercial, LLC – Fred Jarman
Commissioner Samson so moved to approve the Consent Agenda Items a - h.
Commissioner Houpt seconded the motion. In favor: Houpt – aye Samson – aye Martin - aye

COUNTY ASSESSOR:

**ABATEMENTS FOR FOTR, INC. – ABATEMENT NO. 10-007, SCHEDULE NO. R363407 AND
WESTERN SLOPE COMMUNICATIONS – ABATEMENT NO. 10-008, SCHEDULE NO. R210376 – LISA
WARDER**

Lisa Warder was sworn in by Chairman Martin.

ABATEMENTS FOR FOTR, INC. – ABATEMENT NO. 10-007, SCHEDULE NO. R363407

Chairman Martin swore in Lisa Warder

This is an abatement of taxes assessed against the property located at 1224 Railroad Avenue in Rifle for 2007 and 2008. Lisa stated the amount are incorrect as the Division of Property Taxation determined that this property is exempt as of January 1, 2008 per file number 23-01175-01 in the amount of 2007 - \$7,593.04 and 2008 - \$7,693.64. Lisa passed out DPT issue and she clarified in writing.

**WESTERN SLOPE COMMUNICATIONS – ABATEMENT NO. 10-008, SCHEDULE NO. R210376
BARB CLIFTON – SENT TO**

This is an abatement of taxes for 2007 and 2008 against the property located at Township 6 Range 92, Section 3 for Western Slope Communications. This property value was protested in 2009 and the Assessor determined that due to the restrictive access easement, the value should be lowered. For 2007 - \$8,001.46 and 2008 - \$8,119.50.

Commissioner Houpt moved to close the public hearing. Commissioner Samson second. Motion carried.

Commissioner Houpt made a motion to approve the abatements for Inc. – Abatement No. 10-007, Schedule No. R363407 2007 - \$7,593.04 and 2008 - \$7,693.64. 2007 - \$8,001.46 and 2008 - \$8,119.50

Western Slope Communications Abatement No. 10-008, Schedule No. R210376 and Western Slope Communications Abatement No. 10-008, Schedule No. R210376 for 2007 - \$8,001.46 and 2008 - \$8,119.50.

Commissioner Samson seconded the motion. In favor: Houpt – aye Samson – aye Martin - aye

HUMAN SERVICES COMMISSION:

YOUTH – DEB WILDE

Debbie Wilde - Youthzone; Susan Ackerman – ChildHelp Center/River Bridge and Heidi Pankow - Girl Scouts
Debbie Wilde gave a brief update on Youthzone. She reiterated the struggles with the economy and how it is affecting their program. Youthzone covers a huge population. One factor called stress in kids is due to stress in families because of the stress in the economy. We also know the systems are stressed as well such as the schools, public systems, community organizations and we certainly catch much of that and seeing the increase. We are not lacking for business but we are seeing a dramatic decrease in resources as these are being given to food and shelter priorities. There is a decrease in human service fund and state funding so we have all made budget cuts and salary and hiring freezes and all those sorts of things. We know the Commissioners and the community care about kids and that is evident in your support and citizen volunteer time and dollars. People are really stepping up. Susan and Heidi are both going to tell you a brief fact from their organization to leave you with what is happening with kids.
Youthzone: We serve over 10% of the population of age 10 to 17 in the 9th Judicial District which is terrific because we are catching many kids coming through those doors. We know the cost of serving one youth through Youthzone is from \$1000 to \$1500 and the cost of 42 days in an inpatient drug and alcohol treatment is about \$30,000. The cost of the community for one youth committed to the Division of Youth Correction is \$79,000 a year. Just in terms of dollars, early intervention is paying off for all of us.

Susan Ackerman, Director of ChildHelp/River Bridge and we are in our second year of operation. It is interesting to know that our first full year of 2008 we had 84 kids come in for forensic interviews for sexual abuse; year-to-date here in 2009 we have already done 95 kids. It is projected that we will double the number of kids that have come through our center this year. The good news we are doing much better job of being used, the Department of Human Services and all the law enforcement jurisdictions are using us a lot more. The other indication is that we are doing a better job as a community in reporting child sexual abuse and that has been through community awareness and education. The bad news is that we have that many kids coming through, but the good news is they are getting treatment and getting the services. Most of these kids are trends that follow the national statistics. 95% of the alleged perpetrators are most known by the victims and that is standard across the country. Most of the kids are following the demographics of the community. There is about 60% Anglo, 40% Latino. Our budget is stretched and we have had to make many adjustments for this year and probably into next year and we do not know how far into the future. We cover the 9th Judicial District, the bulk of our services are from Garfield but we do serve as a courtesy Pitkin, Eagle, Marble that is Gunnison and one Rio Blanco.

Heidi Pankow, manager for mission delivery for Girl Scouts for Colorado and Garfield is one of the counties that I serve. Our focus is the young women that we are serving and those women we are not able to serve in Garfield County and across the state. Some of the issues that girls are facing currently is bullying which is a huge issue and it starting to occur younger than Middle School. It is occurring in the younger grades and a huge concern for parents and school administrators. This concern is keeping our girls from feeling emotion and physically safe in their world. A statistic that almost one-quarter of teenage girls that were served by the Girl Scott Research Institute have fewer than three adults they can go to if they felt they were in trouble or needed help. That is a scary statistic that these girls do not feel they have the adult support around them. Some of the other issues they are facing, girls are becoming involving sexually at younger and younger ages. We are seeing this activity in Middle School because of the lack of things for them to do in the hours between the time they are out of school and the time that they go home for dinner. They are becoming involved in very risky behaviors. They are being more active drug, alcohol and tobacco use during those times that helps them become more sexually active because then their guard is down significantly. Some of the other things are that girls do not have a lot of self-esteem they do not have strong body issues. What a mother feels about her body will be directly seen in the daughter's image of herself whether the daughter is overweight or not. Many girls report they do not participate in after school sports or activities because they are uncomfortable with the way their body looks and the fact that they do not feel confident in those sports. Kids are becoming experts in their sports at a younger age. Currently in Garfield County, we have 550 girls in our programs and our average cost is \$350 per girl.

Debbie said a small investment in services like these have a large return and now we want to give you a good news statistic from each of us. Youthzone: Over three years of measuring, we have a 75% success rate in not committing another offense. We are grateful for your support in juvenile diversion, have a report from last year with Garfield County, and believe in being accountable and holding kids accountable and what we know in diversion and our success rate last year was 90% out of 63 kids, 5 had another re-offense. Usually those re-offenses are drug and alcohol related. In our Pal's Mentoring Program, we do intensive evaluation and Debbie believes it is "about no effort after foolishness." If we are going to use our resources and time, we want to do it because it matters and makes a difference. We see that kids are showing a significant growth in their personal strengths and this is part of the idea of prevention in the early piece. If they can cope with the things that are coming at them which the world is full of these days.

Susan said related to prevention, there is plenty of research that indicates that kids who have experienced any kind of abuse, sexual, physical or neglect are so vulnerable to other problems that cost our communities a great deal not just to the cost of the individual child or family. Child sexual abuse survivors have a huge increase risk of sexual variability and that includes pregnancy, promiscuity, victim or rape and the sexually abuse survivors then have a higher risk of health and behavior problems, drug and alcohol problems and crime. Many of adult women in prison have been sexually abused. The earlier we can intervene with these families, the better the success rate.

Heidi said with Girl Scout we are about serving as many girls as we can and our mission is building girls courage, confidence, character who make the world a better place and the research shows serving girls ages 11 – 12, 73% reports showing these girls are improving world around as their favorite activity. The focus of Girl Scouts is on teaching then the leadership skills so they can make a difference in their future. We have programs for bully prevention that does not focus on bully or the target but teaches the 85% of kids watching the bullying behavior to become what we call defenders so they can safely step-up and say this is not okay and remove that target from that situation therefore stopping that bullying behavior and the more they can do that and the stronger they become in doing that the less likely they will be a target of the bullying and will teach the bullies in a kind and respectful way. Programs for self-esteem to help girls understand the changes they will be going through as they enter the middle school age groups. We have a great program for middle and high school girls that focuses on social entrepreneurship and funded through the USDA and we had ten girls who participated in this program from Garfield County this last summer. They had an intensive leadership retreat where they learned all about making change within their community. These programs range from beautification to pet services for seniors to make them happier and give them a better place in life to parks, to a program that teaches people with disabilities are not something to be afraid of or to shun in society. Wherever we can reach girls that is where we are going.

Commissioner Samson asked Heidi, do you have Girl Scout Troops in all six municipalities?

Heidi said the only community we do not have a Girl Scout Troup in is Carbondale although several girls from Carbondale attend a Troup in Basalt. We have a hard time finding volunteers that are able to commit the time. It has been a real struggle in Carbondale. Heidi handed out gifts of mixed nuts, chocolate raisins and toffee almonds to the Commissioners for their break time.

Commissioner Houpt – All of these programs are tremendous and very important.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR AUGUST 2009

Lynn Renick, Judy Martin and Shelly Evans were present.

Lynn Renick submitted the EBT disbursements for the month of August 2009 in the total of \$741,351.54 and requested Board approval.

Commissioner Samson so moved. Commissioner Houpt seconded the motion.

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

CONSIDERATION AND SIGNATURE APPROVAL ON THE CHAFEE INDEPENDENT LIVING PROGRAM PLAN

The Department is requesting the Board's signature on the state Plan for provision of Chafee Independent Living services for youth preparing to emancipation who have been in out-of-home placements. The total amount for services requested in the budget is \$17,610. The Program Plan requires a Board signature.

Lynn stated she needs the Chair authorized to sign.

Commissioner Samson asked if this could be used to assist a situation in high school.

Lynn stated they have to be in foster care a minimum of 30-days to be eligible.

Commissioner Houpt so moved. Commissioner Samson seconded the motion.

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

CONSIDERATION OF THE 2010 COST METHODOLOGY FOR SENIOR NUTRITION AND TRANSPORTATION SERVICES

A copy of the CY2010 proposed Cost Methodology for local jurisdictions' senior program contributions has been included in the Board packet for review and input. The document has been distributed and presented to the Senior Services Advisory Board. The document with cost projects is needed in order for the entities to prepare 2010 budgets. The methodology spreadsheet will be attached to the 9-party IGA and Judy has presented it at the Senior Advisory Board. This is a Memorandum of Understanding that is due to be renewed beginning January 2010. Judy stated this is the same formula as last year the only difference is sorting of staff time and the nutrition budget. I am at 75% and Debbie Sutherland the program coordinator is at 100%. Last year we had a split at 75% in each. I have taken her off the transportation. We have also looked through the budget and cut out anything we possibly could so that I think it is a budget we can live within. We took it back to the advisory board and the members present were pleased with the amounts that are being asked of each municipality. They are now taking it back to the municipalities to look at it with their budget cycles and bring back any questions. If this Board has any questions or concerns we would like to hear from you.

Commissioner Houpt remarked that Judy did an excellent job doing this year and this year.

Carolyn confirmed with Judy that this would come ask to the BOCC after the municipalities have input.

Judy said this will be attached to the MOU for 2010 and it will come back to the Board later on probably in December.

Chairman Martin – The scope for nutrition, the budget is \$321,482; transportation is \$339,000 so people will have an idea of how much money is being committed to those two programs.

CONSIDERATION OF REQUEST BY THE SENIOR SERVICES ADVISORY BOARD AROUND HOME-DELIVERED MEAL FUNDING IN THE AREA AGENCY ON AGING NOTICE OF GRANT AWARD

On July 20, 2009, the Department requested and received approval to sign the Area Agency on Aging Notice of Grant Award for Congregate Nutrition Services in the amount of \$140,070, which included a total of \$13,057 in ARRA funding. Lynn submitted a copy of the agreement in the Board packet. Since July, certification has been received that a portion of the \$13,057 in the amount of \$4,302 is funded for C-2 or home-delivered meal services which is not within the scope of the current programming provided through the County. These services are provided through the Meals on Wheels programs at the area hospitals. The AAA director has talked with the Senior Programs Manager about sub-contracting and/or working in conjunction with the existing programs in order to expand home-delivered services. This issue was discussed with the Senior Services Advisory Board; the group determined that since the services are being currently provided in the community through other organizations, the additional funds should be available directly to the existing programs, and that home meal delivery is outside the scope of the congregate meal sites and senior transportation services. The Department is requesting Board consideration on the recommendation by the Senior services Advisory Board to send a letter, or take other action needed, not accepting the monies to provide C-2 home-delivered meals in the amount of \$4,302.00.

Judy stated in our notice of grant award is that there are dollars and they actually separated them out into two different categories: One for congregate meals which is the meals we are currently serving over the noon lunch hours and also home delivered meals. They awarded us \$4,302.00 for home delivered meals and in talking with the AAA director, it was his goal for us to work with the local agencies to allocate out those monies. One of the issues we have is you normally do not want to do subcontracts. Tracking the dollars is the issue. Judy talked to both Meals on Wheel programs and operation; they do not want to use AAA dollars because they have now applied for the AAA dollars because of rent requirements. If you take AAA dollars, you have to abide by the grant requirements. We have an issue here because I have \$4,302.00 that is allocated for the grant award for home delivered meals and do not have a home delivered meals program. It is outside our scope of services. The Advisory Board looked at this and decided that we should turn the money back into the State and request the money come back to us as congregate meals dollars something we can actually use and they wanted me to bring this to this Board for your recommendation.

Commissioner Houpt – You have answered my questions and I was concerned that the recommendation was to give the money back but now that she has heard that the other programs really do not want AAA dollars.

Judy the issue is following the AAA requirements.

Commissioner Houpt made a motion to support the Senior Citizens Advisory Board recommendation to return the \$4,303.00 to the state designated for home delivered meals and request that those monies come back to Garfield County in the form of monies for congregate nutrition services. Commissioner Samson seconded the motion.

In favor: Houpt – aye Samson – aye Martin – aye

Carolyn – Judy, when would you expect you would have an amended award? Judy did not know but it will come back to this Board if it does.

CONSIDERATION AND APPROVAL ON THE LEASE AGREEMENT WITH COMMUNITY HEALTH INITIATIVES, INC. FOR STORM KING CASE MANAGEMENT SERVICES

The Department is requesting the Board's consideration and approval on a lease agreement with Community Health Initiatives, Inc., in order to provide addictions case management services to individuals and families residing in west Garfield County. This is a renewal agreement for one office on the second floor of the Henry Building in Rifle in the amount of \$1.00. A copy of the lease was included in the Board's packet. This was started with TANF funds last years. Opportunity to have start-up programs where there are substance abuse programs.

Commissioner Houpt made a motion to approve the lease agreement for Storm King Case Management Services.

Carolyn – This is on our form and we do not have a 30-day that we can get rid of you provision and we will need to change it; the terms is definitely not correct so we need to change it to say September through August.

Lynn – July 09 through June 10 and we need to fix that. Lynn requested signature authorization and then change it.

Commissioner Samson seconded the motion.

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

BRIEF PRESENTATION OF SUBSTANCE ABUSE INITIATIVES AND PROGRAMS IN GARFIELD COUNTY

Shelly Evans, Executive Director of Community Health Initiatives provided a document titled: Improving Substance Abuse Prevention and Treatment Outcomes across Garfield County.

Colorado, as compared to 48 other states, invests the least amount of money in the area of substance abuse prevention and treatment. Additionally, Garfield County has been consistently identified year after year by the state Division of Behavioral Health, as one of the counties with the highest rates of substance abuse in the state. Finally, it has been become clear over the last few years that if prevention and treatment outcomes are going to improve in Garfield County, we need to keep local control.

These projects included in her presentation have been accomplished in a short period. We know to improve substance abuse outcomes, none of this can happen in isolation. We want to ensure that in every middle and high school, when a student's struggles are so severe they interfere in their ability to cooperate in their own learning, every student will receive the help they need. Another example of our decision-making would include when a doctor, law enforcement officer, or other provider sees a person whose substance abuse is so severe it interferes in their daily functioning, adequate help is not only available but also accessible. We are planning strategically in order to ensure success two years, four years and then years from now.

Three projects that have all taken place in the past three years. The reason this is important is that three years ago the Board accepted a grant for the Strategic Prevention Framework State Incentive (SPFSI) Grant; we are in our fourth year of that now and it is the State Division of Behavioral money from the Substance Abuse Prevention at the federal level and the Department of Human Services locally is the fiscal officer and we are subcontractor.

The goal was to try to integrate substance abuse services along a continuum at a policy level. It was less focused on programming and more focused on administrative policy across Garfield County. What that means is we have been bringing together a group together who have now changed their name and they were the Community Prevention Partners (CPP) and then they were the PPB that was the Prevention Policy Board and now they are not the Garfield Policy Advisory Committee (GPAC) to better describe what this committee does. On the two-page handout is a

description of the currently what is happening with the GPAC and it has a broad representation, Commissioner Houpt is on that committee and Lynn Renick and Mary Meisner are also on this committee. It is a 17 member Policy Committee. G-Pac 4 are the two projects we are working on currently, one is studying and discussing how a standardized screening tool for substance abuse services and how that might look, what the challenges might be if were to implement a standardized screening tool either across school districts, law enforcement, medical providers and other youth serving organizations. That will be a lengthy process. A second project that we are in is we are interviewing in all three school districts all school counselors, principals and assistant principals to try to get a good picture of how the community might better respond to the needs of those students which I talked about in this report about 5 to 10% in any given school district who have serious educational and behavioral problems that are typically correlated to substance abuse. We are trying to determine with the school districts what they are doing to address those issues, what is working and what is not working for them and how we as a community might be able to respond particularly on a policy level versus a programming level. With the G-Pac, those are the projects they will be involved in well into spring 2010 and Shelly will come back and report the findings. The second project that has occurred in the last three years in Storm King Case Management which actually opened in March 2009, it is an intensive case management program for chronic substance abusers typically our population is adult although we do have a couple of kids on a case load. We provide everything from transport services from a hospital to the detox unit or from a detox unit to the CERT program in Grand Junction or occasionally we have to go the Front Range to get someone treatment. This project was launched fiscally by TANF dollars at the Department of Human Services but thrilled to report that since then in the past month both hospitals have allocated some money to us to keep us going. Grand River Hospital and Valley View Hospital are both on board, we have been meeting with them, and they will have an allocation for us each year. We do everything at Storm King Case Management from transport services, available 24-hour/7 days per week to developing a case management plan with people who for instance came out of the hospital, went to the detox unit, and then needed treatment so it may be a program at White River Counseling in Rifle. We make sure they get to that program and have access to it and then we follow up with them with a case management program and help them find a job if that is what they need, we can do family therapy and other counseling services with them so there is referral going on out in the community. It is not treatment at our site; we are not doing substance abuse treatment with adults at the site – we are referring people to appropriate community services. Storm King is new and we have already served 47 residents of Garfield County in three months. We have since I filed a report with the Department of Human Services we send a huge increase in people accessing the services. Mountain Family Health is also involved and have recently gone over to them with a couple of people that had questions about and did a brief assessment. The third project is we are celebrating our 2-year anniversary October 12 and that is Red Mountain Adolescent and Family Center, a treatment center where we serve about 75 kids annually in either assessment, outpatient services, enhanced outpatient services or intensive outpatient service – those are substance abuse services that age of kids between 12 and 18 with the average age is 16 of which 50% Hispanic and 50% Anglo. We have not had any girls for a long time but now I have a full caseload of girls. We actually serve all three counties though geographic does not allow for kids from Eagle County area or Pitkin County to get to us. However, currently I have 2 from Eagle County on our case load, Eagle, Gypsum, Edwards side of the valley. Those are the three big projects that have occurred since this SPFSI went into effect and one of the things you will see is that I am really interested in improving outcomes. Each of our programs have a sophisticated evaluation component so we are not just serving kids and counting numbers, but we are able to tell you what our success rates are and what that means.

PROGRAM UPDATES

Lynn submitted the following program updates:

With the Governor's budget reductions, the Department is expecting a 1.5% decrease in the Single Entry Point contract with the Colorado Department of Health Care Policy and Financing.

The State's Audit Division will be conducting an onsite audit 10/30/09 on selected TANF contracts for 2008-2009. Eighteen counties will participate in this statewide process.

BOARD OF HEALTH:

UPDATE ON THE EPA REGIONAL GEOGRAPHIC INITIATIVES GRANT PROJECT – PAUL REASER
Mary Meisner, Jim Rada, and Paul Reaser were present.

Power Point – Impact in Garfield County – Grant Project.

This is the local policy, how to manage and looking for direction.

Paul Reaser submitted an in-depth executive summary explaining the oil and gas exploration and production within the Piceance Basin in Colorado and elsewhere in the Rocky Mountain Region, has undergone rapid growth over the last decade. In response to this growth, concerns regarding the impacts of oil and gas development in Garfield County have increased. Development hit a high point in 2008 and in early 2009, activity began to slow down. Although the pace has slowed, the Piceance Basin remains a tremendous gas resource that will likely experience development for a long time.

Paul said the Garfield County Public Health is committed to addressing citizen concerns about activities in the community that affect air quality related values. There has been a great deal of technical and regulatory activity to support the development of air quality programs in Garfield County over the past few years. From meager beginning, the County has seen a significant expansion of technical activity in monitoring, emissions analysis and compliance. There have been significant developments at the state and regional levels that should benefit air quality in Garfield County.

Paul went on with the report explaining the analysis of current and historical emissions inventories and monitoring data criteria pollutants and air quality standards, presentation of monitoring data for public information, identification of concerns regarding air quality in Garfield County, available measures for addressing concerns and recommendations to the county for protecting air quality in Garfield County. These include monitoring programs, investigation of hazards, information and education for the community, mobilization of partnerships, development of policies to support efforts, compliance assistance, increased awareness of activities if activities and services, assure competency, evaluation and look for new options.

\$107,000 grand 9-1-2007 – 10-31-08 deadline 10-31-09

See power point handout on the **US EPA Regional Geographic Initiative Grant**

Summary of Efforts and Conclusion

Air Monitoring has been in effect since 2005 and the report is through 2008.

No violation of air quality standards with ozone, particulates. Identified some toxic compounds of potential concern (BTEX, some carbonyls and some compounds have significant potential for ozone (O₃) formation. Emissions inventories (State, WRAP) – Oil and Gas emissions are significant contributors to oxides of nitrogen (Nox) and volatile organic compound (VOC) sources. Major particulate matter (PM) sources are associated with recent growth and energy development)

Human Health Risk Assessments from 2007 – 2008. At present, there is not a public health crisis in Garfield County. Numerous gaps and uncertainties in our understanding of pollution from oil and gas operations on the estimated cancer risks and non-cancer hazards.

RGI Grant – 2007 – 2008. Today's presentation summarizes how Garfield County effectively utilized a \$107,000 grant awarded by the US EPA.

Paul stated there were four additional local energy operators, 3rd party consultant, and Boulder County Public Health.

The Goal was to further develop the basis for decisions on how Garfield County can best manage impacts of air pollution caused by energy development by the creation of a comprehensive community based air quality management plan and implementation strategy that has broad support and offer recommendations about how the State and Garfield County can best characterize air quality by beginning to determine health risk from energy development under a variety of conditions (temporal, spatial, meteorological.)

Paul completed his presentation with "Where Do We Go From Here?"

1. Obtain addresses for a direct mailing to residents;
2. Purchase column in the local newspaper to run a multi-part series on County Air Quality;
3. Target radio stations;
4. Distribute guides to a targeted list of local organizations and community groups;
5. Schedule time to present our findings to City Council members in our six local municipalities;
6. Send a smaller 'fact sheet' based on the Citizen's Guide inside utility bills;
7. Make available at local libraries, City Halls, and Public Health officers; and
8. County Environmental Health website.

Monitoring Program will continue to measure O₃, PM, VOC & Visibility, Measure additional criteria pollutants (e.g. Nox) and Continuing need for special studies (e.g. HAP, odors, etc.)

Investigation of Hazards by continue evaluation of health hazards and trends; update emissions projections to reflect more recent regulations; and conduct more in-depth source apportionment studies.

Inform and Education the Community by continuing outreach efforts.

Mobilization of Partnerships by establishing an Air Quality Advisory Board (broad based).

Development of Policies to support efforts by Air Quality Management Plan to address the long term needs and implementation of strategies.

Compliance Assistance by resources for adequate and timely compliance/enforcement.

Increase Awareness Activities and Services by publicizing educational opportunities, public hearings, compliance efforts, and voluntary emission reduction efforts.

Assure Competency by ongoing QA/QC procedures and professional development.

Evaluation of impacts of policies and controls, develop assessment criteria and regularly revised based on results.

Look for New Options by developing policies and action decisions around the best available technology options.

Paul acknowledged the following entities: US EPA (Region 8); Colorado Department of Public Health and Environment (CDPHE); Mary Meisner, Jim Rada and Carrie Godes; Four local Energy Partners – Antero Resources, Bill Barrett, EnCana and Williams; Air Resource specialists and Garfield County Oil and Gas Liaison Judy Jordan.

Jim Rada said mobile technology might not be the right choice as we have a technical work group for air quality that meets monthly and the next meeting is September 22, 2009. He would like to have the heads of experts and see what might be the best approach and bring back to the Board. Identify concerns on the property and see if it does present a risk. The Oil and Gas grant project includes in this area voluntary information when odors are strong and what they are and then make suggestions as we take this concern and create a subcommittee to specifically address odor issues and or mitigate.

Commissioner Houpt asked do these recommendations work into next year's budget, as she wants it to move forward. She feels there are many questions out there and we need answers.

Jim stated he could do that as he was in the course of preparing a budget.

Commissioner Houpt – What happens through an air quality advisory board? Asked Jim to come up with a budget and we would have money in the budget to cover this to see what it will look like and plan.

Chairman Martin commented we need to look at the budget and see the results and agreed we need to have the people involved. For 2010, we are trying to keep it to a 2% increase in budget.

Commissioner Houpt stated we have money set aside.

Chairman Martin stated he was very aware of the money we have set aside but he would like to see the proposal come forth with education and information. Many of the pollutants are coming from outside of our immediate such as the fire in California and we need to identify those as well. Not all our pollutants are coming from the oil and gas development. He would like to see some recommendations

Commissioner Samson would like a thumbnail sketch of the advisory board

Paul said mostly local people and it would be a technical advisory board. His idea is to have a very diverse group.

Chairman Martin – Would not want members on it that on the Energy Advisory Board.

Jim – Agreed. Many on that board to not have the levels of air quality experience. We need individuals who have backgrounds in air quality monitoring. We will gather information in terms of the options available and today we are just giving you an idea of what we would like to formulate.

Chairman Martin – This would not be your everyday individuals; you are looking for a more technical board as I understand it.

Commissioner Samson suggested that Jim and Paul come back with those types of recommendations and then asked, – do we have these individuals in Garfield County.

Jim said we have scientific people in the community to identify and we can supplant them with our technical and background information so it would not take a lot of time of an advisory board to be able to provide situations.

Commissioner Samson suggested working with the local municipalities and you may find the biggest fan club is going to be from Battlement Mesa Activity Center who will want to be on it.

Commissioner Houpt made a motion to support the staff recommendation to move forward and add to that recommendation on how to expand our resources for people who are expressing odors and then come back to use with a plan and a budget.

Jim asked about a timeframe and it was decided for December 2009. Commissioner Samson seconded the motion.

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

SURVEY RESULTS REGARDING BUS SERVICE TO SPRING VALLEY – CARLA MALMQUIST

Carla Malmquist submitted the survey results regarding bus service to Spring Valley.

Carla Malmquist, CMC and Stan Orr, Trustee were present.

Carla handed out her research regarding the Spring Valley interest for students at CMC as well as the apartment complex. The survey was performed in May and found a high demand for ridership. She stated we would look at 1600 a week. RFTA would come to you for special projects and she firmly believes our students can only help with the economic situation. Carla presented the survey to the Commissioners and added that she has discussed this with Dan Blankenship. She submitted a letter of support from the RFTA board.

Stan added that most of the CMC students work in Garfield County and do not have transportation; recently there has been a huge spike for registration in our classes. We recently had a very large spike of 300 per day.

Commissioner Houpt added that RFTA would bring this to the Board of County Commissioners.

REQUEST FOR FUNDING FOR AFTER SCHOOL PROGRAMS – ACCESS ROARING FORK – STEVE KAUFMAN

Steve Kaufman and submitted the request for funding for After School Program-Access Roaring Fork

Steve and Deb are both on a part-time basis. Steve gave an update saying he had met with the superintendent in RE2 and Garfield School District 16 and they are looking at adding multiple school districts and ramping up the efforts.

They are also going to the various city councils to get support. Two weeks ago, they attended the Carbondale Town meeting and asked for full funding of \$1600.00 and they will be on the agenda for next year's budget. Steve also presented to the Aspen Community Foundation and will have a response no later than end of October 2009.

Deb stated they were glad they followed the presentation from Youthzone, Debbie Wilde. We are very interested in being a part of prevention with the after school programs. They are anticipating having a program in the Carbondale Middle School by October 22. During Back to School Night, they had 100 children register for the program.

A letter from California was read that highlights reports of success on after school programs. Quality after school programs provide and require partnerships saying it is an investment in full day learning in our youth. Another handout was an executive summary from Akron, OH on an independent study on work they are doing there; this is a model we would like to implement here. There is a real need to have after school programs, as there is little control of kids after school is out. The focus would be on maximum learning and school based learning. They would address missing components such as behavior issues and support common purposes of Youthzone and Human Services.

Conclusion: The Akron, Ohio pioneers have done remarkable work and have set the standards.

The request for the remainder for two middle schools is for \$32,000, \$16,000 for Carbondale Middle School and \$16,000 for Glenwood Middle School.

Parents thanked us for our efforts and we laid out what they could offer. There will be art, music, technology, physical fitness beyond the scope of the sports program e.g. volley ball games. They will solicit volunteers at a high level and may have money left over. Homework is mandated and the after school program will focus on a zero tolerance. Steve said that 8th graders must read beyond 6th grade level. There is a need to bring in additional staff and we will let the parents know that kids will stay for homework assignments. Another program we want to offer is knitting and crocheting but that will not be until next semester. We also teach Spanish.

The success in Carbondale started our phones to ring. We did not ask for support from this Board last year, we are here for the first time. This year for the Health and Human Services Grant, I submitted a request and received \$7500. Chairman Martin asked about the agreement with the school districts currently in reference of their physical plans.

Steve – I have the keys.

Chairman Martin – So they are willing to go ahead and commit to the liability and other issues that are present.

Steve – And beyond that – we had actually discussed this community learning center concept which would open the school to 8:00 or 9:00 pm at night and Judy is all for it in making them available.

Chairman Martin – It is reminiscent of the old star program and we used to see it and that was funded through the school systems and wondering why the school is not stepping up to the plate to fund your program since it is an after school program within their own facility, etc.

Steve – They are stepping up but the step-up looks different. They are giving us their space, the amount of voluntarism among the teachers as a couch, SRO if Chief Shilling will allow will be trained as a soccer couch and in some other sheriff's department's preventative program so he could be the provider for those programs. The maintenance staff cleans up after us; Glenwood Middle School, Sandy DeCrow said we have \$1000 in the cookie jar and you can have it. Teachers, individuals and all that is occurring. After School Program funding is traditionally provided by the schools. They have their hands full from 9 am – 3 pm. They are very happy to see this and believe as we do that we need. American needs this 5 – 30 day. We are not competitive; we are behind and we need to catch up. Unless we have what is referred to as an extended day, for many reasons, education being only one of them, it will not happen. There is a true partnership in helping to get this extended day and we have had preliminary conversations about things like – Judy can you step up if we get enough kids to stay after school and it justifies a bus driver, maybe that is one less bus driver you need at 3:15 pm and we could start doing some transportation. It is all on the table and they are willing whatever it takes.

Commissioner Houpt – In other states or local governments paying to get these programs going.

Steve – there is a 10-minute YouTube Video on this Akron, Ohio which is mostly the mayor talking about it. There is a representative from the governor's office, two ladies who started the program nine-years ago; superintendent of school and then there are the great results. When local government takes a leadership role, not just a responsive role, but someone steps up and I am going to be a voice for this – I am going to get out front, the money that it draws in, like this PSN&G money, the volunteerism and what is possible escalates tremendously but yes, that is a national league of cities reporting that I quoted from – that 175 conference of mayors. The need for after school programs is definitely yes.

Commissioner Houpt – Trying to distinguish between the Human Services Grant process for non-profits in Garfield County and you did receive a partial grant and what you are asking u to add. Typically, you go to both pots is really difficult because here are a lot of non-profits who need money.

Steve – This is a paradigm shift. What we are literally talking about doing is transforming what a school looks like, what it is, how it will serve the community.

Commissioner Houpt – I completely believe in what is happening in other places; what I really need to see is a business plan and a budget.

Steve – I would happy to do that but as seed money to how do I present a budget that is anything more than hypothetical. It is almost impossible. I can give you information from other states; the sample size of Carbondale is too small. All I can say, if we can get rolling and I have some help we can start producing some quantifiable results. I do know that if it is not in the budget, something that we start to plan for, people, the school district, teachers in terms of is this going to be their second job, will not be able to do the kind of strategic planning they need to do. Each year if we are coming back to a Health and Human Services Fund and the funds there are insufficient to begin to ratchet this up to get the kind of leverage we can. For example, you have the Aspen Community Foundation here and our request from them is equal. We are looking at who can afford it and you can step up – what Carbondale was amazing. They decided to fully fund it and put it on agenda to go forward in the next budget. If the County does the same thing and Basalt and Pitkin to do the same there, it begins as we gather data to position us to write for substantial grants and it is exactly what has happened in other communities outside of this area and then to go for state and federal funding. The seed money has to come from a variety of sources in your community, your local governments, philanthropic organizations and from the school system giving us the keys to the building and from volunteers.

Commissioner Samson – I believe this is a good program; we do not have the money in the schools.

Chairman Martin – I see it as a priority – they are the largest receiver of tax money. You are missing on the largest asset and that is all the organizations of the Human Services Commission plus all the communities to come in and do their programs and have an arena to do their programs, training, and further education and not pay them. That would be a great asset to the children as well as to the adults and well as to the overall budget – this is where you need to be.

Steve agreed and said this is where they plan to be.

Chairman Martin – I'm not against the program; what is the true function of the County government to deal with the tax dollars to make the priorities and to redistribute the monies to the proper taxing authority. School is the largest taxing authority and they need to reprioritize just as you say. They are following the same program, they are following the same analogy they did in 1950 on how to do education, etc. It may be the paradigm shift that the school district needs to do in reference to their priority budgeting and to actually create a new system not what they are following right now and then putting the fall out of on the after school programs to organizations like yourself. You should be one of the leaders of that school reform and that's where they need to put their money instead of coming to the local governments saying we need your money to supplement the school because the school is falling short of education which means the business folks are falling short on qualified people entering into the arena and unable to do so. The other, CMC did a presentation where they are saying about 78% of all kids who graduate are not ready to go into business. They are still learning society's ways I guess. They are not prepared to go out and make a living. But they expect to because they have a college degree. Well, that is a breakdown.

Steve – I am not a fan of current school system and I am not a fan by the process by which money flows back from Washington. Our school systems in essence have failed and I think the recognition of that is long overdue but it is certainly here in RE1. You are right, if educating our kids means that the school day should be to 5:30 pm ultimately that burden should fall upon the system and we should be unnecessary. I hope to go away. We have got to bridge; we are not going to get there overnight.

Commissioner Houpt – Let not stomp all over the educational system. This is a country that educates all kids – that is a huge task and we are not here to criticize the school district. But what I am going to say is I would support giving you the money but you would have to make a choice between keeping the Human Service grant or receiving money from the Board of County Commissioners because I do not think it is appropriate to receive both.

Steve – That is easy, I can make that choice right now.

Commissioner Houpt – The only reason I would support funding this program is because we made a decision to fund youth diversion this year and in my mind, this is a critically important step for this region to take in supporting our youth. But I cannot make a motion because you have not come to us with a budget. You did put a grant proposal together for the Human Services Commission so you need to do some work on that.

Steve – This is what I have done in the towns, I have set down with the financier. I could rightfully be accused if I come back here with a budget of crafting a fictional document. I have to hypostasize.

Commissioner Houpt – You came up with a number.

Steve – It did, it came from a cost calculator, which is 111 different programs around the country and all of their averages. It is a huge and credible well-constructed document and then I made assumptions based upon that and our short year one experience in Carbondale.

Commissioner Houpt – Put it all together. We are dealing with public funds so we have to be accountable.-

Don pointed out if you receive money from the County, legal department – will need a scope of services and what you intend to do, when you will do it with the funds the County intends to give you. I still do not know from the discussion if you are talking about \$32,000 the school year, but the question I have to have in a document if you want money this year, we have to have a contract that will run to the end of this calendar year and then you need to make a budget presentation to the Board for them to include in their budget for next fiscal year for the County which will cover then end of one school year and the beginning of the other. So those documents need to be prepared and we will show how we will pay you and what we will pay this year. Then for next year, it will be for Ed and his finance department, the other question from the Board, you will have to identify for Ed the source of the funding if it is not a Human Service Grant.

Ed – That is an issue because we have to consider that you are setting a precedent.

Chairman Martin – That is on the issues and we need to see that written proposal, etc. within the scope of services and evaluate it and then establish that through the budget.

Ed – Does it make sense to go through the committee Tresi and Ed are on to consider if we could use some of those left over funds, discretionary funds in the Human Services.

Commissioner Houpt – I do not think this program will rise to the top for that because the focus was on immediate needs for food and shelter.

Chairman Martin – Your assignment is: a scope of services, put together your overview review process, what you are requesting, what will take place with the money, look at the contract in reference to funding and then submit it back before October 13 and then submit to the Board and then we will consider if there are any other funding services we can draw from if we should go forward. We will give you every opportunity to be able to succeed. Mr. Green will be your contact person.

CONSERVATION DISTRICT ANNUAL UPDATE – CHARLES RYDEN, JEFF NIESLANIK AND BRETT JOLLEY

Charles Ryden, Jeff Nieslanik and Brett Jolley gave the update.

President Charles Ryden, president of Bookclift Soil Conservation District; thanked the Commissioners for their financial support and you have made it possible for us to do more projects and make the County a better place to live. Selinli, the past three years we have been involved in the Bookclift Soil Conservation District and basis selinity program and we have 1,674 tons of salt from going into the river. We treated 884 acres and we have cost shared \$1,154,000 of the cost share on these projects. Next is the Farm Week – this has become an annual event, this is the 3rd year and it was very successful, held last week Monday, Wednesday and Thursday and held at our corn maze by Harvey Gap. The students learned about animals, safety, conservation, and environment and we had 9 different learning stations plus the maze they go through. People manned all these stations to deal with water, soils samples and Dennis was there and did a good job. We have 550 students over 3-days. Children from Parachute, Carbondale, Rifle and New Castle and their parents. We put it on with the help of the Garfield County Farm Bureau, NRCS, Farm Service Agency, Bookclifts CD, Mount Sopris CD and we had educational materials furnished by Colorado Foundation for Ag. Colorado Beef Council; Garfield County Farm Bureau and thank you for your support.

Chairman Martin said Angela and Charles are too humble – both do such community minded activities it is amazing. Thank you for being such a great citizen.

Brett Jolley with Southside Conservation District and introduced Carla who is Dennis's replacement and she moved here from Montana. Watershed meeting is on Thursday so all Colorado Districts are getting together at the Silt Fire House. Last year Southside weed program, weed noxious share program, we treated 1800 acres cost share of \$31,000 for the total treatment of \$88,000. The landowner workshop had a dinner and for Dennis we had a picnic where Dennis retired; we put two small acreage workshops on the first was last spring and we had 180 people show up. Learn how to garden and then one last week where 45 people attended. Ag day in New Castle and have presentations – this year it was on wind turbines, water, generated electricity, and some green type items. Carla will probably continue Quality of Living on Rural Land for new landowners on how to take care of small acreage; we did a workshop on oil shale development and the potential impact on water not so much on quality as on quantity – how much water it will take. And, then we have noxious meetings two or three times a year and try to educate people on weeds and what to do with them.

Commissioner Samson – Asked for a calendar for events next year.

Kent volunteered to get one for Mike.

Jeff Nieslanik –President of Mount Sopris Conservation District and thanked the Commissioners for their support. We hired a noxious weed intern who will do house visits to educate individuals on what a weed looks like and he works along side of Steve Anthony and got some management weed plans for these people. We still have a ditch manual going and trying to get a lot of information on paper as old timers disappear on many of these ditches and the newcomers do not know how to maintain them. We gave another \$1,000 scholarship and we are currently working one of our local reservoirs that was breached last year and we are trying to get landowners and cost share people from the Basalt Water District and some roundtable money together for some cost sharing to get that project fixed. Thanks for support.

Chairman Martin – What happened to the fence law handbook in reference to going along with the ditch that we talked about to education everyone on sales in rural area and then also applying that to the ditch laws on what you can and cannot do even though it runs through your property. You cannot use the water unless you have rights. How do you give rights, what are rights and who handles them, etc such as ditch companies and who to contract, inventory of all that stuff. Some of those project, it is the educational benefits for everyone to learn those things and you should share those with the County website so we can put those in as a link.

Jeff – We do have a website and it ought to be linked to the County.

Chairman Martin – Wanted to make sure.

Commissioner Samson felt sure it was linked.

Jeff said he would like some input if the Board wanted to see this stuff.

Kent said that he would like to have some input as well so we will know what we are missing, what kinds of workshops and hit the same range. Love to have better input on how to better serve our constituents.

Chairman Martin – Water, consumption of water, what water really means to people how to and how not to use it, and small acreage and consumption of water and how to go about doing it, what is a good system, what happens when you just flood irrigate and the difference between that and pivots and side rollers, etc. What you are actually doing for the environment as well and Charles touched on it keeping the salt outside the drainage.

Kent – My district is trying to get on the basin states and we think we can get in. Our problem is settlement in the Southside District – there is almost no way to run the sprinkler systems on the south side of the river without some way of a big reservoir.

Chairman Martin – Intakes, strainers, settling and discharge, etc which all is subject to disturbance etc. It is a real issue on the south side. It that pivot in a good spot or not, they can come to the resource which is going to be the Conservations Districts and say okay, how does this line up with water consumption, side rollers and pivots, irrigations, etc. In addition, we had the dispute in Wallace Creek and Spring Creek, lawsuits on fences; people move here and do not understand that you fence out not fence in. Those are the things that we need to be educating on as well as our weeds and air pollution. Sheep, you always fence in – right?

TRAVELER'S HIGHLANDS PUBLIC IMPROVEMENT DISTRICT: COST REIMBURSEMENT AGREEMENT – KARL HANLON

Karl Hanlon and David Hicks submitted a letter to the Board stating that approximately one year ago Travelers Highland Public Improvement District was formulated to pay for certain improvements at the intersection of County Road 300 and State Highway 6 & 24 as well as internal improvements to the subdivision. Mill levy revenues will begin coming in on behalf of the Improvement District commencing with the tax year 2009 to be paid in 2010. As a result, at this time we feel that it is appropriate to bring before the Board reimbursement agreement to be executed

between the Public Improvement District, which this Board sits on as the Board of Directors) and the organizers of the Improvement District for organizational costs. Enclosed in the packet is a consideration of Reimbursement Agreement to this effect.

There is still an outstanding issue of the CDOT Access Permit for which work is currently required at the intersection of CR 300 and the Traveler's Highlands Subdivision. Earlier this summer, the Board took the position that the County would take the lead on organizing and completing work with regard to this intersection. At this time, not only Mr. Hicks but also other developers indicated their commitment to continue to work with the County to resolve issues at this intersection. Mr. Hicks has a currently pending CDOT Access Permit; he is requesting relief from completing those improvements until the County has determined the ultimate redesign for the intersection. In the absence of formal relief from this requirement, CDOT may execute on the Performance Bond to for Mr. Hicks to complete the work. As previously discussed, completion of this work at this time would result in the waste of significant funds for improvements which likely will not be part of the ultimate of the redesign of the intersection. Three items, but the first two regarding reimbursement, after talking to the attorney's office I need to make your packet bigger to orientate everyone as to what the ballot questions were, what the conservation was on reimbursement, how it would work and why we did what we did. The short version is you approved the formation of a public improvement district, 4 questions were on the ballot and all were approved: Formation, DeBrucing, No levy and debt authorization. Those questions also include mill levy and debt authorization included reimbursement, which is provided under the statue, and the service plan that the Board approved. There were specific conservations on reimbursement and how it would work both for the formation and public improvements. This will be set aside and I will ask to be on your October 5 agenda.

COUNTY ROAD 300 ISSUES

CR 300 road issues that we have been talking about where I was here at a meeting and there was conversation and direction that the County was going to coordinate the improvements not necessarily committing to any dollars but at least coordinating the improvement that would be going on at that intersection. Parachute commercial acquired a property called the 5C Property, has an active access permit, and have done part of the improvements. David Hicks was here talking he had completed some but still there was money out there and the improvement district money. The problem we are having is that CDOT is not backing off on us completing the requirements to complete that access permit even though Dan Roussin was here at the meeting when the Board had the discussion. My request for today is that the County sends a letter to Mr. Roussin saying would you please back off otherwise he will call the bond and force us to either complete this work or forfeit the bond. The entire point of that conversation was that we could all be at the table and not make repetitive unnecessary improvements. So my request is would the Chairman send a letter to Mr. Roussin that says, with regard to the CDOT access permit active on Highway 6 at County Road 300 we would like you to postpone that.

Fred had a conversation with Mr. Roussin on this issue and even though it was not agended for today, I was able to talk to Dan Roussin on Friday and talked about this exact issue because David Hicks, Karl Hanlon and I traded emails a few weeks ago and under Commissioner Samson and Houpt's direction the upshot of the last major discussion on this issue was that the County would take the lead in the sense that we would facilitate the meeting of all of those players, create a plan, bring it back to this Board, and then the Commissioners could decide what they wanted to do. Mr. Hicks is on the hook for his improvement at Travelers Highlands anyway. Because of this bigger effort which will probably take us through the winter and spring to have it come to fruition so we can actually get o the ground and start making something happening, in my mind it makes sense to do one major improvement for the entire intersection versus doing it twice. I asked Dan if there are no health, safety issues is there a reason you could not postpone this, still keeping Mr. Hicks under your permit wing but could it be postponed until Spring 2010 knowing that we are doing this larger effort. He is still bound by the direction of the Board and CDOT is just postponing. Dan seemed to be fine with that so long as the Board was still moving forward with your direction so Mr. Hicks would be pulled in either by CDOT or this Board. I indicated to him that I thought that was in the ambient of your direction so; the financial component comes with the direction of the Board later. It is a matter of a time issue and Dan seemed to be fine with that.

Chairman Martin thinks Dan Roussin needs to hear it from us.

Karl felt we might need be under construction next spring. We would like one-year extension on the permit issue.

Fred would like direction from the Board as to issuance of building permits because that is the scenario we are in at present.

Chairman Martin – As long as the permit was sought and also being approved and I think that is an extension of that and that extension time would follow the same scenario. It would be logical.

Karl – You may be under construction next spring; everyone hopes that it will be. Under construction, the spring 2010 is the better solution. One-year extension.

Commissioner Samson asked Fred if he would draft that letter and get it to Mr. Roussin.

Fred – Under the Chairman's signature?

Commissioner Samson – Have Fred draft is and Chairman Martin sign. Commissioner Samson moved as such.

Commisisoner Houpt – second. Don asked for clarification for the letter – one year.

Fred – Our hope is that we will beat that deadline. In addition, I am hearing direction from this Board that we will keep releasing building permits during this time.

Fred – Funds to input for this improvement for the entire intersection will be up to this Board.

Karl – There are funds from the Public Improvement District but it will not pay for everyting because it is a much bigger project and it benefits more people than just the owners in the Public Improvement District. Those are unbudgeted funds at this point.

Commisisoner Houpt is very disturbed with this whole set up; everyone knows I was not in favor of the County taking the lead. There are questions that need to be answered and I do not know where we are on these discussions or what kind of commitment other landowners have made. There better to some substantial ones and not just from one primary business owner. People will be watching this because we are opening a new door. I will support everything that is in place now.

TREASURER'S SEMI ANNUAL REPORT – GEORGIA CHAMBERLAIN

Jean Richardson, Bob Slade and Georgia Chamberlain submitted an in-depth report showing the list of special districts, dollar amounts, tax collected, and the ending balance as of June 2009 of \$177,256,775.55 compared to the ending balance of 12-31-2008 of \$76,987,137.33.

She requested the Board accept the report and direct her to publish it in the newspaper.

To accept and have it published in the newspaper.

Commissioner Houpt moved to accept the Treasurer's Semi-Annual Report for 2009 and request the Treasurer to publish. Commissioner Samson seconded the motion. In favor: Houpt – aye Samson – aye Martin – aye

Jean Richardson stated that we are 98.2% collected and last year we were at 98.97%. The taxes are coming in a little slower. We have sent out delinquent notices the end of July and people have been paying. We will start advertising in the newspaper next month. On the sales tax received from the state, we are down 27.58% of our collection.

Chairman Martin – Based upon last year's numbers.

Jean Richardson – Based upon 2004 – 2009. That is the average of 6-years. If we go with point of sale collection, it is down 37.23%. Therefore, it is significant. That is why we are hearing all the cities and everybody saying we do not have any money.

PUBLIC TRUSTEES REPORT – BOB SLADE

Bob handed out the charts to indicate the present status of foreclosures. We are going to go off the chart this year with the amount of foreclosures. We have already passed the high point for the number of foreclosures processed in this County in a given year and that was in 1985 at the end of the first oil shale bust. We have opened 243 foreclosures already this year and the very last page of this chart shows I have 268 are sitting on a desk ready to open that are not on the front charts. The second charts shows you the total number of foreclosures open, the dollars in millions by zip code and the average dollars by zip code in hundred thousand dollar increments for each of the zip codes within the County. The number of foreclosures down valley area is leading in numbers but the upvalley are is leading in number of dollars. That is being driven by several large foreclosures on the books in excess of \$3 million. I have one for \$12 million and one for \$10 million. We have over \$30 million in business foreclosures going on right now.

Chairman Martin – Let us hope the numbers go down and the trend slows down; we have hit the plateau and now we can reverse it.

Commissioner Houpt – Referring to one chart, really across the County, Carbondale has 35 and Rifle at 37 on the last page.

Commissioner Houpt – It does not look like any of our communities are dodging this.

Bob – Those are sales and it has not gone to sale yet or it has been withdrawn. A lot of the ones we are seeing are large dollar foreclosures, \$500,000 and above.

Chairman Martin - No money down and get into a place you really cannot afford and do not worry about the future. The other one is the balloon that no one seems to be able to make because of the financing.

Bob Slade - The loose lending practices we all say going on is the largest part.

Georgia invited the board in to see the numbers.

REQUEST FOR TRAILS CONTRIBUTION FOR 2010 – LARRY DRAGON

Larry Dragon submitted the 2010 funding request for LoVa and stated in a letter:

Dave Will of Pitkin County Open Space and Trails, who is heading the Crystal River Trail project and Larry Dragon, recently met with Fred Jarman. The purpose of this meeting is for the trails groups to negotiate how to divide the Conservation Trust Fund Allocations for the coming year. We agreed to ask the County to contribute equally toward our two trail efforts in 2010, estimated at \$100,000 each. The contribution to LoVa will go into the South Canyon Trail project, Phase 1 of which is planned for 2010 construction.

\$48,710, \$45,000 for LoVa's operation and \$3,710 for LoVa's rent in the Henry Building. The represents the same allocation as the last two years.

We are hopeful of finding the large sums necessary to complete the eastern half of South Canyon Trail (South Canyon to Canyon Creek). Therefore, we are requesting an additional \$100,000 in 2010 to go toward the design and engineering cost of this large section of the south Canyon Trail. Jeff Nelson has estimated this cost at \$350,000.

Dave Will was not present but submitted but sent the memo. Pitkin County appreciates its partnership to date with Garfield County as well as the Town of Carbondale and GoCo in breaking ground on the Crystal Trail. We had originally hoped to complete the project this year; however, due to delays in securing our Trail License Agreement through CDOT, we will be forced to continue construction into next year, which has increased our anticipated costs. Earlier this summer, we awarded a \$2.7 million contract to Heyl construction for the 5.2-mile trail from Snowmass Drive in Carbondale to Seven Oaks (aka "BRB") bridge.

Chairman Martin stated that Dave Will agrees the split should be \$100,000 each.

The portion of the trail in Garfield County between Prince Creek Road and the County line is projected to cost approximately \$950,000 and includes a bridge over the Crystal River. An appropriation of \$100,000 by this Board for next year will for next year will bring Garfield County's total contribution to construction of this trail to \$300,000. The balance of the costs in Garfield County will be covered by GoCo dollars from the Crystal Watershed Legacy Grant.

Commissioner Houpt made a motion to following the recommendation of LoVa and the Pitkin County Open Space and Trails director on the Crystal Trail to divide the Conservation Trust fund allocation for 2010 equally between those two trail groups.

Commissioner Samson – We do not have a dollar amount.

Chairman Martin – It is only an estimate.

Commissioner Samson seconded the motion.

Chairman Martin indicated that Fred Jarman also makes this recommendation to this Board – he sits on the Committee.

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

Secondary Request:

Larry stated two other requests: one if our operational funds that the County has funded for 5 – 6 years now and we do request the same as the last two years. This is not the correct form for that; I do not know where it comes from but it does not come from Conservation Trust Funds. The request is for the same \$45,000 plus the \$3,710 for rent of our office. So the total is \$48,710.

Commissioner Houpt clarified that the \$45,000 was from the general fund and the \$3,710 from a tenants grant.

Chairman Martin – All of it is a grant fund basically.

Don – In the past, I believe that has come from the Commissioner's budget.

Chairman Martin – Yes, all of it.

Commissioner Houpt made a motion that we provide LoVA with the same level of funding for LoVA operations in 2010 as we have in the past, \$45,000 for operations and \$3,710 as a grant for the rent at the Henry Building. Commissioner Samson – So that comes out of our fund? Second the motion. Chairman Martin – Yes it does. The \$3,710 comes back; it is an auditing based on square footage and their requirements of licensing, etc.

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

Larry – The other request was for next year. Fred suggested that if we had any other projects this might be the only time in the next few years to think about requesting any other funds. We have through experience we have learned that getting grants to do construction is much easier than trying to get grants to do planning, design and engineering. Once we complete the first half of the South Canyon Trail, which we are looking to do by 2012 or 2013 hopefully through a grant through Great Outdoors Colorado, we have to start thinking about the section between the South Canyon Interchange by the old South Canyon Bridge west to Canyon Creek. We have not done any design or engineering work there and it is a large project and when Fred suggested looking at large projects, this is where we need to get that done. Jeff Nelson estimates that it would cost approximately \$350,000. We are looking to get a jumpstart on that and dedicate the funds toward the design and engineering of this other 2.5-mile stretch at South Canyon. That is what this request is for and we are requesting \$100,000 but we need \$350,000.

Commissioner Houpt - \$100,000 of the Conservation Trust fund money.

Larry – No.

Chairman Martin – No, this is beyond that.

Don had comments on this request, if the Board elects to do this you will have to designate a source of funding because we do not have readily available trails department that could be plugged into. Because it is a standalone trail it is not something you can use the Road and Bridge fund so you would be looking at general funds and some department even if it is your own and perhaps a question to Larry, what I would anticipate if the Board exceeds in your request, they would budget this \$100,000 and it would go to LoVA and it would be a contract of some sort. Do you anticipate that in 2010 you would be able to contract with an engineer to start this process?

Larry – It is unclear. We would probably desire that it be dealt with in the same manner as in the past and that it actually be a County project and we are helping to raise the funds for that from the County and other places. We will go to the City of Glenwood, we will write grants and it would be kept in an account specifically for design and engineering of the rest of South Canyon Trail.

Don – so, if the County requested that money in 2010 for engineering for that portion of the trail, you would return it, otherwise it would stay on deposit until the County made that type of request.

Larry – The way we have done it in the past, Bob Prendergast has always suggested whenever there is money that has been contributed to LoVA for a specific project that we have it back to the County by the end of the calendar year. So we would have it back in the County in a separate account for design and engineering rather than Phase II Construction. We had an account for Phase I construction and I suspect we will have an account for Phase III construction.

Commissioner Houpt – These funds would be in the account but matching funds would be sought to complete the project.

Larry – Absolutely.

Don – The project being design, not construction.

Commissioner Houpt – We would want to give you \$100,000 so you could go to others and say this is a great asset for this part of the state or whoever you are going to approach so that it can be a larger partnership.

Chairman Martin – I would like to see the request by itself standing on that so we can consider with the rest of the budget when we have our hearing on October 13. We will look at general fund dollars because general fund dollars have been heavily obligated presently and we really need to look at general fund dollars to see if there is a need for transfer, etc. and if this fits in there, okay. If it does not, then we will have to say, you are going to have to wait another year.

Commissioner Houpt – We will put it on the list of items to discuss.

Chairman Martin – This request is based upon Jeff’s estimate that you are requesting \$100,000 be held in reserve for either a match grant or something else for engineering and completion of the design of it.

Larry – We just learned when we did the design and engineering for the first half of South Canyon and we ended up only constructed a small segment and hopefully another one now, it has been very valuable to have that all done so that next year we can go to GoCo and we are ready to go. No one likes to fund design and engineering.

Commissioner Houpt believes the timing is very important.

Chairman Martin – In-house and how much time Jeff, his wages and efforts have been a fact and important.

Larry – Tremendous amount and without Jeff we would be nowhere.

Don – One other budget item, you continue to develop the trail, you need to plan for maintenance, upkeep and oversight for this trail and designate a department in the County that is responsible and budgets for that issue.

Larry – What this Board did for the first small phase was actually develop a contract with the City of Glenwood. Don was not sure that has been renewed. That is why I am asking you to designate an appropriate department to make sure that type of thing is done.

Larry – I do not think Glenwood has done anything.

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT THROUGH THE LIMITED IMPACT REVIEW PROCESS FOR A ‘PROFESSIONAL OFFICE FOR THE CONDUCT OF BUSINESS OR PROFESSION’ ON .31 ACRES OF AN 11614-ACRE PARCEL IN THE RESOURCE LANDS (RL) ZONE DISTRICT. APPLICANT IS OXY USA WTP LP – DUSTY DUNBAR

Dusty Dunbar, Deb Quinn, representing OXY is Loren Prescott with Olson Associates and Daniel Padilla with OXY regulatory affairs out of Grand Junction.

Chairman Martin swore in the speakers.

Deb Quinn reviewed the noticing requirements and determined they were timely and accurate. She advised the Board there were entitled to proceed with the hearing.

Dusty submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts, Exhibit B – Proof of Publication; Exhibit C - Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E - Application; Exhibit F – Staff Memorandum; Exhibit G – Staff power point; Exhibit H – Email, Garfield County Environmental Health Department, Director Jim Rada,

dated 8-25-09; Exhibit I – Email Garfield County Road and Bridge Department – Administrative Foreman, Jake Mall, dated 8-31-09; Exhibit J – Email Garfield County Planning Department – Project Engineer, John Niewoehner, P.E., dated 9-15-09; Exhibit K – Email – Garfield County Vegetation Manager Department – Director, Steve Anthony, dated 9-16-09; Exhibit L – Email – Garfield County Oil and Gas Liaison, Oil and Gas Representative, Nikki Reckles dated 9-15-09; Exhibit M –Email as forwarded from DeBeque Fire Department, Chief Nick Marx, dated 9-15-09; Exhibit N – Email Division of Wildlife District Wildlife manager Albert Romero, dated 8-21-09 and Exhibit O – Email – Colorado Division of Water Resources – State Engineer’s Office – Mike Bender, dated 9-16-09. Exhibit P - Letter from the applicant responding to the project questionnaires. Exhibit Q – Revisions of staff amendments from staff responding to some changes between the staff report and presentation today.

Chairman Martin entered Exhibits A – Q into the record.

Dusty presented the two new exhibits to the Applicant, the Board and Clerk.

Dusty explained this is a request for a Land Use Change Permit through the Limited Impact Review Process. The applicant requests a LUC Permit for the installation of a ‘Professional Office for the Conduct of Business or Profession’. The applicant proposes to install and operate a permanent office facility to replace a small complex of trailers that have been permitted as temporary office facilities. The site is approximately 3.09 acres in size situated up the Conn Creek drainage north of DeBeque, accessed by CR 213 and CR 204. The proposed facility is in a neighborhood that is industrial in nature, including two compressor plants, a control facility, well pads, pipelines and storage areas.

The applicant initially requested that the facility be scaled and permitted to allow up to 25 people to occupy the office. The applicant’s representative has expressed that the personnel number will be reduced to 19 to conform with well water limitations and keep the facility below certain thresholds for sanitation facilities. The applicant request that one of the seven trailers remain on site and agrees to cap the number of people at 19.

The office is called the field office and will be accessible to employees 24 hours every day throughout the year with the standard occupation times during working hours of 7:30 am to 6:00 pm Monday through Friday. Better radio communication links to the Grand Junction operations center will reduce employee travel.

Diesel generators provide power and lighting to the site and is limited to downcast lights on the building.

Staff recommendations:

Due to the following conditions:

- The limited nature of potential impacts to surrounding properties through conditions of approval that might mitigate these effects,
- The proposed is required to operate within compliance levels for noise and to mitigate glare and other emanations.

Staff recommends the Board approve the request for a Land Use Change Permit through the Limited Impact Review process to allow the construction and occupation of a professional office for OXY USA WTP OP, 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 operations of this type of facility.
3. That the applicant shall comply with the fire protection provisions including in the rules and regulations of the Colorado Oil and Gas Conservation Commissioner (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Vibration generated: The professional office facility 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 professional office facility, diesel generator, related roadway and parking area shall be so operated so as to comply with all Federal, State and County air quality laws, regulators and standards, including CDPHE APCC Regulation 1 for dust.
6. Emissions of heat, glare, radiation and fumes: The professional office facility, diesel generator, related roadway and parking area and shall 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.
7. All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors to reduce glare and mitigate any visual impacts.
8. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes and COGCC Series 800, for Light Industrial Levels.
9. Lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
10. To ensure safety to wildlife and domestic animals:
 - A. Division of Wildlife ‘wildlife friendly’ fencing shall serve as the guide for fencing on the site,
 - B. A bear-proof dumpster or waste container shall be provided on the site,
 - C. No domestic animals, such as dogs, shall accompany employees or subcontractors to the site.
11. Prior to any disturbance of land, the Applicant shall submit to the satisfaction of the Planning Department Project Engineer:
 - A. Adequate site map and documentation that depicts pre and post development drainage, and how the drainage plan satisfies section 7-206 of ULUR (Code).
 - B. Calculations as to how the drainage basins (existing and proposed) are sized,
 - C. Adequate drainage plans and spill containment measures for the diesel fuel tank shall be included as an amendment to the Drainage Plan.
12. Prior to any disturbance of land, reclamation security of \$4000 per acre shall be submitted for the 3-acre site disturbance, as per the Garfield County Vegetation Manager. A short-term re-vegetation security shall also be required to be determined through the analysis required as a condition of approval to meet 7-203. If the use as a professional office facility is ended, reclamation shall be initiated within 60-days and meet

the requirements set forth in the reclamation plan in place on the date the Land Use Change Permit issued; or the site reclamation standards at the date of permit issuance are cited in Section 4.6, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #2002-94).

13. An annual site assessment visit shall be performed by the Garfield County Vegetation Management Department to assist the Applicant with their weed abatement and re-vegetation programs.
14. Prior to any disturbance of land, proper building permits, grading permits, permits from Garfield County Road and Bridge for overweight/oversize vehicles and traffic control shall be in place.
15. Prior to occupancy and the issuance of the Land Use Change Permit, the exempt well shall be drilled and meet the following standards:
 - A. All requirements of the Colorado Primary Drinking Water Standards apply,
 - B. The well and water system must be installed, operational and tested within 60-days of the date the Resolution for the professional office is signed by the BOCC,
 - C. Permission to use a hauled water system to serve the site until the well and related water treatment system is operational is granted for 60-days beginning on the date the Resolution for the professional office is signed by the BOCC.
 - D. The water quality monitoring standards of the Temporary Employee Housing regulations shall apply to this temporary use,
 - E. A signed contract with verification that the water provider meets CDPHE standards shall be provided to Garfield County Environmental Health Manager.
16. Prior to occupancy and the issuance of the Land Use Change Permit, an ISDS to serve no more than 19 employees shall be permitted with an appropriate Garfield County permit. When the ISDS is installed and operational, the incinerating toilets presently on site shall be removed.
17. Prior to occupancy and the issuance of the Land Use Change Permit, a letter from DeBeque Fire Department shall be provided to Garfield County that includes:
 - A. A list of requirements for fire protection for the site, and that the requirements have been met to the satisfaction of the fire service provider,
 - B. An emergency response plan specific to the site that shall include a building evacuation plan,
 - C. An updated contract list,
 - D. Agreement to an annual inspection by the DeBeque Fire Department at the expense of the applicant, if applicable,
 - E. Details of any water system to be used for initial attack, including the size of the system, methods to keep the tank from freezing in winter, and the water service provider's contract.
18. Prior to occupancy and the issuance of the Land Use Change Permit, a plan shall be submitted to Garfield County and emergency provisions shall be made available on the office site, including, at a minimum: drinking water, rations, space blankets and flashlights.
19. Prior to the issuance of the permit, the applicant shall be requested to participate in a road maintenance and road repair program that could include dust control, new gravel for road surfaces and water trucks to assist in work to be performed on CR 213 at a level determined by the BOCC or Garfield County Road and Bridge Department.
20. Amendments may be considered in accordance with the Limited Impact Review Amendment process of the Unified Land Use Resolution of 2008, as amended, under which is shall be administered.

Staff recommends the Board approve the request for a Land Use Change Permit through the Limited Impact Review process to allow the construction and occupation of a professional office for OXY USA WTP LP, with the following conditions:

This was a request to approve a facility already in place without a permit and then a new permit to construct a future office. A great deal of discussion was held regarding combining of the two requests.

Loren Prescott and Daniel Padilla presented their concerns regarding the conditions of approval as well as the uncertainty of when the actual permanent structure would be built.

Dusty provided in Exhibit Q comments regarding a short-term vegetation security. Dusty said we have been gabbling with this on a short term and long-term site restoration – no set septic standards with calculations to come up with an adequate amount – the general response short term – 1 rate and the long term higher over a long period. Fred – add – staff is trying to go with this – this is a long-term use – we usually do not anticipate – long-term – infrastructure – office buildings and site disturbance – make sure it is revegetated. Not focused on a bond when 50 years.

Loren Prescott has a question – this implies the storm water plan does not address the short-term disturbance and he wanted to make it clear that this serves as an interim permit.

Daniel stressed he would like consideration of the storm water plan and not just address any disturbance. He wanted to take out Condition No. 12.

The confusion continued and Chairman Martin stated they only had one year to submit the plan for the permanent structure.

Dusty is comfortable with this and please understand that we are trying to do things so Garfield County is not picking up the tab for something not being done. This is not an area with very definitive decisions; they are going from a temporary to permanent.

Continued discussion on the recommended conditions.

Dusty did respond to Prescott concerns. Land use permit cannot be issued until water well, tested, quality, survey to facility and all conditions to satisfy the Land Use Code have to be in place. Another attempt at the reasonable nexus on the temporary; they cannot use the new building until they have the well in place.

Dusty reiterated the challenges with this application. We are addressing a temporary facility and the new permanent facility is a related facility. OXY will have it in place and continuing and they went to the trouble to have a text amendment included in this application.

Chairman Martin - Questioned what is the difference if you have a temporary permit to build a house what is difference; it is the same as a homebuilder living in his camper?

Deb – No problem it was just not clear; the temporary was not clear until use of permanent is used.

Daniel stated OXY might not build a permanent structure in a year.

Commissioner Houpt – This is saying you will have everything in a year. The conditions allow you to use temporary until you have it completed.

Loren Prescott said this is confusing; we wanted to permit the existing structures so they can be used until a stick built structure. Staff had indicated a well in place must be viable and long term and then later when building a stick built then it would be applied. It is ultimately proposed that OXY bring current structure into compliance and then implement the permanent structure.

Dusty – This makes it difficult; these types of applications do not have phasing.

Daniel – We are trying to get a permit for the temporary facility; this is self-reporting effort that we did not have a permit to use the facility.

Commissioner Houpt – We cannot permit a permanent structure.

Loren Prescott said it was not stipulated to us that we only had one year in which to build the permanent structure.

Deb – Code provides the same condition of 1 year; it does include the provision of prior to the deadline the applicant can request an extension and may request a one-year. The opportunity is there but you have a one-year timeframe. We do not approve these with the intent to build.

Chairman Martin asked if we need to discuss this in executive session.

Dusty – The applicant never represented they had a limited time for the permanent and did indicate this was a transition for the temporary. She was able to condition this and satisfy the applicant's request. They cannot apply for something other in this application that should be included which is the permanent facility, the water, the ISDS, keeping one trailer at 19 persons and the guidance in the application slanted it that way. The applicant is expressing that they trying to make sure they can continue to have the temporary and we are asking them to commit to a timeline they do not have.

Daniel – At the request of staff, we applied for both at one time. It is our intent to get the current site in compliance and ready to build a permanent structure.

Commissioner Houpt – Something into compliance must comply with Code. The way it has been presented, you want to build a permanent structure while using the temporary facility.

Chairman Martin – This gives you one year.

Deb – Focus on long term not temporary.

Chairman Martin – We can either deny or the applicant can withdraw but again we cannot get there.

Motion to continue and that would mean noticing. The requirements of continuing would be unless the continued scope changes, then it would have to be a public hearing and start over.

Notice was for a professional office not a temporary office.

Commissioner Samson – Does not agree with them; he favored to go ahead and not address the legalities. We should instruct by our staff to do what they are doing; he said no one in the audience was protesting. They know what they are doing. He would soon get it done.

Commissioner Houpt – The problem is the applicant is headed in one direction, the applicant said, no wait we are asking for a permit for our temporary facility, and we do not know when we are going to build our permanent.

Commissioner Houpt reiterated, what we received is not what you are requesting.

Daniel said he tried to break this out but he did not receive the staff reports until today.

Daniel requested this be continued for a few weeks. Daniel's preference is to allow the facility to be into compliance.

Dusty stated she was happy to work with applicant to address these challenges.

Commissioner Houpt made a motion to continue this until October 19 at 1:15 p.m.

Commissioner Samson – The Board should do our job and the staff then looks out for us. We could have done with what staff asked and he has no problem.

Chairman Martin seconded.

Call for discussion.

Commissioner Samson – My question is they have come here and have done everything they have been asked to do; they have some concerns; they were trying to work them out; there is not going to be a big problem and it seems to me we are talking about semantics and legalese which drives me up the wall most of the time. I think we need to go forward, get this done, get it out of the way, and get on.

Commissioner Houpt – I think it would benefit the applicant if we continued this because they just received these conditions of approval and there has been confusion about what the focus of the application was all about and they could end up with some conditions that really do not help them at all. It is not far off in the grand scheme of things and I think you have something on file that everybody understands instead of trying wordsmith everything at the last minute.

Daniel – I feel more comfortable having work session with the planner and getting something figured out that everyone on the Board could be more comfortable with it.

Chairman Martin – I feel we need to have things that support our findings and I do not think we have everything so we do not want a 106 action for a challenge.

Commissioner Samson – My questions, what are we going to do so that this does not happen in the future; we have to trust ourselves and do not take it the wrong way but I feel we just wasted 2-hours.

Chairman Martin – I understand but it is also a worthwhile education for this Board under the new Land Use Code as well as the community and learning what our staff is going through trying to interpret every level of that Land Use Code.

Commissioner Samson – My questions is what are we going to do to make sure this is not repeated.

Commissioner Houpt – Well, perhaps you do not try to put two different issues together to help you out because it may hurt you. I do not know but we can learn from these experiences as we move forward and communication between the applicant and the planner is key. I do not want to put blame on any of the parties.

Commission Samson agreed, I have not put any blame, I think Dusty did what she thought was in the best interest and the applicant did what they were asked to do.

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

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT THROUGH THE MAJOR IMPACT REVIEW PROCESS FOR A 'CAMPGROUND/RV PARK' ON A 36.637 ACRE PARCEL SOUTH OF BATTLEMENT MESA AND PARACHUTE OFF CR300 IN THE RURAL (R) ZONE DISTRICT. (THIS

ITEM WAS CONTINUED FROM 8/10/09) APPLICANT IS HIGH MESA PARTNERS, LLC – DUSTY DUNBAR

Dusty explained it needed adjacent parcels to be – treated as a new.

Dusty Dunbar, Deb Quinn, Nathan Bell, Nick Hillborn SGM, Pam Holmes, Eugene Speakman, Mark Williams, Bob Graham and Jerry Rush were present.

Chairman Martin swore in the speakers.

Deb Quinn reviewed the noticing requirements and determined they were timely and accurate. She advised the Board there were entitled to proceed with the hearing. Chairman Martin swore in the speakers.

Dusty submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts, Exhibit B – Proof of Publication; Exhibit C - Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E – Town of Parachute Master Plan of 2002; Exhibit F - Application; Exhibit G – Staff Memorandum of 8-10-09; Exhibit H - Exhibits issued from august 10, 2009; Exhibit I – Letter, applicant request for Waiver for right of public hearing within 40-days; Bob Graham, dated 5-14-09; Exhibit J - Email Garfield County Road and Bridge department – Administrative Foreman, Jake Mall, dated 7-9-09; Exhibit K - Email – Garfield County Vegetation Manager Department – Director, Steve Anthony, dated 7-29-09; Exhibit L - Email Garfield County Planning Department – Project Engineer, John Niewoehner, P.E., dated 7-28-09; Exhibit M - Email, Garfield County Environmental Health Department, Director Jim Rada, dated 8-2-09; Exhibit N – Email Division of Wildlife Division – Game Officer, Dan Skinner for J. T. Romatzke, Area Wildlife Manager dated 8-3-09; Exhibit O - District Email, Colorado Division of Water Resources – State Engineer, Craig M. Lis, PR, dated 7-29-09; Exhibit P – Letters, Grand Valley Fire Protection District, Rob Ferguson, Deputy Fire Chief – Operations, re: Variance to road configuration/access, dated 7-29-09; Exhibit Q - Excerpt, Minutes, Planning commission meeting of 5-13-09; Exhibit R – Applicant supplied: Easement map document (Bookcliff Survey); Exhibit S – Applicant supplied: letter re: 7-806 (h) standards (SGM); Exhibit T – Applicant supplied: Revised Preliminary WWTF Engineering report (SGM); Exhibit U – Applicant supplied: Revised WWTF CDPH application – SGM; Exhibit W – Applicant supplied: NOI to Construct Non-jurisdictional Water Impoundment, West and East Ponds, Revised (CO Division of Water Resources Office of the State Engineer) Exhibit X – Applicant supplied: Improvements Agreement Draft (B. Graham); Exhibit AA - Email – Garfield County Vegetation Manager Department – Director, Steve Anthony, dated 9-15-09; Exhibit BB - Email Garfield County Road and Bridge department – Administrative Foreman, Jake Mall, dated 8-31-09; Exhibit CC – Email Garfield County Oil and Gas Liaison, Oil and Gas Administrative Assistant, Wendy Swan, dated 9-1-09; Exhibit DD - Email, Garfield County Environmental Health Department, Director Jim Rada, dated 9-4-09; Exhibit EE – Email, Colorado Department of Public Health and Environment (CDPH) Mark Kadnuck, P.E. dated 9-4-09; Exhibit FF – Letter Grand Valley Fire Protection District, Rob Ferguson, Deputy Fire Chief – Operations, dated 9-15-09; Exhibit GG - Email Garfield County Planning Department – Project Engineer, John Niewoehner, P.E., dated 9-15-09; Exhibit HH – Email, Bureau of Land Management, Glenwood Springs Field Office – Realty Specialist, Carole Huey, dated 9-15-09; Exhibit II – Email Colorado Division of Water Resources – State Engineer’s Office – Mike Bender, dated 9-16-09. Exhibit JJ – handout – single sheet – applicant’s response to land use change response. Not submitted as an exhibit part of power point. - Worksheet

Chairman Martin entered Exhibits A – JJ into the record.

Dusty explained this is a Land Use Change for a “Campground/RV Park” through a Major Impact Review for High Mesa Partners, LLC; Daybreak Realty, LLC: James Eugene Speakman, Monique Teresa Speakman on property located off a well pad access road off CR 300, approximately 1 mile south of Battlement Mesa in the Rural; Adjacent; Public Lands (BLM). The campground would consist of 119 back-in parking spaces for RVs with full hook-ups and utilities with no tent spaces proposed.

The applicant has revised their application based on comments provided by the County Planning Staff Report and the Planning Commission. The applicant has requested that main access roadway that provides access for the public to be surfaced (chip-sealed) prior to the issuance of the Land Use Change Permit. EnCana Oil and Gas (USA) has several well pads to the south of the RV Park and the applicants states until heavy rig equipment is removed, these oversized pieces of equipment may damage the road surface that will be installed to serve the RV Park. The applicant request that Garfield County accept a security and allow the chip sealing to take place 18 months from the start of construction.

Staff Conditions of approval (1-10) were those recommended by the Planning Commission and agreed to by the applicant. The conditions of approval 10 – 18 are those recommended by staff, based on review of the updated materials supplied by the applicant, with new referral agency comments (Exhibits AA – Exhibit II).

Staff recommendation is for approval with the conditions recommended.

Unlike subdivisions, this does not have phasing. It is handled in such as way and has adequate security so Garfield County will not be exposed to picking up the tab if the land is disturbed. It behaves like a subdivision, almost permanent occupancy as the Board took away the 180-day requirement in the new Land Use Code. Ongoing water, road maintenance, for RV Park ground and the chart talks about the recommended flow within land use resolution to satisfy and meet the conditions of approval. All 14 conditions however, 1-9 came from the Planning Commission and were unaltered. New condition No. 10 might share the applicant has to address. Conditions 11, 12 and 13 – staff has gone back through the applicant’s additional response for conditions in the land use code for approval.

No. 10 – Speaks to the maintenance agreement and includes language for that permission. The applicant needs to comply with the access and use of the road.

No. 11 – Disturbance of land has been discussed with the applicants and it meet the requirements in such a way they can put the application forward. The Planning Commission was very specific with language to allow the step-by-step approval to take place.

Condition 12 – Exceptions for laundry and shower; conditions for an RV park require public showers and restrooms so these have to be a part of approval of the park and they need to satisfy these before the land use park can be issued the permit.

Dusty – No. 10 is the maintenance and how the park will be maintained prior to disturbance to the ground.

Limitations for access road limitations include the following and are listed on the access permit. Wastewater, ponds, dump station etc. and the road use matches what they will be removing. All statements to the opportunity on the limitation for access for the use and the level described in the application requirement as per Garfield County Road and Bridge. No. 11 – Provide verification to serve the park with two wells. Confusion as to when the wells will have

permits. They have submitted all of the paper work; the wells are drilled and exist. A verification of permits issued to serve the High Mesa RV Park will need to be submitted.

No. 12 – Prior to any disturbance of the collector roads and design for additional safety including curves, guardrails and culverts.

Item B – Meet the following requirement for road right-of-way 1 and 2 and the road right of way is 30-feet.

Commissioner Houpt was confused; it is a request not a requirement. So she suggested to strike Condition 12B 2 Dusty – Misspoke.

Now Dusty gave the staff report.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission heard this matter on 5.13.09 and forwarded it to the BOCC with a recommendation for approval with 14 conditions recommended by Staff that are also stated in an excerpt of the meeting minutes (Exhibit Q):

1. All representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioner (BOCC), shall be considered conditions of approval unless explicitly altered by the BOCC.
2. The operation of the facility shall be performed 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 for residential standards assessed at a location of 350' from the park or at a point 25' beyond the parcel (RV Park parcel) boundary, whichever is lesser.
4. The High Mesa RV Park shall be operated to comply with all Federal, State and County air quality laws, regulations and standards for emissions, heat, glare, radiation, fumes, smoke or other emanation which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
5. The Applicant shall comply with the fire protection provisions included in the comments of the Grand Valley Fire Protection District (GVFPD); develop a fire protection pond at their convenience.
6. Any signs associated with the use shall be designated to comply with the Garfield County Sign Code.
7. No storage of heavy equipment is proposed or permitted on this site, with the exception of a machine or vehicle for snowplowing, which shall be parked in the storage area or inside a structure.
8. Any lighting of the site shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
9. All equipment, structures and light fixtures on the site shall be painted with a neutral shade of tan or sage green non-reflective paint to reduce glare and make the site more inconspicuous. Structures designed to mimic barns, agricultural structure or false-front western storefronts may be either neutral colors or faded barn red, but the surface must be a non-reflective surface to reduce glare.
10. ~~Prior to the site disturbance or construction of this project, the following shall be in place:~~
 - A. ~~All necessary Building Department permits, including grading permits;~~
 - B. ~~Permits from GarCo Road and Bridge Department for all over-sized/overweight vehicles to be used on site;~~
 - C. ~~All necessary traffic control plans required with GarCo Road and Bridge Departments;~~
 - D. ~~All necessary financial securities related to construction, re-vegetation and reclamation;~~
 - E. ~~All requirements for engineering design and related plans set forth by the Garfield County Project Engineer.~~

For continuity, all of the conditions of former No. 10 have been incorporated elsewhere.

Preceding conditions of approval (1-10) were those recommended by Planning Commission and agreed to by the applicant.

The following conditions of approval (10 – 18) are those recommended by staff, based on review of the updated materials supplied by the applicant, with new referral agency comments (Exhibits AA – II).

1. As above
2. As above
3. As above
4. As above
5. As above
6. As above
7. As above
8. As above
9. As above
10. Prior to the acceptance of the Maintenance Agreement, the applicant shall:
 - A. Revise all sections to comply with the limitations for access for the use and level described in the application, that being: one (1) 119-unit RV Park with related infrastructure: WWTF, WTF, 4 ponds, 1 shower/laundry facility, dump station, storage building and campground/office building with easements on three parcels;
 - B. Revise all statements to comply with the limitations for access for the use and level described in the application requirements, as per Garfield County Road and Bridge;
11. Prior to any disturbance of land, the applicant shall provide to Garfield County Planning:
 - A. Verification of permits issued to serve the High Mesa RV Park for the two (2) commercial wells;
 - B. Any notification and tests required by Garfield County for the wells.
12. Prior to any disturbance of land, the applicant shall:
 - A. Design the roadways to meet the following standards:
 1. Minor Collector road standards, with an allowable exception of 4-foot shoulder widths, and 10% grade provided safety features are installed on curves,
 2. Design additional safety and drainage enhancements as per Garfield County Project engineer on curves, (guardrail, culverts)
 - B. Meet the following requirements for road right-of-way and signage:
 1. Provide adequate ROW recorded for the public (rather than private) without charge to Garfield County, that being:

- a. 60-feet from the main access road,
 - b. 20-feet for the emergency road
 2. Additional acreage necessary on the project parcels' boundary along CR 300 is requested to bring the ROW to a full 30 feet from centerline for future road improvements.
 - C. Have in place a plan for chip-sealing of the main access road;
 1. If adequately secured, the applicant may delay chip-sealing the main access roadway to a date no more than 18-months from the BOCC date of approval (9-21-09), or 30-days after EnCana's energy development requiring oversized equipment ends, whichever comes first,
 2. Prior to chip-sealing, the access roadway shall be built to the standard required by the Garfield County Project Engineer's specifications,
 3. During all phases, construction, pre-chip-sealing and afterward) the road shall be maintained to meet Garfield County and State air quality standards with a dust mitigation plan, as stated by Garfield County Environmental Health Manager.
 - D. Have in place all required plans, agreements, and securities including, but not limited to:
 1. Reclamation
 2. Dust mitigation (to meet Colorado Air Pollution Control Commissioner Regulation 1),
 3. Improvements Agreement,
 4. Maintenance Agreement,
 5. Securities for re-vegetation (\$20,549), restoration (\$249,036), access road security (\$108,906) & chip-seal security (\$55,304).
 - E. Have all required plans and permits required by Garfield County and the State of Colorado, including, but not limited to:
 1. Road and Bridge for oversized/overweight vehicles and traffic control,
 2. Environmental Health for dust mitigation [Control Measures as per APCC Regulation 1, III.D.b.(iv)] incorporated into the plan and an Air Pollution construction permit (State).
 3. Planning Department Project Engineer's requirement for cordoning off areas to minimize land disturbance,
 4. State Department of Public Health & Environmental (CDPHE) required Storm Water Management Plan (SWMP),
 5. Record updated easements for the north and south storm water retention ponds, fire flow pond, High Mesa storm water retention pond on the RV Park parcel, if applicable, and revise the Site Plan to depict all necessary easements.
 - F. Prior to any disturbance of land, the applicant shall provide a GPS shape file to the satisfaction of the Realty Specialist of the Glenwood Springs Field Office of the Bureau of Land Management to determine the land status of the ingress & egress to the project.
13. Prior to any disturbance of land, the applicant shall provide to the satisfaction of the Garfield County Planning Department Project Engineer:
 - A. Proper recorded easements for the Upper Pond, design of the ditch or pipe conveyance to the fire flow pond, and any maintenance road that may be required to the satisfaction of the Garfield County Planning Department Project Engineer, and amend the Site Plan accordingly.
 - B. System details (design specifications, easement and maintenance road requirements) if there is to be an augmentation system from the potable water storage tanks,
 - C. A statement from SGM revising the volume of water to be processed through the system to ensure the water to be processed through the system is adequately sized, if water for augmentation of the fire flow pond is to be processed through the water treatment facility.
 14. Prior to issuance of the Land Use Change Permit, the applicant shall provide a letter from the Grand Valley Fire Protection District acknowledging acceptance of the design and proper installation of:
 - A. The fire flow pond including its water delivery system(s), easements, and maintenance roads from all impoundments and wells required for its operation,
 - B. The emergency road, its knock off gate, and its surface,
 - C. The fire safety and response plan including the annual inspection date(s) of the fire flow pond,
 - D. An assessment to account for water at the end of spring runoff season to confirm the ready-status of the Upper Pond and Fire Flow Pond, to determine whether additional ground water pumping will be needed, and to initiate arrangements to obtain replacement water from the West Divide Water Conservancy District (WDWCD).
 15. Prior to the issuance of the Land Use Change Permit, the applicant shall provide, along with any notification and tests required by Garfield County, verification of permits, licenses, decrees and inspections required for the facilities to serve the High Mesa RV Park, in specific, for the following:
 - A. Two (2) commercial wells,
 - B. Wastewater treatment plan,
 - C. Water treatment plant,
 - D. Operator's license
 16. Prior to the issuance of the Land Use Change Permit, all components required for the operation of the RV Park must be completed, including but not limited to:
 - Roadways for access, emergency access and maintenance
 - Water/irrigation/fire flow systems,
 - Laundry/shower facilities
 - RV dump station and wastewater system
 - Recorded easements
 - Facilities to meet ADA requirements
 - Operational plans and agreements
 - Securities, permits, licenses, notifications, and tests.
 17. Conditions of approval must be satisfied within one (1) year of BOCC approval date, as per 4-103(g)(8) of the Unified Land Use Resolution of 2008, as amended.

18. Amendments may be considered in accordance with the Major Impact Review Amendment process of the Unified Land Use Resolution of 2008, as amended, under which it will be administered.

Dusty stated the Applicant has satisfied 1-9 requirements; they would like not to add the laundry and restrooms at this time, however, it is required to have restrooms and those are not optional.

Jim Rada – If there will be food sales as part of the entrance, they would have to satisfy the health guidelines. He understands they are not proposing it as campground store and it would only be for basic operational use only.

Commissioner Houpt – Will the storage area at the entrance

Dusty – Vehicle storage and staff would recommend if there is any food, they could amend the land use change permit. Other components: There are two commercial wells; the applicant is applying for commercial wells at Division of Water Resources and from the West Divide Conservancy they have 2-acre feet to be allotted. They will have an augmentation plan for the particular use of the water for the 36-acre site. It is linked with an easement and scaled with the maximum use that would be at peak demand; the highest occupancy would be in the summer and they will need to have showers and water facilities. Features related wastewater plan, the treatment facility plan has two containers of 20,000 gallons each and it takes about 12-hours to fill. It would run through a water treatment to feed into the sites and shower. The irrigation is accomplished through ponds. The pond in question is the fire flow pond located to the south; it is a lined reservoir. It is on the Daybreak Realty parcel. 98,000-gallons speak to the fire flow requirements. The applicant's intention is to use the well water 50,000 gallons. The applicant will fill the upper pond to adequately maintain a reserve. There needs to be storm water management plan as part of this that has to do with features subject to design in the works and they have not yet completed safety on the access road off CR 300. This was originally as a well pad road but has been bolstered to be more. Road not permitted with this RV Park in mind. It is for access. They will chip seal the roadway; EnCana is still working with heavy equipment and one of the reasons the applicant wants to put chip seal to occur after the permit has been issued is to make sure it does not receive damage.

Applicant: Jerry Rush - No power point and stated that Dusty covered the application. We feel this is a good project and have addressed every issue regarding the roads, the waste treatment facility, the water treatment facility, the ponds, the irrigation and we are pretty much are presenting a self-continued as you will, RV Park. We think there is a need for this kind of a park in the County. Other adjoining counties that will get benefit from this, it is on the I-70 corridor, and it is a great location. We have taken a lot of time on the layout and location and the amenities that go with this project and we think it has a lot to offer in both the public and the County. We hope that it will receive a favorable vote. We have at this time agreed to all the conditions of approval as Dusty has mentioned and she has briefly mentioned a few of them that we would like to discuss with the Board.

Nathan in keeping of the layout of park and presentation of the various items as we have gone through this process and Dusty laid out for road purposes, the EnCana road has been redesigned to comply with the completely the requirements and discussions with John Niewoehner the item related to that road, the County road standards that are required for a minor collector, when the road grades to 8% we're requesting a variance on this road up to 10% through portions of it. It comes up through a steep, through a gully to get to the mesa over here and like our discussions in planning and John Niewoehner review; I think that he has recommended that is an acceptable variance for the road grade. Then the safety items, culverts, things like that, I believe in my estimation and reading of John's report is that we have an acceptable design for that road. Leaving the RV Park, which Dusty is showing up as the purple line, we have our emergency access road, which ties back around to CR 300. That was put in place and designed based on the requirements, International Fire Code given to us by the Grand Valley Fire Protection District of 20-foot wide, all weather surface, 10% grade, 50-foot radius curves, the standard IFC Code. Therefore, the emergency access road has been designed.

Chairman Martin – With break through gates, etc. so it is not open generally for the public.

Nathan – Yes, in accordance with that. Then of course, that road will serve as our maintenance road down to the wastewater facility as well as that is where the water treatment is going to be located.

Chairman Martin – Do you have a license to operate for that particular function?

Jerry Rush – It is a condition of approval in the staff report. It will have a licensed operator for both wastewater and water system.

Chair Martin – Do you have him on staff now?

Nathan – Bob Pennington, SGM.

Chairman Martin – It would be a requirement; it is a state requirement as well.

Nathan – As far as within the site all the pads; we have 5 sites and the note on the plans state that 96 – 106 this side of the road are ADA accessible RV sites so it is not 10 sites, it is 5 sites on that side and they are directly linked to the restroom facilities through hard surfaces. I wanted to clear this up so when it was built the County would not be looking for 10 when it is only to be 5. Dump station, water station all meets the requirements for safety for lids, water tight, separated, water service facilities from the actual dump station. The storage building was intended to be just a small storage building out there as a way for people to put things that were staying on-site that did not need to be right in their campsite.

Chairman Martin – The utilities are underground?

Nathan – The plan includes a standard detail for each RV site, which luckily my parents happen to spend about 6-months out of the last year in an RV park so we had some good references on what works and does not work.

Chairman Martin – The hard surface for the vehicle itself and entrance way or it is graveled.

Nathan – Graveled.

Chairman Martin – How about any green spaces around each one.

Jerry– There is green space on the back and in-between each site. The sites themselves will be tiered down, we can have a variation of several sites from several level sites, they are to 25 to 30 feet wide to sizes that tier down the mountain, and those will have slopes in-between them. Three to one and four to one slopes in-between those sites. We have a 25-foot pad with a 5-foot buffer between each one. Oversize's for \$1.5 rigs coming in. A standard site is 20 x 45feet and our typical site is 25 x 50 with an overlay of 5-feet so we have a standard 30 x 55 site versus a 25/45.

Commissioner Houpt asked the applicant to address the laundry and restroom facilities as it seems in most residential applicants and I know this is different, are you going to have the entire infrastructure in place before people start staying at this facility. Infrastructure including restrooms and showers.

Jerry – We had not included doing any of the building at this point, if the laundry and shower facility is required, we will do it. We want to specify and make sure that it is the public restrooms that is the requirement so the building is constructed and the public restroom is provided then we have met that requirement. The laundry facility and laundry machines are in the planning.

Commissioner Houpt – Unless at the end of the day that is part of the requirements. If we do not make that part of the requirement.

Jerry – The regulations state that a public restroom is required but I do not believe the state has a laundry room required. We will bring in laundry later.

Chairman Martin – No, it is a public restroom.

Nathan – If that is a public restroom building then I think that is what we will want to have to bring in the laundry facilities. We are not going to build two pads; the building will be there but...

Chairman Martin – At the entrance station are you going to go ahead and have an employee there or someone in charge of the site itself.

Nathan – It will be temporary station there until main facility is built but there will be someone there on site 8-hours or 10 hours per day.

Chairman Martin – That would be a requirement.

Pam – I believe in the operating manual it is stated it will be open from 8 am to 8 pm.

Chairman Martin – The office, but the site will be 24-hours.

Nathan – The chip seal requirement to complete the road aspect of it, chip seal for the access road is being requested that this is allowed for one year to 18-months so that EnCana is not run large equipment over it and breaking it up, so that was one variance request on requirements as well. On the other items that we have in here well all.

Chairman Martin – Will allow the audience and you have the right to respond.

Audience

Jay Haygood, a residence of Tamarisk Meadows Subdivision in Battlement Mesa, address 112 Mineral Springs Circle and my homes backs onto Store Quarry Road, directly opposite the proposed site. I have concerns about many things to this project. However, I do not object in principle to the establishment of such a facility. There are issues that worry me. Regarding the impacts during construction and operation on existing homes in the area. 1) Construction- how long it will be' noise and dust' during heavy truck traffic as a health and welfare issue; 2) Concerned with odors from the wastewater treatment facility located on the property; 3) Health and welfare issues regard diesel fumes, issue of traffic and fire safety issues during the construction phase; 4) Operations noise with RV generators, a pump for the well facility – these are just examples; 5) Dust from traffic, traffic safety at the entry way to Stone Quarry CR 300; 6) Odors from sewage plant; 7) Any diesel exhaust from any operations or visitors to the site; 8) Welfare issue concerned about light, lighting of the site, I trust and hope that is will only be downward pointing but inward pointing because the site is above the level of my home and our whole subdivision and we will be more exposed to their light than if we were at the same level; 8) Concerned from a healthy, safety and welfare point of view about fire – there has been a fire in that area 20 years ago and the hillside is steep and much vegetation septicial to fire in dry times and other times as well; 9) A welfare issue is visual pollution and I would appreciate if the facilities are painting and camouflage to look rather like nature, brown and green; 10) There will be tremendous impact from the visitors vehicles and there is not control of that; 11) Concern from a welfare standpoint of view on domestic animals particular dogs because there is an established wildlife on that hillside, I have lived there for 10-years and have observed a herd of deer all these years in that immediate area. Also, they move from high mesa down to the gulch to drink right through several of those revenues; 12) Concerned about electric power whether there will be a sight generator or commercial power obviously noise is produced by a generator. I am concerned under any circumstances water being hauled to site either to fill ponds or for any other reason, either as a back-up or a supplement to the existing plans; 13) Will there be a backup water system, a backup power system, a backup sewage system and 14) At what point will occupancy begin – how much construction must be completed, how many permits must be achieved before occupancy can begin. I will mentioned that this site, this property in general in the past has been used for high power rifle target practice, it has also been used for ATV; recreation and there is an established loop not far at all from this site on this property where ATV's have been ridden extensively in the past.

Ronald Jensen – 64 Mineral Spring Circle – gave a handout of his remarks. I also live in the same subdivision and back up to this site. He presented a handout of what he is going to say. Several things of concern and some highlights and he proceeded to summarize a copy of the letter he received. 1) This is a copy of the letter he received, 3 pages of legalese survey type description of property that I know from experience, 90% of the public does not know beans what that means. Had they seen a picture or a map of the location of this, this room would be filled. Fortunately, with my 30 years with the federal government I know about these things. But neither did I have a reference map so I did go to the planning office and did look over the report and the maps provided by the applicant and also like to say with regard to that letter, several of my neighbors who are severely impacted did not receive that letter. One in particular by the name of Woody Harmeyer, his front door, his living room window and the garage they sit in every evening to enjoy the cool breezes looks straight at the site. 2) Although the applicant was not supposed to do any construction work prior to the permit process they did bulldoze a road that road in purple that goes from the site down to the location of the proposed water treatment facility, wastewater treatment facility, was done before permits were approved. You can see from that map on the wall that is a very steep hillside. All of the facilities with the exception of the wastewater treatment plant are from 100 to 300 feet in elevation above the subdivisions, Tamarisk Meadows and Tamarisk Village and it is not just those that are within 150 feet, we have at least 300 homes that this site will be visible to. I know that the lighting as approved by the county planning office says that it will be downward facing lighting but because of that elevation difference, it will still be visible. The landscape plan for that entire 36 acres shows only 16 trees. That is barely enough to cover half-dozen of the lights. As a minimal recommendation, I would think the County should require the applicant to put trees all along the lower edges of those three tiers so that it blocks the view of that facility. 3) The proposal for the wastewater treatment I walk my dog everyday up Stone Quarry Road and if I were to stand at the guardrail along Stone Quarry Road, just opposite Rainbow Trail, I could throw a rock and hit the wastewater treatment plant. It is right there. There is draw that goes along right next to Stone Quarry Road at that location but the plant is right there. In addition, we have great concerns about odor from that plant and prevailing winds come through the south and the southwest they will go over site and into subdivisions. 4) Location of the wastewater treatment plant at that location I believe will severely impact our property values which in turn would certainly influence the taxes collected by the County. 5) I

also know the reason for Battlement Mesa rejecting the applicant's request to tie into the Consolidated Metropolitan District Wastewater Facility, which runs right down was previous agreement made between Battlement Mesa and Consolidated Metropolitan District to prohibit them from providing services outside the PUD until the PUD is fully developed, which is unlikely to occur for many years. 5) I would suggest the applicant pursue a more vigorous response to the legality of that agreement and the opportunity to tie into existing treatment facilities that are right there. 6) Perhaps it is not an item for decision except for the applicant and that is the demographics they used to justify this facility were done in 2007 at the peak of the gas drilling boom, which is gone now. 50% of the rental properties within Battlement Mesa are empty, there is a significant reduction in the economics here, and I wonder about the justification for the facility at all. There is already an RV Park there are the south end of Battlement Mesa, which has many empty spaces.

Chris Cole – Balcomb and Green and counsel to Battlement Mesa Partners. We would reiterate the concerns expressed by the last two individuals on this particular project and also wanted to speak briefly to the Board's matter of record and that is the way the regulations are configured there was no traffic impact study that was needed to be performed on this particular project. At full build-out, it showed 2500 trips a day in and out of that particular facility that is proposed here. Battlement Mesa partners as you are aware, was instrumental in causing the Interchange Improvement Project at I-70 in Parachute to be created essentially. We provided seed money for all the traffic engineering and by the time it was done, a significant amount of money that they put in, north of \$300,000. Primarily what I have been asked to do is to be here and to say when the time comes there will be more development in the subdivision process that this be remembered and considered. The other issue is the postponement of the chip sealed. We appreciate the fact that having that road chip sealed right now might create a situation where that would be damaged and have to be repaired but in the alternative to the extent that road base or some other form of dirt, loose material or whatever is used for the road in and out of that RV park, we are going to probably be impacted at Battlement Mesa by the dirt that is going to be drug back and forth. So, from our standpoint we would like to put the County on notice that we would very much appreciate the County's attendance to keeping those road cleaned up and for the folks who live there already.

Applicant response.

Nathan – First of all Mr. Haygood and Mr. Jensen's initial objections are primarily addressed through the requirements in the list of conditions of approval. During construction we are required to mitigate by County and by state requirements, all dust foreign airborne particles we are required to mitigate and one that was not mentioned was erosion impact, the stormwater management plan, application for the State of Colorado to address any of those surface erosions, fire with the Grand Valley Fire Protection District review, approval and recommendations on this during the construction phase; during the operational phase, once again, we have item 3 of the condition of approvals addressing noise, Item 4 addressed all air quality standards - county, state regulations we are to comply with; item 8 deals with light sighting being required to point downward and inward to the property and I guess we will note the light sighting we are proposing is we have gone away from this light up the whole hillside type ideology that you saw for a while, is very minimal to needed area – the dump station, the public restrooms. It is minimal. Our power comes from on-site power from Holy Cross Electric and there are no generators. No water is proposed being hauled to the site at all. Domestic animals are regulated through the Code on lease and not allowed to roam free – those types of things. Addressing the notification, requirements on notification are state law given that we have to notify in this manner and that is what we do. As far as Mr. Harmeyer not being notified, he said his garage and those types of things – look at this site. If you go across the road and then across the rural lots and then to the street on the lots that may face this, my guess is we are outside the 200-foot realm. Visually trying to know everyone who may be impacted on this. As far as the property having work done on it, the road coming down the hill, a road was constructed down that hill by the property owner prior to all of this happening that is not actually the road that we are using for this at all. I guess that would be a farm road. As far as the sewer plant and its issues, that sewer plant is located in bottom of the valley. They said they we are 300 feet above then, this is 200 feet below the site, I am going to guess 150 feet below Stone Quarry Road at this point, and visually they will not even be able to see this plant unless they are walking along the road on the south side of the road. I believe it is 200 feet from the road so it is not raised up anything like that – it will be completed contained within a building and meet all requirements. As far as Chris Cole's comments, a traffic impact study was performed for this and how we came up with our minor collector road designation on the entrance. We have our permits in place from Road and Bridge for access with our site distance requirements, all of those have been complied with. As far as the dirt back and forth, it will be maintained as a graveled road and there is a maintenance agreement that will be on that road and then bringing it up once to any requirements before we put the chip seal down on it. I believe through the conditions of approval and to the Code requirements, we are essentially addressing all concerns that may occur other than the - yes, there will be something across the hillside from these houses now. Just as those houses are across the hillside from this property.

Commissioner Houpt – Have you looked at landscaping and buffering.

Nathan – We actually, in the landscaping plan, one of the notes that there were only 16 trees in there, if you look at the landscaping plan there is actually Pinon Juniper stands throughout and there are areas of non-disturbance between any of the wide strips between any of these RV sites and the slopes associated with them. Our areas of non-disturbance they are to remain with all vegetations including those Pinon Juniper so we did not do a specific tree count on what is in those strips but there are a significant amount of trees that will remain in those areas 30 – 40 foot buffer strips.

Commissioner Houpt – Requested the photo of the hillside – did you walk over to. This is transit active use, not a regular residential area so give me some perspective as to the Stone Quarry Road.

Pam – The yellow circle is our site.

Dusty stated the photo Commissioner Houpt requested to be shown on the screen was taken on Stone Quarry Road.

Nathan – The limit – this is an existing ranch road across the bottom that is going to be upgraded to the emergency access road. The site primarily within the circle and stays all above the drop off lip which would be the bottom edge of that – and if you go to very far left of the picture, just above that tree, that hole down in the bottom and off to the left a little bit is the proposed sewer plant location. The homesites are behind.

Dusty – Actually on the other side the guardrail it drops very significantly. On the south side of the road.

Nathan – Directly behind you would be Stone Quarry Road, the landscape buffer, and the fence, the cedar picket fencing and then the housing begins. Approximately 100 foot right of way in there to the fence.

Dusty – Another photo is looking back towards Stone Quarry Road. The power line shown is right down through the center of the 36 acres. A continuation of photos and explanations were given per Dusty's power point.

Pam – Clarified that residents were notified within 200 feet of the Speakman and High Mesa parcel and the Daybreak parcel. The Daybreak and Speakman parcels are between County Road 300 and the High Mesa RV Park parcel; Pam actually notified people 250 feet of the property boundary. Any parcel that touched within 250 feet around the entire parcels owned by all three of those people were notified.

Jerry – Mentioned regarding the buildings, when we designed these buildings we are going to make them so that they are very earth tone and environmental friendly so they are not going to be sticking out and looking ugly like it was suggested and the time frame, we expect construction to be 9 – 10 months by the time we start.

Commissioner Houpt asked what will be in place or what would anticipate being in place when you open it up for folks to park as far as everything.

Nathan – We hope to open with just a temporary building for reception, check in and checkout that sort of thing and then the laundry or bathroom facility if you require us to do that, that is really all the building we will have at the time. Roadways will be in place and everything infrastructure wise will be in place.

Jerry – The staff requirements are everything will be constructed in place, wastewater treatment facility, water treatment, the wells are already there and have been tested and water tanks will be in place, fire pond will be in place and constructed so all landscaping, lights, storm water mitigation and all other issues would be required before opening.

Deb – Wanted to explain about the Improvements Agreement and how we are contemplating to address construction of improvements for this park. As Dusty indicated, this is not a subdivision so it is not the typical you secure everything up front before you start because we are not selling lots and we have had quite a number of different discussions about how to properly require security for the development of this RV Park. Where all staff agrees and the applicant as well is that everything that our Code requires as standards for RV parks has to be in place before the park is open. What we are doing from the Improvement agreement in that is I had discussions with the attorney, Mr. Williams about the Improvement Agreement and they did submit a draft that will require some work and waiting to see what the actual conditions are before we finalize it, but what we intend to do is not require any security for everything that is required by our Code for this park to operate. That would be the shower facilities, all of the other infrastructure, sewage treatment, wastewater plant, etc. If the Board does permit the chip seal to occur later, we would require security for that in terms of a letter of credit or other security acceptable to the Board because there are so many conditions that have not yet been satisfied we have requested that there be security for actual restoration in the event that for whatever reason the park never gets built but they start it and the permit never issues then at the end of a certain time frame we want to them to restore the property to its current condition. Therefore, we are requiring some security. But the main security for seeing that all the infrastructure is in place, the permit will not actually issue until that occurs and I am drafting this agreement so that our project engineer has the ability to review the actually constructed infrastructure to make sure it complies with the representations that were made that have an engineer's certificate saying that it was constructed in accordance with the plans similar to a subdivision situation but not with financial security, just no permit issues until it is done. On the water issue, as you know HB 1141 that is not codified in new Land Use Code requires the Board to determine there is adequate water supply for all new development and in this case the last I heard the commercial well permits had not actually been submitted to the state engineer office. The state engineering did after insistence from Ms. Dunbar provided comments to us about this application and there is no guarantee on his part that those permits will issue. That is one of the reasons I think that we have required those permits be in place before they start any land disturbance. There is also a requirement I believe in the conditions that the upper pond that has been mentioned that will supply some of the fire flow water has to be included in the site plan and we want a site plan that show all easements and they have done a really good job of showing all of the easements except for that one. Therefore, we will need to see that one.

Commissioner Houpt – Historically an adequate water supply has been a critical need to obtain an approval.

Chairman Martin – It would be required that we have water as well. If they do not produce that permit or could not produce it through their testing, it would not be valid.

Dusty – They cannot get started without it. Many of the things that if you take a look at the top sheet, prior to the disturbance of ground or the securities, the management and improvement agreement the water decrees and the permits the things that counsel has been very specific about saying what absolutely had to happen prior to disturbance of land so we did not get ahead of granting permission outside of securing those.

Commissioner Houpt – What is confusing to me is that typically these applications come to us with those things in place.

Dusty – In the application that was submitted, there was a well permit submitted, it was the wrong kind of well permit and then the next stack that came forward is that they drilled the wells and then they went forth and had an adequate test, that tested adequate and evidentially the resubmittal to submit for the right kind of well to change it from an observation well to a commercial well for those two wells that are drilled, viable, tested and pump tested has not occurred.

Chairman Martin – And the applicant has an answer to that so let's allow him to do so.

Pam – I sent this by overnight this morning their guarantee to the County by the Division of Water Resource by noon tomorrow. Jerry – I can speak to the adequacy of the water supply plan if you would like, as Ms. Dunbar mentioned the wells were drilled, tested as per the requirements, 24-hour test, water supply was written by our office and is included in this report. I think what happened here was when original wells were drilled, the well driller put on the application an observation well and that needs to be reclassified as a commercial well. So there is no issue with the physical wells or the physical water supply or the legal water supply aside from the fact that the well permit need to be resubmitted to the state as commercial wells as opposed to observation wells and that process is underway.

Nathan – Before we finish that, the augmentation from the West Divide Conservation District also covers the water in those wells. Therefore, everything is done with the wells except the permit from the state that says commercial well on it.

Chairman Martin – Your application verifies the different water rights that you have with the testing done, who did it, etc. and when they were done. The application is here from the State Water Engineer, Fire Department, and Water Resources.

Pam – I actually sent this by overnight those today.

Chairman Martin – And the locations of those wells.

Jay Haygood – I would like to bring up an issue regarding disturbance of the surface. He distributed some photos showing this to the Board. These were taken from my back patio and you can see my house, this is at normal view magnification. You see my fence, you can see Stone Quarry Road through the fence and then you see the major power line, the minor power line with the right of way going up to the right, and you see the treat area where I understand this RV Park will be. I would like to point out that last May the surface was disturbed in this lower point when a loop was made, a small road and a number of trees were pushed down by a bulldozer and I am wondering what the County considers disturbance of surface and when that occurs.

Eugene Speakman – I'm a landowner plus a full partner in the RV Park but actually that road was cut in to get down to the bottom just so I could clear some sagebrush because I board horses on me and on Bob so a couple of years before that even west of that I went in there and cleared a bunch of sage brush and that was so I could get more cheat grass.

Chairman Martin – Under the agricultural use is what you are saying.

Eugene – That is what I was using it for Ag.

Chairman Martin – Do you still use it for Ag at all.

Eugene – Well, my land the rest of Bob's I do but ...

Pam – That was done in May and we did not add him to the application until last month.

Chairman Martin – Under our grading permit, Agricultural use is usually exempted from permit, is that correct?

Dusty – Yes. Depending upon the amount of disturbance.

Nathan – Agricultural use is exempt.

Jay – I would request the Planning Commission or the County visually survey the site and see who pushed down a small loop of trees in addition to the road mentioned by Mr. Jenson that went down to the test well site or some water site down in the gulch.

Nathan – None of which is actually on the RV parcel.

Chairman Martin – On the site that you...

Nathan – Our RV parcel is this 36-acres, those are on the adjacent parcel.

Pam – The Speakman parcel.

Nathan – The RV parcel ends at that big power pole in the corner, right in the middle if you can imagine a line paralleling the fence at that big power pole. Directly over the cedar picket fence. This would be the lower or north edge of the RV Park site.

Commissioner Houpt – We will people be accessing the access road from Stone Quarry?

Nathan – The access road is, see the horizontal cut about the middle of the page in the photo, that is the existing EnCana existing gas road that we will be improving and it heads off to the right side of our page – that is where it disappears and then goes down around and approximately from the site entrance to Stone Quarry Road is approximately a mile.

Dusty – Both of the entrances are on Stone Quarry road, the emergency access road has a knock down gate on it and is only intended to be used for emergency access by the fire department. This is not going to be used by the public; it is to satisfy a requirement because the main access road that comes in along the bottom part of this image here from Stone Quarry Road further to the west was longer than our road requirements allowed and in order to satisfy using that as an access road, they had to provide a secondary access for emergency access and it is gated off and approved by the by fire department for the fire department. I just want to shed light on what is required is to be in the shower/laundry facility. Showers are required as well as restrooms but it does not speak that laundry facilities are there. So the building has to be there to provide those particular item, so it may be a label change rather than a significant change.

Commissioner Houpt – We stopped you in the middle of the conditions of approval.

Chairman Martin – I would like to go ahead and close the public hearing so we can discuss those items and do it in deliberation and then actually have a decision.

Commissioner Houpt – But we cannot discuss them with staff.

Chairman Martin – Yes you can, staff is allowed to go ahead and put their comment in.

Commissioner Houpt thought Dusty was going to give a presentation on the conditions. This has been a scattered discussion.

Chairman Martin – If we wish to follow the recommendation with staff of the conditions we can go ahead, close the public hearing, discuss those, and then ask that for clarification.

Commissioner Samson – If we close the Public Hearing, then we cannot hear from the applicant or the public. I want them to be able to comment.

Dusty proceeded to rapidly zip through the conditions as listed in this report. We had gone through 1 – 11 and number 12, the applicant has agreed to meet the conditions set by staff and we went through the road portion of Condition No. 12. Because this is an unsurfaced road, it needs to meet CDPHE APCC regulation one requirements for dust.

Chairman Martin – That was the recommendation, not the requirement.

Commissioner Houpt – But if it is a condition it is a requirement.

Commissioner Houpt – For this process does it seem normal that so many conditions are still outstanding?

Dusty – Part of it is that the permits are not generally an occupied quasi subdivision. While it does seem some are outstanding, some are outstanding because it is a nature process. The wastewater treatment plant for instance, normally you do not build one and then go apply for permit. You apply for a permit to design and see what you need and then another permit to build it and then another so it has about four permits associated with it. The same thing with water in subdivisions. We have not required subdivision applicants to punch the wells and confirm the wells prior to their application if they can verify the likelihood of a nearby well and its production to give us an indication that it is likely. Before the final plat is recorded, they have to satisfy it and are able to sell lots. There are things that through a normal permit process normally take the basket and take the basket and say, these are the things to satisfy the land use requirements. But because this is behaving like a subdivision and without being a subdivision, in a permit process that does not readily allow for this kind of for phasing and I hesitate to use that word, it has been pushed with the proper securities and the proper sequence of events can behave to answer those conditions. If they cannot meet the conditions of approval, they cannot get their land use permit.

Commissioner Houpt – It is an RV Park and we did away with the 180-day rule. Therefore, what does that does is it turns it into a regular subdivision

Chairman Martin – Not necessarily.

Commissioner Houpt – Another subdivision we should look at.

Chairman Martin – I see an RV Park opened 365 days a year not 180.

Dusty – It has presented some very interesting challenges and that was one of the things that I pestered the state engineers office about that we did need to have some comment because no it is not a subdivision, it is walking and quacking like a subdivision.

Commissioner Samson – In the old land use code, RV Parks were only allowed to operate 180 days.

Commissioner Houpt – Because they are recreational, they are parks.

Deb Quinn – They could operate year round but there was a tendency resident requirement of only 180 days and we found it was impossible to enforce. People would leave for a day, come back, and start it over again, so we just eliminated it.

Commissioner Houpt – Which makes it impossible in another way.

Deb – It is very much like a subdivision. It could be permanent, residential area for all of these 119 spaces.

Chairman Martin – A matter of philosophy, a necessity, need and lifestyle and what you are doing, you are just putting that label on it and it has to conform to the subdivision period. Otherwise, you cannot have it. This is a different lifestyle, different use of land, it is not for sale, it is for rent and the spaces are for rent for a short period of time or a long period of time. It is a business, not a subdivision.

Commissioner Samson – For our attorney, there are three reasons why we would not or legally could not or would not approve this, would you explain those to me again.

Chairman Martin – Reasons why you could deny the application would be....

Deb - If the application fails to meet any of the standards that are within our Code, you could deny; if it is inconsistent with the Comprehensive Plan, you could deny.

Commissioner Houpt – If it is not consistent with the culture of the neighborhood is the third. If it poses a problem, does not fit into, or has not been adequately mitigated.

Commissioner Samson made a motion we close the public hearing.

Commissioner Houpt seconded the motion.

In favor: Houpt – aye Samson – aye Martin – aye

Deliberation:

Commissioner Samson – There is a ton of conditions.

Commissioner Houpt – The one that I have great concern over is the chip sealing because this going to add not only a great deal of traffic during construction period and whatever time is beyond that when people are coming to reside in this area, but it adds to the already existing oil and gas traffic and it is just uphill from an existing neighborhood. I am not sure I suppose you could make sure that you mitigate that on a daily basis but the road poses a real problem with the heavy traffic.

Dusty stated it is not proposed to be a dirt road; it is a graveled surface to meet the dust mitigations for Regulation One.

Chairman Martin – Air quality control.

Commissioner Samson – As I was taking notes, I think the applicant has answered most of the objections by the three gentlemen that spoke. One thing that all three mentioned is the dust and that was a big problem. If they were required to chip and seal the road from the beginning that would take care of that concern.

Commissioner Houpt – Some of the conditions that were not read and were raised were to the lighting on the site was to be downward and inward to prevent the reflection. The other issue we need to address in a condition to approve is how you mitigate that when you are uphill from everyone else.

Commissioner Samson – I do not know how you do that unless you have some very tall trees.

Commissioner Houpt – There needs to be some mitigation that would work for that, but it does not do any good to direct it downward right into the neighborhood.

Dusty – It is also required to be inward.

Commissioner Samson – You will not totally get away from that problem if the people are living down from the development. You will do your best but you cannot avoid that issue unless you have a total barrier.

Chairman Martin – It is the same with Parachute looking up to Battlement Mesa, you cannot hide all of the light that is on Battlement Mesa.

Commissioner Samson - They are doing the best they can with the lighting unless you have a better solution.

Dusty – The only thing I could recommend is that you could recommend direction of light to be uphill – you put the light on the other side of the road.

Chairman Martin – 119 parcels plus your public facilities even though you may be looking around, you will have to have your lights on at your public facilities where you are in and out, ADA and safety reasons.

Commissioner Samson – Using the criteria the way I understand it we cannot deny the application. I think they have met the requirements.

Commissioner Houpt if you determine it is compatible with the neighborhood; if you find that it is not compatible with the neighborhood then that is not true. There is an RV Park in the Battlement Mesa PUD.

Chairman Martin – In line of sight of this.

Commissioner Houpt – So that would be difficult to do.

Commissioner Samson- Plus is this not across the street from a trailer park. There is both a trailer park and an RV Park in Battlement Mesa so for us to argue that it is not within the scope of the neighborhood – it would be tough to justify that.

Chairman Martin – So the Chair moves to go ahead and approve the application with the 14 different requirements as submitted by staff and the changes of the wording that we went through.

Commissioner Houpt – Are you going to do something about the road

Commissioner Samson the chip and seal. I think that is a major concern of the people who came here today and I think that would be something we could hopefully address and help them.

Commissioner Houpt – Condition No. 12 1C1.

Commissioner Samson – So we need to strike C1 and say it has to be chip and seal.

Commissioner Houpt I would agree with that because of the amount of traffic anticipated and if EnCana would help them with that, it would be a nice neighborly thing to do. There is going to be quite a lot of activity on that road.

Commissioner Samson - Chairman Martin are you willing to bend a little your motion so I can second it?

Chairman Martin – It is a waste of money, it's a waste of resources, it is a waste and I understand what you are trying to get to, but a good gravel road with some treatment would serve the same purpose. You are talking \$25,000 just to start out with in reference to it will be destroyed by heavy equipment within a couple of weeks and you will require them to pave that – I understand, it is a great philosophy but in reality it is a waste of time. They are not going to be able to take 100,000-pound rig across that chip and seal on a turn, on the first turn it will separate on you. If you want to include that, it is okay.

Commissioner Samson – Hear me out here, is that the cost of doing business.

Chairman Martin – If there is a road maintenance agreement and they have to make an adjustment, you just require them to do such with a large dollar ticket.

Commissioner Samson moved to reopen the public hearing. Commissioner Houpt second. Carried.

Jim was asked by Commissioner Samson to give us some idea how much dust if properly graveled and taken care of the way the Board may require it to be done. I have no idea Jim said. Based on regulations talk about vehicles per day using the road and if dust is generated from those vehicles they have to implement a dust control plan. I could not quantify how much dust as it all depends on the surface materials.

Commissioner Houpt – If you look at the regulations, Regulation One on the air pollution. What does that mean?

Jim – Just as I just stated, it say based on the number of vehicles on that unpaved private road per day they have to control emissions of dust from that surface through an approved dust control plan. So they would have to submit a plan and if we agreed that would address their dust issues then we can approve that and they have to implement it. You would want to address on a complaint basis. My hope would be if you were going to the trouble of developing a plan, they would implement it. A similar regulation is applied to County roads – we have to follow the same regulations. Any County road that has 200 or more vehicles that is an unpaved road has to do what is necessary to control the dust from that.

Commissioner Houpt – This has been one of the major complaints that people have across the County.

Jim addressed it due to PM issues we are experiencing in the Battlement Mesa/Parachute area.

Chairman Martin – Then we have to have natural material to go ahead and pave every road in the county and every private road and driveway, etc. If we had a requirement, we would. That is the problem.

Jim – Water, mag chloride, other surface materials.

Chairman Martin – If you have a dust mitigation plan approved by the County you do not have to pave it – you are wasting somebody's money having them pave it and then to keep it paved during the time that the heavy equipment is going across it or you could have a dust mitigation which is recommended here to meet the standard.

Commissioner Houpt – If that were the answer to all the problems that we see in this County when it comes to dust. I cannot even begin to tell you how many complaints we receive on roads that have dust mitigation plan.

Chairman Martin – City streets that the street sweeper goes and it creates such a dust that you cannot see the street is also a violation and we see that on a daily basis as well even though they are paved.

Jerry – The cost associated with that section of road, approximately a mile worth of road to chip seal was approximately \$66,000 one time to put it down and that is what we are proposing within in this as one of our letters of credit in order to complete that when we need to within the time period.

Chairman Martin – Are you still sharing the road with EnCana?

Jerry – Yes.

Chairman Martin – What is their timeframe is reference to the time they pull out of there.

Nathan – All we know is they have lessened the traffic on that road in the last year considerably. The dust from our construction is going be less than what they have already created in the last year.

Nathan – The only other comment, if you are considering this chip seal as having to be done prior to issuance of the permit or completion of construction, that type of thing, then we need to make sure that is removed from the security requirement in 12d.

John N. - Yes, if they put down this \$66,000 worth of chip seal, it will be gone because of the construction vehicles and just building the RV Park alone. Perhaps there is a cheaper alternative that we can prescribe that they can put mag chloride down every two weeks or every months and that would have zero dust with that amount of mag chloride on that road. A much stronger requirement than the County actually does on their roads to keep the dust down. You can require them to do overly control dust control.

Chairman Martin – That is Jim's recommendation, dust mitigation plan that would eliminate that to Regulation One.

Commissioner Houpt moved to close the public hearing. Commissioner Samson second. Carried.

Chairman Martin let his original motion die.

Chairman Samson made a motion to approve the major impact review process for the Campground RV Park on 36.637 acres parcel south of Battlement Mesa in Parachute off County Road 300 with the conditions of approval submitted by staff and in place of 12 c. 3 we put a dust mitigation plan, which will require the applicant to apply mag chloride twice a month.

Chairman Martin – The dust mitigation plan will also do that and also...

Commissioner Samson – It is there now.

Chairman Martin – Just to let you know that it has to meet the regulation; one, it does not matter how often you ally it, it still may not meet the regulation and take care of the dust mitigation.

Commissioner Samson – No this will take care of it.

Chairman Martin – That is a lot of mag chloride for sure.

Dusty – Point of clarification, we have talked about removing the word laundry from the condition.

Commissioner Samson – Thank you.

Commissioner Houpt – From “slash shower facility.”

Commissioner Samson – So tell them where that is.

Dusty – Everywhere it occurs.

Commissioner Samson – Okay, wherever that occurs, so that is my motion.

Commissioner Houpt seconded the motion.

Chairman Martin – You would be better off with the dust mitigation meeting; even that is extremely strict.

Commissioner Samson – You know what, the applicant said they could live with it and they were happy with it so if they are happy with it, I am happy with it.
In favor: Hought – aye Samson – aye Martin – aye

EXECUTIVE SESSION – DISCUSS Don requested an Executive Session to discuss five items that need legal advice and direction: 1) Concerns the Airport Park PUD and legal advice concerning the status of that subdivision and development of the airport; 2) Provide legal advice concerning application on oil and gas mitigation in the form of Resolution; 3) Discuss and provide legal update on an internal personnel investigation in the Treasurer’s Department; 4) Update and receive any potential direction concern missing funds in the Clerk’s Office and 5) Carolyn needs to talk to you about special conditions on FAA Airport. Several items will need public direction.
Commissioner Samson moved to go into an Executive Session. Commissioner Hought seconded. Motion carried.
Commissioner Samson moved to come out of Executive Session. Commissioner Hought seconded. Motion carried.

Action taken

Henry Building Security Evaluation

Don stated we need direction to one member of the legal staff to contact the County Manager to make a security evaluation for security for fiscal purposes at the Henry Building.
Commissioner Hought so moved. Commissioner Samson second.
In favor: Hought – aye Samson – aye Martin – aye

Airport Land Partners PUD – Cogeneration

Carolyn stated we need authorization for Chairman Martin to sign a grant agreement prior to the Cogeneration Plant and Mr. Howard, co-application to amend the PUD and request publically to waiver of fees and application fees for planning review.
Commissioner Hought so moved and asked that legal staff bring back the costs. Commissioner Samson second.
In favor: Hought – aye Samson – aye Martin – aye

ADJOURNMENT

Attest:

Chairman of the Board

OCTOBER 5, 2009
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 5, 2009 with Chairman John Martin and Commissioners Tresi Hought present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioner Samson 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

CLEAN ENERGY COLLECTIVE

Paul Spencer representing the Clean Energy Collaborative. We have been working with Holy Cross Energy to build the first clean energy collective here in the valley, which will be the first one in the nation and we would like to locate that in Garfield County. We have had considerable community support as well as interest and ownership of the Clean Energy Collective and therefore we are trying to have a quick timeline and we are trying to shoot for the end of 2009, which will allow individuals to utilize some of the tax credit for clean energy in 2009. Research and coordination with Holy Cross Energy as well as CLEER has shown that the first site really needs to be visible, accessible as well as prominently located within the community to be community based and a community demonstration. We have worked with staff primarily Ed Green and his team to look at possible sites within the County. Filling the criteria, we have only found one and that is a private parcel offered to use by TCI Lane Ranch, which is a PUD that has been approved a month ago. It is about 3-acres they have offered out of 100-acre development and located between Blue Creek Ranch and the Waldorf School just off Highway 82 near Catherine’s Store. Based on varying views we have received from staff, we wanted to bring it to you today and respectfully request that the Board provide us some direction as to going forward in two ways: 1) if that is a supportive community site in the Board’s mind; and 2) if it would be possible for TCI to proceed with the necessary source PUD and Preliminary Plan amendment by Administrative Process in a timely fashion.

Commissioner Hought – This is difficult because our planning director has worked with you on this and he is not in the room now. It would have been important for him to be a part of this discussion.

Chairman Martin – The is a great project and good support; Holy Cross has extended their support as well as would like to see if we could move in that direction. We need to allow CRMS and allow their array to be there as well going through the same process. I would like to see if we could get this coop to take care of that particular area. It is a great array and yes it is visible off Highway 82 but it is not unsightly. We can ask Fred if we can put this under his approval instead of going through the Planning Commission, you will still have to have a public hearing and this in front of the Board.

Commissioner Hought – There has been some concern about maintaining the integrity of the TCI application. What was so wonderful about that application was the fact that you retained the cultural component of Ag land in front and we worked on the environmental concerns around the area and that really made it a wonderful development. I do not think today that I could tell you without having more information in front of me that I could support the location because it will change that dramatically.

Paul – We are certainly working closely with TCI, it is their intent as well, and it is the selling point of their neighborhood. The parcel they are allowing us free access to is essentially the corner that sits behind the trailer park so it is not actually the prominent space in front. They really felt it would be a minimal impact.

Chairman Martin – That is the area the Nieslaniks use for calving off Highway 82. Fred, is there flexibility within that for them to go through a shorter process so that you could do the review and then bring it to the Board?

Fred – No, this will be considered as a substantial modification to the PUD so it will run the full gamut of the process by going to the Planning Commission and then back to the Commissioners.

Chairman Martin – Could we do this by the end of the year in order to save the tax credits.

Fred – It is in the hands of the development team to bring something to this Board. We are at the beginning of October and it is possible before the December 31. It is on the TCI team to get it moving.

Chairman Martin – Are they willing to move forward and request that change within in their PUD?

Paul – Yes, we can certainly expedite things on our side to get it in as quickly as we can.

Commissioner Houpt – They were no other pieces of property that would work.

Paul – Not as a primary site; we did find a good secondary site down next to the Airport that we need to do some study on as far as solar exposure. There were some sites we thought would be possible down by the maintenance office on Hunter Mesa but that ended up once we were on the properties there is not enough flat area on those to be applicable. The only other was above Catherine's Store to the south and unfortunately there is a problem with access. There is no legal access to that property and it would be very difficult for accessibility to have people there for demonstration purposes.

Chairman Martin – TeKeKi. The only one you could do there would be Mr. Considine and working from the Basalt side versus the Carbondale side.

HIDDEN GEMS PROJECT

Sean Martin, President with Sopris Recreational Riders (Snowmobile Club) and Tony Fischer, White River Forest Alliance, a multi-user group of concerned citizens presented. Sean said he was here two weeks ago when the Board came out and stated where they specifically stand on the Hidden Gems issue and we both realized there is no legislation, no Bills, no resolution – nothing is happening right now, it is just a grassroots movement of sorts and it is being worked on. They are going through the process to get ready to present to somebody who is willing to carry it a piece of legislation by fall 2009. What I would like to find out is if there is any chance that Garfield County would be willing to holding a Work Session or public meeting just to get the public more involved. Currently, this has been going on for three years but to give you a background, the snowmobile club who will be very much affected by this, has never been approached in three years to have any input on this issue. If we could have the same courtesy extended to us that the mountain bikers did, we could have resolved many of the issues that are here now. Within the last two to three weeks, I have been approached but Hidden Gems wanted to have a closed-door meeting with just a few of us and there are over 2000 registered snowmobiles just in Garfield County. I do not want to have a meeting where people are going to get mad, I would like to see something where people could ask questions, I can figure out their concerns, and then I could make an educated decision. I do not feel presently that I represent the interest of the people. On their website this morning, it said do not bother contacting Garfield County because it is too small a part in the County for them to be concerned. It does affect Garfield County residents greatly.

Commissioner Houpt – One thing we talked about when we met previously and what we intend to do is invite the various stakeholders – Wilderness Workshop, US Forest Service and the recreational groups. We have never had a presentation on Hidden Gems and we have never heard the reaction from the people. There is an article in today's paper about the Forest Service response to Hidden Gems. If the various groups could have spokespeople that would be very helpful. Having 2000 people come to a meeting would be difficult.

Sean – He requested the meeting be held in the evening. It is a hotly contested issue and it affects our group very much. The one meeting they did hold at night where they could get people, 200 attended.

Chairman Martin – We receive many emails and letters as well as phone calls both at home, here, etc on Hidden Gems. I believe it is an issue that needs to have a full discussion. I would send this down to Carbondale to see if they have a date where we can set up a public discussion of what is being proposed and then set up a series of concerns from the different groups and questions and have some follow-up. We can extend it out to the other counties that there is a resolution saying we need to work on the wilderness issue all together as local governments and if not the state does not support it, the County Commissioner do not support it, that is a resolution. It is also a national resolution in reference to the same thing.

Commissioner Houpt – I would like to see people come together and come to a positive resolution. There are many people say we support in total and others saying they do not support it at all. I think we should land somewhere in-between and figure out how everybody can work together.

Sean – There is some common ground but there needs to be more transparency in the process. I think they have created their own monster by not making it more transparent because then people draw their own conclusions and own ideas. They have never contracted Mesa County or Delta County and it needs more transparency.

Chairman Martin – This also came about in reference to the Thompson Creek Coalition and people are tying this together. These are separate issues and however there are those who want to put the two together and make it one issue. Clarification is needed, a meeting is needed and we will send request out and try and set up a night meeting either here or at the Community Center or somewhere.

Commissioner Houpt – If everyone hears the same information and the discussion they may be a way to resolve this issue.

Sean said a few of us attended the meeting and had our first glimpse at it and we heard that it is trying to be proposed this fall. It created a sense of urgency. Many people had no idea of what was going on.

Tony said it will help create awareness of the issue with respect to everyone feels it is two separate issues; but even the one we saw in the paper from Congresswoman DeGette, it still is a lot of overlapping stuff and it will help create some education on how wilderness works so they can draw something out of the conversation to use in the future.

COUNTY MANAGER UPDATE – ED GREEN

CONSIDERATION AND SIGNATURE FOR HOLY CROSS ELECTRIC SERVICE TO THE SHERIFF'S OFFICE ANNEX – RANDY WITHEE

Holy Cross Energy has completed a design and cost estimate for providing electric service to the above referenced project. The facilities will be installed as shown on the attached sketch (on file). The estimated cost of construction is as follows:

Estimated cost of overhead construction	\$ 7,200.00
Estimated cost of underground construction	<u>\$29,200.00</u>
Total estimated cost of construction	\$36,400.00
Construction deposit (refundable)	
Consisting of overhead costs and equivalent	
Overhead costs	\$33,400.00
Contribution in aid of construction (non-recoverable)	<u>\$ 3,000.00</u>
Total payment required before starting work on proj.	\$36,400.00

After the job has been completed, the actual cost of construction will be determined.

This agreement included 13 conditions (on file). When Holy Cross Energy is in receipt of the Owner's check in the amount of \$36,400.00, all necessary executed easements, other permits, if required, a completed "Load and Metering Equipment Information" form, the executed trench agreement and the signed original of the letter provided, the job can be scheduled for construction.

Carolyn – Holy Cross has changed their indemnification paragraph to add some language specific to government. We are now obligated to procure and maintain public liability insurance and we have to present our COP from our insurance pool if they ask for it. I sent that language on to Public Service and asked them to look at it.

Chairman Martin asked if Public Service and Holy Cross accepted it.

Carolyn said Holy Cross did accept it. There are two actual contracts, one is a letter agreement, one is a trench conduit, and vault agreement and the other two are grants of easement.

Commissioner Houpt made a motion to approve the letter agreement between Holy Cross and Garfield County to provide electric service to the Sheriff's Office Annex in an estimated cost of construction of \$36,400. Chairman Martin stepped down as Chair to second.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt made a motion to approve the trench conduit and vault agreement between Garfield County and Holy Cross Energy. Chairman Martin stepped down as Chair to second.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt made a motion that we approve the underground right-of-way easement with Holy Cross Energy as presented. Chairman Martin stepped down as Chair to second.

In favor: Houpt – aye Martin – aye Samson – Absent

Carolyn requested the Clerk attest and notarize the documents, Holy Cross wants both.

CONSIDERATION AND SIGNATURE OF WAPA LICENSE AGREEMENT FOR THE SHERIFF'S ANNEX – RANDY WITHEE

Randy – This is in reference to the WAPA License Agreement allowing people underneath the WAPA lines, which is the outdoor training facility. One thing that has not been corrected yet is the licensee is under Randy's name but that will be changed to Board of County Commissioners. We have not seen that document back from then yet.

Carolyn had another item she was discussing with them.

Carolyn said she checked her email this morning and there is nothing back yet. They will consider adding a saving paragraph that says, "By entering this license agreement we do not give up any of our governmental immunity" but neither of us has heard back from them. I would ask that we be able to have John's signature authorized with those two changes and if they will not put that new paragraph in, then we will live with it. We need a new signature page, as Randy is not authorized.

Commissioner Houpt made a motion that we approve the license agreement between Western Area Power Administration (WAPA) and Garfield County with the change on the signature page from Randy Withee to the Board of County Commissioners and the added language requested by the County Attorney and authorize the Chair to sign. Chairman Martin stepped down as Chair to second.

In favor: Houpt – aye Martin – aye Samson – Absent

APPROVAL OF THE 2010 BUDGET FOR THE LIBRARY DISTRICT – WILMA PADDOCK

Wilma Paddock, assistant director of administration with Garfield County Libraries and Amelia Shelley, Executive Director of the Garfield County Library District. They presented the 2010 budget though our IGA you have the approval process for our budget. We have worked long and hard getting our general fund budget to come down to the sales tax that was given to us by Georgia Chamberlain and a fund balance.

Chairman Martin – It is nice to see a fund balance that is reasonable.

Amelia stated it has been hard to do and next year will be harder but we are building new buildings and work is good.

Commissioner Houpt made a motion that we approve the Garfield County Public Library District 2010 budget as presented. Chairman Martin stepped down as Chair to second.

In favor: Houpt – aye Martin – aye Samson – Absent

This week we will be receiving an invitation to attend our first groundbreaking on October 21, 2009.

CONSIDERATION OF INTERGOVERNMENTAL AGREEMENTS WITH THE CONSERVATION DISTRICTS – STEVE ANTHONY

Steve Anthony and Patty Frederick were present.

Below are summaries of programs and partnerships between the County and the local Conservation District (Bookcliff, South Side and Mount Sopris):

1. The County has supported the District's conservation and land stewardship programs and projects through annual contributions
2. Since 2000, Garfield County has worked cooperatively with the local Conservation Districts on a noxious weed cost-share program that provides financial assistance to private landowners for noxious weed management
3. In December of 2008, the BOCC considered a request by staff to fund the South Side Conservation District in the amount of \$75,000.00 for tamarisk/Russian-olive projects in the Mamm Creek, Dry Hollow, Divide Creek watersheds. A supplemental request was submitted and approved in January 2009 for this amount. In February 2009 a landowner contacted staff about the possibility of participating in this program. The landowner has a 200-acre parcel with significant tamarisk and Russian-olive infestations, just north of the South Side boundary, in the Bookcliff District. To

accommodate this and future requests it would make sense to include the Bookcliff Conservation District in the tamarisk/Russian-olive IGA.

Garfield County's legal staff has recommended that Garfield County formalize these arrangements through intergovernmental agreements (IGA's) between the County and the Conservation Districts. Two IGA's were presented to the Board for their consideration. These IGA's have specific periods and may or may not be renewed on an annual basis. The first IGA would be between the County and the association of the three Districts, collectively known as the Garfield-Pitkin Association of Conservation district. This IGA pertains to Items #1 and #2 above. The second IGA would be between the County and the South Side and Bookcliff Conservation Districts and pertains to Item #3.

Commissioner Houpt moved to approve the IGA between Garfield County and the association of the three Districts, collectively known as the Garfield-Pitkin Association of Conservation District for the land stewardship program and project through annual contributions for 2010. Chairman Martin stepped down as Chair to second. In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt made a motion to approve the Southside and Bookcliff Conservation District weed cost-share program to provide landowners for noxious weed management. Chairman Martin who stepped down as Chair to second the motion. In favor: Houpt – aye Martin – aye Samson – Absent

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF 2009 ARBITRATOR LIST (BOE APPEAL)

Don explained and submitted the Resume for Dave Ritter, MSA saying Dave is willing to serve as the official 2009 arbitrator for BOE appeals. He would like the Board to make a motion to sign the official arbitrator list and use Mr. Ritter in this capacity.

Commissioner Houpt so moved. Chairman Martin stepped down as Chair to second the motion.

In favor: Houpt – aye Martin – aye Samson – Absent

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don requested a brief executive session with the Board, Patti needs to provide you with legal advice on the 10:15 am item on Travelers Highlands; Debbie would like to provide you with legal advice and update on the bankruptcy cases that are currently pending and Cassie needs to discuss on code enforcement case – the Billson Case in County Court.

A motion was made by Commissioner Houpt to go into an executive session. Chairman Martin stepped down as Chair to second the motion.

A motion was made by Commissioner Houpt to come out of executive session. Chairman Martin stepped down as Chair to second the motion.

Action Taken:

Billson Code Enforcement Case

Don stated he would like the Commissioners to make a motion to authorize our office to dismiss that cause against the Billson's as they have achieved full compliance with our request.

Commissioner Houpt so moved; Chairman Martin who stepped down as Chair to second the motion.

In favor: Houpt – aye Martin – aye Samson – Absent

CONSENT AGENDA

- a. Approve Bill
- b. Changes to Prior Warrant Lists
- c. Grants – Sales Tax Recovery Distribution for September 2009 - \$51,658.53 – Georgia Chamberlain
- d. Approval of Minutes for June, 1, 8, 15, 29 and 30th and July 6, 13 and 20th – Jean Alberico
- e. Resolution Rescinding Prior Manuals and Adopting the 2009 Personnel Policies and Procedures Manual
- f. Liquor License Renewals for Rhino Liquors Inc. and Sunlight Mountain Resort – Jean Alberico
- g. Authorize the chairman to Sign the Resolution Approving Land Use Change Permit Application for the High Mesa RV Park – Applicants; High Mesa Partners, LLC, Daybreak Realty, LLC and James and Monique Speakman – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to approve the Consent Agenda Items a, b, c, d and f; carried.

2009 Policies and Procedures Manual

Item e - Resolution 2009 Policies.

Carolyn stated they would bring this back next week. The changes that need to be made are the following: County Attorney and Human Resources overlooked three items: 1) The Surveyor now has a deputy sworn in by Jean Alberico and he needs to be added to the pay and compensation structure; 2) Need to get the signature of Coroner and it was overlooked as we put the Coroner on the 2008 pay and compensation plan but did not include his signature; and 3) Need to coordinate action with the budget folks.

Item g – High Mesa Partners, LLC – one item to change.

Deb Quinn – page 9 of Resolution Item 16C – items need to be completed before land use change permit – laundry facility – strike laundry from 16B. This was an oversight on Fred's part.

Clarification – make on No. 5 A – H3 – variance – make sure that – Fire department should be 125 feet.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to approve the Resolution with High Mesa Partners, LLC. With the change to No. 16c.

In favor: Houpt – aye Martin – aye Samson – Absent

ABATEMENT/REFUND OF TAXES OF OUR SCHOOL, INC. – ABATEMENT NO. 10-011, SCHEDULE NO. R311404 – LISA WARDER

Chairman Martin swore in the speaker and confirmed the notification.

Lisa Warder presented the Abatement for Our Schools, Inc. saying the petitions states that the taxes assessed for the above property tax year 2007 and 2008 per DPT File 23-01174-01, this property has been determined to be partially taxable (14%) and partially exempt 86% as of April 18, 2008. The petitioner is due an abatement for April 17 – December 31, 2007 and the full year of 2008. The total value for each year is \$401,360. The figures on this abatement form reflect only the taxable portion of those values.

Commissioner Houpt made a motion to close the public hearing; Chairman Martin stepped down as Chair to second; motion carried.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to approve the abatement for Our Schools, Abatement No. 10-011, and Schedule No. R311404 in the amount for 2007 of \$1117.69 and for 2008 the amount of \$6436.41.

In favor: Houpt – aye Martin – aye Samson – Absent

REQUEST FOR THE BOCC, ACTING AS THE GARFIELD COUNTY LIQUOR AUTHORITY, TO GRANT A TEMPORARY LIQUOR LICENSE FOR BV HOSPITALITY INC. D/B/A BEAU JO'S BECAUSE THE RESTAURANT IS CHANGING OWNERSHIP – JEAN ALBERICO

Kurt Fischer, owner for BV Hospitality Inc explained the changes to be made in the ownership transfer of the liquor license. They will continue to have pizza but will add a banquet menu, sandwiches and a variety of items.

Jean – authority of the Board to grant a temporary license that expires February 2, 2010.

Jean said Jack Harris and Kurt Fischer have an agreement. Submitted a complete application and all fees and are asking for a temporary. November 2, 2009 is the date set for a public hearing. Don has asked to ask the applicant to submit in writing a temporary license and he has paid the fees.

Kurt Fischer stated he was glad to be a part of the community.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to approve the temporary license pending the public hearing on November 2, 2009.

In favor: Houpt – aye Martin – aye Samson – Absent

TRAVELER'S HIGHLAND PUBLIC IMPROVEMENT DISTRICT – COST REIMBURSEMENT AGREEMENT – KARL HANLON

Kurt Hanlon and David Hicks were present and submitted the packet of information.

The Board was presented with a letter from Leavenworth & Karp; P.C. dated October 1, 2009. The letter included a complete history of the formation of the Travelers Highland Public Improvement District from April, 2009 when in response to the direction of the BOCC, the owners of Travelers Highland lots petitioned for the creation of the Public Improvement District to deal with the County Road 300 intersection issues as well as with ongoing maintenance issues within the subdivision. In 2005, the Board accepted all of the roads within Travelers Highland as public rights-of-way but there is not a formal owners association and no way to levy assessments within the subdivision for improvements to the roads or to the intersection. According, the Public Improvement district ("PID") was formed. Formation of the PID was through the statutorily required process including an election in November 2009. Referring to tab 7 in the attached materials (on file), is the resolution approving the petition and setting the matter for an election as well as the four questions which were placed on the Ballot. With regard to the scope of authority of the Public Improvement District, it is important to review the questions and the authorizations, which were given by the electors. At tab 9, you will find the Garfield County Clerk and Recorder's Certification of Election results wherein the ballot questions all passed. The critical issue for the discussion with regard to reimbursement is that the Public Improvement District is both statutorily permitted to acquire public improvements, which are already build as well as having been approved to do so by virtue of the ballot questions. The statute also provides that the PID may reimburse organizational and formation costs. Accordingly, the requests for reimbursement were tendered to the Board of County Commissioners, who, in this instance, sits as the Board of the Public Improvement District. For those members who were on the Board at the time of the decision to form a public improvement district, you will recall that the policy of the BOCC at the time was not to participate in any form in the improvements at County road 300. As a result, in an effort to resolve issues at the intersection for the benefit of all the owners within Travelers Highland, Parachute Commercial, LLC (whom Dave Hicks is the Member/Manager of) agreed to shoulder the burden of beginning to install improvements on the understanding that once completed they could be transferred over to the Public Improvement district. Because there was going to be a delay in the formation of the Public Improvement district and the flow of funds into the District from the approved mill levy, Parachute Commercial undertook these obligations. As a general matter, the use of a special improvement or public improvement district to purchase already completed public improvements is neither uncommon nor unusual within the State of Colorado. It is often the case that because of the delay in the revenue stream coming into an improvement district, it is necessary to find alternate mechanisms to provide necessary and immediate public improvements. The situation here is no different.

Karl requested the Board ask CDOT to back off while we finish up whatever is going to occur.

Commissioner Houpt asked staff how we can proceed with the way this meeting was noticed, does it matter that it did not talk about the District Board or.....

Don – Did not bring the statutes down on this and he did not know whether the notice that you were going to meet as the District Board. Normally you do under the Open Meetings Act.

Chairman Martin said the real issue is where the money will come from if we do immediate reimbursements if we are not waiting on the tax revenues to come in 2010.

Karl agreed this is part of that discussion regardless where the money is coming from, the concept is, is reimbursement okay and then arriving at that number would look like.

Commissioner Houpt – What you are asking for reimbursement on this in retrospective, which we understand is not permissible in Colorado or is it infrastructure.

Karl – You are acquiring public improvements, which is specifically provided for by the statute and was a specific question we asked in the election was authorization to acquire public improvements. From my standpoint as working with in a number of contacts in special districts, the acquisition of public improvements is not that unusual because you always have this problem where you are trying to get something done and you know that your tax revenues are going to ramp up over time and so you have either a property owner or a developer whoever it might be, do the initial phase of construction and sell those improvements over to the District. This is what we want to do here because we want the District in clear ownership and not the County in ownership of the improvements at the intersection as well as the internal improvements, so this gives us a mechanism to get this County off the hook in the 2005 Resolution.

Don – I will not accept that. The Board has never accepted the responsibility for building improvements in this district.

Karl – Not building improvements within the district, but there is an open question as to what the acceptance in 2005 may or may not have named and this is something that Don and Karl....

Commissioner Houpt – We agreed to be party to this district because we were the conduit to allow you people to do that, so that needs to....

Karl – Absolutely and that is what we are asking here is

Commissioner Houpt – Recognized.... Could you remind me which Exhibit your list is in? The list of expenditures that you are looking for reimbursement on.

Karl – That was attached to the September 2 letter.

Chairman Martin – If we were to go ahead and authorize payment, that would come out of general fund dollars, which we have never done for a public improvement district. You are not asking us to do that right now.

Karl – This is not what we were asking. This is reimbursement agreement between this County as the District Board and my client Parachute Commercial.

Chairman Martin – And ours as that Board would say okay, how are we going to authorize it are we going to bond for those and pay them back; or we going to go ahead and say we will wait until the revenue comes in 2010, what is the pressure, what Mr. Hicks situation and why does he need this, is it necessary etc and can we work out another agreement. This needs to be noticed so we can have a public hearing for that district.

Karl – If you are comfortable allowing us to work with staff in terms of the numbers that we will be coming back for discussion, that would be helpful recognizing that we are not and be very clear, we are not asking you as the Board of County Commissioners to pay for improvements within that district. There is a sidebar conversation about if the district were inclined to want to borrow money to complete those improvement in light of keeping in mind this is a conduit whereby you can fund the larger picture at County Road 300 – this makes that available. There is a question whether you as the Board of the Improvement District and you as the Board of County Commissioners want to enter into an IGA regarding those improvements with yourselves and get a reasonable rate of return on your dollar because you know where the money is coming from.

Commissioner Houpt – That is a policy question and not the intent.

Karl – That is a policy question but there is that ...

Commissioner Houpt – Do you have all of the background documentation on this. We would never go through anything like this and agree to make a payment on a County project without information in front of us.

Chairman Martin – This would be an Improvement District Board meeting and then set the parameters and have an actual meeting with the counsel, owners and what is taking place, what are the legitimate expenses, the detail and then make those decisions within that Board meeting and then make the recommendation back to us on what we are going to do and how we will go about any kind of agreements with the District and the County. We need that noticed.

Karl – The other follow up questions because I do not represent you in either one of those capacities, I cannot do the notice.

Chairman Martin – I do not know if we have legal counts in beginning the special district board at this present time.

Karl – Those are very good questions on how you want to handle that.

Patty – I do not know that it would prevent the County Attorney's office representing you in that capacity. I think the scope of our job for you is defined by you, so if you would like us to represent you concerning that we could.

Chairman Martin – We would need some kind of documentation saying you are acting number one for the district under our direction or that you are not and we have to go ahead and find other means of legal representation for that board. You are the counsel for the Board of County Commissioners primarily.

Don – Keep in mind, this is not a true special district; this is a taxing authority and a bonding authority but I do not know that this is recognized as a separate governmental entity the way a Title 32 District is so, in that capacity yes you should assemble as the Board of this Improvement District because it has special functions that the Commissioners do not but I do not see any problem with my office representing you in both capacities particularly as a lot of the discussion occurred as the County Commissioners.

The Open Meetings Act is all I am aware of but we can check on that and make sure. We need a noticed public hearing.

Karl can provide the property owners list and we maintain that regularly.

Chairman Martin – You will need to coordinate that with staff.

Don – We will need the plans pursuant to which construction was accomplished so the engineer's department can verify that the construction has been appropriately completed and that the cost expended was appropriate for what was done.

Direction given to set a public hearing for November 9, 2009 as the Improvement District Board.

Commissioner Samson will not be present on October 19, 2009.

CONSIDER AN AMENDMENT TO A SPECIAL USE PERMIT (LIMITED IMPACT REVIEW) FOR EXTRACTION AND PROCESSING FOR A LIMESTONE QUARRY LOCATED NORTH OF THE CITY OF GLENWOOD SPRINGS IN THE SE ¼ OF SECTION 36, TOWNSHIP 5 SOUTH, RANGE 89 WEST OF THE 6TH P.M. – THE REQUESTED AMENDMENT IS TO REMOVE THREE CONDITIONS OF APPROVAL THAT ARE REQUIRED BY RESOLUTION 82-222 – APPLICANT; CAL X MINERALS, LLC – THE APPLICANT IS REQUESTING THAT THE PUBLIC HEARING BE CONTINUED TO OCTOBER 19, 2009 – KATHY EASTLEY

No one appeared – apologized and a new public notice requirement sent by Kathy Eastley.

A letter was received November 2, 2009 from CalX, to Kathy Eastley, requesting this be continued until the first available date in November due to only two commissioners attending the BOCC meeting.

CONSIDER A FORFEITURE OF FINANCIAL GUARANTEE FOR INABILITY TO COMPLETE CERTAIN SUBDIVISION IMPROVEMENTS AS REQUIRED IN THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR PHASE I OF THE IRONBRIDGE SUBDIVISION/PLANNED UNIT DEVELOPMENT – APPLICANT; LB ROSE RANCH, LLC – DEB QUINN AND FRED JARMAN

Fred Jarman, Deb Quinn, Tim Thulson and Tom Smith, Consultant and a number of homeowners in LB Rose Ranch/Ironbridge were present.

Deb Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. Tim stated he notified everyone within the subdivision. She advised the Board except for the map the public notices were completed. She advised the Board were entitled to proceed.

Chairman Martin swore in the speakers.

Planner Fred Jarman submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Unified Land Use Regulations of 2008, as amended (ULUR, the Zoning Code); Exhibit D –July 15, 2009, Applicant Letter Requesting Hearing; Exhibit E – June 16, 2009, Notice of Default; Exhibit F –

May 18, 2009, Notice of Default; Exhibit G – SIA dated September 13, 1999 with Amendments 1-5; Exhibit H – July 6, 2009, Letter from Leavenworth and Karp; Exhibit I – July 8, 2009, Letter to Leavenworth and Karp; Exhibit J – Assignment of Rights; Exhibit K – Ownership Map; Exhibit L – Resolution 2004-20 and 2004-21; Exhibit M – Staff Report; Exhibit N – September 23, 2009, E-mail from any Schwaller; Exhibit O – Escrow Status and Exhibit P – Escrow Agreement. Chairman Martin entered Exhibits A – P into the record.

Planner Fred Jarman explained in his memo that this is a public hearing pursuant to the Unified Land Use Resolution of 2008 as amended, Section 13-106, requested by the applicant LB Rose Ranch, LLC. The board of County Commissioners sent two Notices of Default, the first dated May 18, 2009 and the SIA for the Ironbridge Subdivision, Phase I. Although as indicated below any financial guarantees in connections with the Phase I SIA have expired, Section 13-106d allow the County Attorney to take such steps as deemed proper when there is inadequate revenue from any forfeiture of a financial guarantee to cover the cost of accomplishing the purposes of the financial guarantee. Because there is a bankruptcy action involving LB Rose Ranch, LLC, any action taken by the County Attorney would first require relief from the Bankruptcy Court to be able to pursue state remedies against LB Rose Ranch, LLC.

Current Status:

The Ironbridge Subdivision was first authorized as the Rose Ranch PUD pursuant to Garfield County Resolution 98-80 as amended pursuant to Resolution 99-067. The PUD approvals contemplated development in phases. The SIA for Phase I between Roaring Fork Investments, LLC and the BOCC was finalized and filed in connection with the recording of the final plat for LB Rose Ranch LLC pursuant to an assignment of Subdivision Rights and Approvals recorded in December of 2000. A map prepared by the Garfield County Assessor's office depicts the various phases of the Ironbridge PUD and also indicates the portions of the PUD still owned by LB Rose Ranch, LLC.

The SIA dated 9-13-1999 for Phase I with amendments 1 -5 requires LB Rose Ranch, LLC to complete all improvements related to the final plat and as required by Resolutions 98-80, 99-067 and 99-068. The amendments to the SIA, the Fifth Amendment in particular, incorporated changes in the approvals and requirements for the developer pursuant to Resolution 2004-20 (PUD Amendment Approval) and 2004-21 Preliminary Plan approval. This Fifth Amendment incorporates the current affordable housing requirement, requiring that two affordable housing units be constructed within Phase I. The requirement is that these units be constructed and sold or constructed and made available for sale, and includes the requirement that the Owner, LB Rose Ranch, LLC must meet, at all times, a requirement to construct "affordable housing units in a number equal to 10% of the total number of unrestricted units which have at that time been sold or made available for sale." If at any time this percentage falls below the required 10%, owner shall be required for such deficient affordable housing unit to place \$150,000.00 into an escrow account in favor of the Board to provide such other security in lieu thereof as may be acceptable to the Board, which funds or security to the Board will then apply to the construction of the affordable dwelling unit.

The improvements that were secured by a Letter of Credit for the Phase I SIA did not include these affordable housing units, but rather dealt with infrastructure as listed in the SIA, totaling \$6,857,600.84 in accordance with the engineers estimate with a 10% contingency as of June 18, 1999. The only default with respect to completion of those improvements was detailed in the May 18, 2009 Notice of Default. At the time of that notice, the BOCC still had a Letter of Credit securing those obligations. However, that letter of Credit has since expired; the failure to maintain the financial guarantees of the subdivision improvement agreement also constitutes a default. LB Rose Ranch, LLC proposed to "cure" the default referenced in the May 18, 2009 letter by submitting an application for a plat amendment to eliminate the requirement for the five-foot concrete sidewalk, which was the major item outstanding at the time Notice was sent. To date, that application has not yet been submitted.

The June 6, 2009 Notice of Default incorporates the default from the May letter but also includes a default for failure to comply with provisions of paragraphs 4, 5, and 6 of the SIA by failing to convey to the appropriate entities the improvements for water rights, easements, and rights of way necessary to properly maintain and operate the sewer system, the domestic water system, and the irrigation system for Phase I. These items are more fully explained in the correspondence between Leavenworth and Karp, representing the Ironbridge Homeowners Association and the County Attorney's Office. Although LB Rose Ranch, LLC through its attorney, has represented that these required conveyances to allow for proper operation of this infrastructure will be made, as of this date they have not yet been conveyed as required by the SIA.

Default in PUD Requirements. With respect to the affordable housing requirements, as indicated, the developer was required to construct ten affordable housing units in conjunction with Phase I and maintain a 10% ratio based upon the issuance of certificates of occupancy. Based upon the email from Andy Schwaller dated September 23, 2009, the developer has fallen behind in its obligations to maintain its 10% ratio. In addition, based upon information obtained from Land Title Guaranty, the holder of the escrow for the affordable housing, LB Rose Ranch, LLC withdrew 4300,000.00 from escrow in March of 2009 when the ratio was current at 10%, leaving a balance of \$45,043.45, an amount insufficient to secure completion of the affordable housing as agreed upon (a \$150,000.00 per unit of deficiency is required pursuant to the Escrow Agreement. Although the obligation to construct 10 affordable housing units has been satisfied for Phase I, LB Rose Ranch, LLC is out of compliance with the PUD approval, paragraph 6 of Resolution 2004-20, for failing to maintain the 10% ratio. There has not yet been a formal notice of this default or violation provided to LB Rose Ranch, although local counsel has been advised of this issue.

Effect of Bankruptcy. As the Board is aware, LB Rose Ranch, LLC finds a Petition in Bankruptcy on February 9, 2009, which is being jointly administered with the Lehman Brothers assets and liabilities filed by LB Rose Ranch, LLC on June 14, 2009 in the bankruptcy court includes as assets of the real property that LB Rose Ranch, LLC still owns in Garfield County, as well as "Executor Government Contracts," six different agreements with Garfield county, included the recorded Deed Restriction and Agreement for the affordable housing, the SIA for Phases I and II and an unsigned Zone District Amendment application contemplated to cure the default with respect to construction of sidewalks for Phase I. Proofs of claim with respect to each of these contracts were submitted on each of these agreements. Is un-liquidated, i.e. the amount is not currently

known. The bankruptcy code prohibits actions against a debtor during the pendency of a bankruptcy unless the bankruptcy court authorizes relief from the automatic stay. In addition, there are procedures available to require the debtor to either assume or reject executory contracts. While the Board can determine the existence of a default, no action against the debtor, under this SIA or otherwise, may be undertaken without first obtaining an appropriate order from the bankruptcy court.

Available Remedies: The following remedies are available to the Board, in connection with the defaults in the SIA provided that bankruptcy court authority to pursue such remedies is first obtained.

1. Withholding the issuance of building permits, pursuant to paragraph 18 of the SIA.
2. An action in district court for injunctive relief, compelling enforcement of the SIA, pursuant to paragraph 19 of the SIA.
3. Vacation of final plat with respect to any lots in Phase I of the Ironbridge Subdivision for which no building permits have been issued, pursuant to paragraph 20 of the SIA. (Staff does not recommend this alternative because LB Rose Ranch no longer owns any lots in Phase I and it would punish only third party buyers.)

With respect to the affordable housing issue with the Board has the following remedies in connection with non-compliance with PUD conditions of approval” again, provided that bankruptcy court authority to pursue such remedies is first obtained:

1. Issuance of a Notice of Violation the conditions of approval of the PUD and pursuing remedies pursuant to that, under Section 12-102c (see also Section 12-1-2d2 of the ULUR of 2008, which provides that it is unlawful to use real property or improvements on real property in a way inconsistent with or not in accordance with the terms and conditions of any land use approvals.
2. Revocation of land use approvals pursuant to 12-103d2.
3. Withdrawal of development permits for the PUD pursuant to 12-103e.

Staff recommendation:

1. Determine that defaults exist in connection with obligations of the Phase I SIA, specifically, failure to maintain financial security for completion of improvements, failure to complete improvements within the time specified, and failure to convey the necessary easements and improvement for operation of water and wastewater and irrigation systems;
2. Direct staff to request the necessary bankruptcy orders to pursue all available remedies to complete compliance by LB Rose Ranch, LLC with the Phase I SIA and for the conditions of approval of the PUD.

Deb explained that LB Rose Ranch is in bankruptcy and two notices of default. The existing defaults relate to the final plat and a requirement to build sidewalks and instead built bike paths and have been here before in the past to request they be allowed to amend their final plat to reflect these bike paths instead of the sidewalk requirement. The Board was willing to consider that but it has not yet happened. That is one default. A second default is the fact that the financial guarantee itself has expired and no new financial guarantee has been posted. Another default is that improvement for this subdivision should have been complete by 2004 that did not happen although it will if this amendment takes place. An additional default that was brought to our attention last summer through the letter from Leavenworth and Karp in connection with the Homeowners Association is that the various deeds for easements and other items required in the SIA to the Homeowner Association as well as to the Roaring Fork Sanitation have not been executed and recorded as required by the SIA. None of these defaults has been cured, however I have been advised by Mr. Thulson and by the attorney for L.B. Rose in bankruptcy in New York that signatures on the deeds are in process and expected any minute. In addition to these issues, I also raised in the staff memo the issue of affordable housing because these PUD requirements and approvals for Ironbridge required a number of affordable housing units to be constructed and made available for sale. With respect to Phase I, the specific requirements in the SIA were that attenuates be constructed and made for sale that has happened and two certificates of occupancy have been issued but none of the have been sold to date, however our language does not require them to be sold just to be available for sale. However, they are behind on the overall requirement that there be a 10-1 ratio between free market units, certificates of occupancy and housing units of occupancy. The escrow agreement was set up to provide a cash deposit with Land Guarantee Company of \$150,000 for each unit they fell behind on with respect that 10-1 ratio; they are now behind by two units so there is further default on phase II which is not really the topic of today’s hearing but I will request some direction from you at the end of today’s hearing with respect to the failure to maintain that escrow and to keep the number of affordable housing units constructed and available for sale as required by that PUD.

Tim Thulson – To add on Ms. Quinn’s presentation - L.B. Rose Ranch LLC is a wholly owned LC by Lehman Brothers Holdings, which is going through the largest bankruptcy in the history of the world right now. They have been a lot of confusion about what is going on with the bankruptcy and we are finally getting direction. In discussing this with the bankruptcy attorney, they have determined that all the transfer documents that are required to cure the deficiencies noted by Ms. Quinn are acts in the ordinary course of business. It has gone through that legal review, they are now on a person named Christopher Warren’s desk and I talked with them this morning. He said the authorized signatures were not there Friday and they were not there this morning and he was trying to get them this afternoon but unfortunately, I do not have those documents with me to present to you. I believe that will occur shortly. With regard to the affordable housing units under the SIA, I believe we are down to about \$40,000 in the escrow agreement. We do not really know what the answer to that is going to be right now and they have another attorney in Colorado working with the title company on what they are trying to do to get those prepared for sale. However, there have been discussions, we still have a cash disbursement agreement over \$400,000 with the County Treasurer and we are thinking a way where we can swap funds to put that in the escrow agreement because the majority of the public improvement are in fact done however they have been seeking release and spending the bankruptcy. I am not a bankruptcy attorney, I know you are limited in what you can do here without going to the southern district in New York and spending oodles of money but overall I believe that everything I am hearing from New York and receiving from New York this will be done. It has just been an ordinary course of business in a bankruptcy. I believe we will have this done and I know we will have the transfers done today or tomorrow.

Commissioner Houpt – So the transfers for the easements and improvements that Ms. Quinn referenced?

Tim Thulson – With regard to the expired letter of credit, the sole remaining thing that needed to be done was construction of about, I believe the original amount was \$112,000 worth of sidewalks; they were never put in. And

this goes back clear to 2004-2005 because of geotechnical and geographic conditions. Way back then we came up to Mark Bean who was then the planning director and we said what we want to do is put up a pedestrian path in lieu of those sidewalks so that we could satisfy the pathway requirements under the PUD and his suggestion then was well we are going to have an administrative platting amendment under the new Unified Land Use Resolution and we were waiting until that was put into place. We kept the letter of credit up until the bankruptcy. Along with these documents, we have an application for an administrative plat amendment that would take the sidewalks out of the PUD and replace them with the pedestrian path.

Commissioner Houpt asked Fred if this is all they need to adjust that issue.

Tim Thulson has an unsigned application and that is supposed to be back in the pipeline today.

Fred – We did do a pre-application conference as well with Mr. Thulson and his group from the developer's side on this, so we are just waiting for that application.

Tim Thulson – I realize this is a scary time for a lot of people out there but everything we have been hearing from New York is good, they are managing the asset it is just it has to go through legal review and whether it's in the ordinary course of business or if they need to take it through a different channel and get trustee approval. All documents that we are talking about there have been reviewed and been deemed an ordinary course of business.

Public Input:

Karen Rainwater and a homeowner in Ironbridge. I did not understand the notice that was received; we tried to come to the Planning Department to look at documents on the 18th of September but the documents were not available to read so we have been struggling trying to understand what this is all about. We are the last home built in the development. We are very interested in knowing and there seems to be many questions and no answers coming out of bankruptcy at this point. I can understand the sidewalk bike path, the rest of it I am not as clear on in terms of the impact to homeowners, what is the immediate impact. In terms of my personal point of view about this, we are most anxious to see Lehman Brothers step up and do the right thing in terms of making this continue to be a viable community for people to live in. If that requires more time and on the part of you folks allowing them more time to provide the documents and everything they need to go forward as a homeowner I would support that initiative.

Tim said it is hard to give assurance with what Lehman Brothers is going to be doing in the future as that is subject to the bankruptcy court and the judge. However, the immediate effective of these documents are just reaffirming legally what I think is in place right now that the allocation responsibilities of the Power of Attorney (POA) and the developer to confirm the transfers of the POA and what is required and dedicated under the plat that needed to be followed up with an additional conveyance and then the conveyance under the annexation agreements with the Roaring Fork Water and Sanitation District which has already been annexed into the district. I do not think this has any immediate effective on the homeowners; I did talk to the guys in New York and said that the question is going to come up, what is going on with the golf course and they say their plans are to keep it going next year and they believe it will be a performing asset. I do not know how much assurance I can give you.

Karen I understands there is not a lot of guarantees right now.

Chairman Martin – It is subject to bankruptcy court.

Karen, as a homeowner I hope to be kept informed as to what is going on.

Tim – I would add that it has been difficult to the professionals to try to figure out what is going on sometimes and it is uncertain.

Commissioner Houpt – That is why we are here today as well, it has been a very long waiting game and it sounds as if we are still waiting and I think Mr. Thulson has made numerous calls to try to get better answers but it is a difficult position to be in especially for you to wait and see what will happen.

Deb – we have been waiting for these documents, the issue was first brought up last July, it has been in the works since then, and it just takes an inordinate amount of time to get the attention of folks in New York to get these things accomplished. What I would like the Board to do today is to authorize staff to pursue through the bankruptcy court the ability to execute whatever state law remedies we have specifically in connection with phase I which would be an action for injunctive relief in a local court to have the court to compel LB Rose Ranch to make the conveyances that should have been made back when this final plat was recorded. There are other remedies that are available as well but what I would like the Board to do at this point is just to authorize us to precede through the bankruptcy court to get leave from that court to pursue state remedies and before we actually initial any such remedies we would come back to you for specific direction on which of those remedies we would pursue. As indicated in the staff report, there are a number of different remedies available to the Board. I think that until the bankruptcy court authorizes us to proceed further discussion of those remedies is premature.

Chairman Martin – And to satisfy the bike path pedestrian way we would need to take action on that one as well.

Deb – It is one of the items of default that we would request through injunctive relief or otherwise as needed and it would be included in all the options. I do want to request some further direction with respect to phase II SIA.

Phase II

Commissioner Houpt – This may be moot because hopefully you will be getting those documents.

Chairman Martin – In reference to meeting the requirement and that would be a transfer of funds to meet the escrow account.

Deb – With respect to phase II we have the same issue, we cannot proceed with any forfeiture of any funds that we are holding on behalf of LB Rose, we cannot proceed with any enforcement action and we would want the same relief. The one thing we can do that we have not yet done is issue a formal notice of default to itemize all of the specific defaults that are in existence with respect to the phase II SIA. For that one, I would like the Board to do the same authorization to pursue relief from the bankruptcy court to exercise our state law remedies but also to authorize the Chair to sign a notice of default with respect to phase II SIA defaults.

Tim – As a point of clarification, we get the notification of default signed by the Chairman prior the initiation of court procedures so we could request a hearing on phase II.

Deb – Absolutely and we cannot proceed with any court proceedings until the bankruptcy tells us we can. That could take a while.

Tim – I ready do not know what your remedies are with bankruptcy but I am confident we will be able to moot out the issues with regard to the phase I.

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

Phase I

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to seek relief from the Bankruptcy Court to pursue all state remedies allowed with respect to Phase I of Ironbridge with the understanding that staff will come back prior to pursuing any remedies assuming the court give us the ability to proceed.

In favor: Houpt – aye Martin – aye Samson – Absent

Phase II

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to second the motion to seek relief from Bankruptcy Court to pursue all state remedies allowed with respect all defaults on Phase II of Ironbridge and authorize staff to issue a notice of default with respect to all understanding that staff will come back prior to pursuing any remedies and the authorize the Chair to sign the notice of default.

In favor: Houpt – aye Martin – aye Samson – Absent

CONSIDER A FORFEITURE OF FINANCIAL GUARANTEE FOR INABILITY TO COMPLETE CERTAIN SUBDIVISION IMPROVEMENTS AS REQUIRED IN THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR SUN MEADOWS ESTATES SUBDIVISION - APPLICANT; SUN MEADOWS ESTATES, LLC – FRED JARMAN

Fred Jarman, Tim Thulson, Fred Cooke managing member of Sun Meadows LLC, Roger Neal from High County Engineering and Davis Farrar representing Lexie Meadows and a number of homeowners in Sun Meadows were present.

Article 13 of the Current Land Use Code was presented.

Deb Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board with the exception of the vicinity map 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 – Unified Land Use Resolution of 2008, as amended; Exhibit D – Staff Memorandum; Exhibit E – Minutes from BOCC Meetings on March 16, 2009 and June 15, 2009; Exhibit F – Lot Summary of Present Build-out; Exhibit G – Original SIA dated March 15, 2004; Exhibit I – Amended SIA dated September 17, 2007; Exhibit J – Minutes from BOCC Meeting on September 17, 2007; Exhibit K – Irrevocable LOC with Alpine Bank dated June 11, 2007 (expired May 1, 2008) and Exhibit L – Extended LOC with Alpine Bank dated June 10, 2009 (set to expire November 1, 2009); Exhibit M –Engineers cost estimate Sun Meadows Estates, Preliminary Summary of Probate Construction Cost – Hwy 6 and Miller Lane and Exhibit N - Letter from Davis Farrar for Lexie Meadows dated 9-30-09.

Chairman Martin entered Exhibits A – N into the record.

Planner Fred Jarman explained: The Board of County Commissioners (the Board) approved a Final Plat for the Sun Meadows Estates Subdivision on March 15, 2004, which ultimately approved 33 residential lots served by a central water supply. As part of this Final Plat approval, the Board also signed a Subdivision Improvements Agreement (SIA), which required Sun Meadows Estates, LLC (the Developer) to complete certain real infrastructure by September 26, 2005. More specifically, this original SIA covered the installation of the following main infrastructure:

5. Potable and raw water supply and distribution systems;
6. Internal Roads, Antonelli Lane upgrades, drainage features and utility structures
7. Roadway improvements to the intersection of Miller Lane and State Highway 6 & 24; and
8. Internal subdivision reclamation and berm construction

As a requirement of the SIA, the developer submitted a Letter of Credit (LOC) to the County in the amount of approximately \$1.6 million which was to be valid for a period of 6 months beyond the completion date of the improvements. At this point, the Developer began those improvements.

The Replacement SIA

Since then, the Developer has amended the terms and conditions of the SIA because the Developer was unable to complete the construction of the improvements in the timelines required in the SIA due to unforeseen on-ground conditions, unanticipated construction costs increases and regulatory permitting delays. Based on this, the Board agreed to a revised SIA (also known as the “Replacement SIA”) on January 11, 2006. This new SIA revised the required infrastructure to include the following:

6. Potable and raw water supply and distribution systems;
7. Internal Roads, Antonelli Lane upgrades, drainage features and utility structures
8. Roadway improvements to the intersection of Miller Lane and State Highway 6 & 24 and, if required, Ukele Lane and State Highway 6 & 24 shall be approved by CDOT. CDOT would determine which intersection needs the improvements.
9. Internal subdivision reclamation and berm construction;
10. Improvements must occur according to an “Improvements Schedule” (except for improvements at the intersections with the State Highway 6 & 24)

The Board also changed the requirements for the Security for Improvements (LOC) with this new SIA. More specifically, the Developer was required to submit a revised LOC in the amount of \$483,479.00 to cover the remaining infrastructure. In addition, the Developer was required to deposit the deeds to two of the lots as identified on the cover of this memo (Lots 9 & 10 AKA “the Pledged Lots”) into Escrow to the benefit of the County. These lots had an appraised value of approximately \$145,000 each as of January 3, 2006 by Kaupaun & Company.

This SIA also required additional security for the intersection improvements at either Miller Lane or Ukele Land and State Highway 6 & 24. It was understood that the true cost of these improvements could only be determined after the Developer obtained CODT permits. (So, the Engineer’s Cost Estimate in the SIA estimated a cost of those CDOT improvements to be approximately \$188,217.00.) In the event the actual cost was higher to make these improvements and that cost exceeded the total value of the Pledged Lots and amount in the LOC, then the Developer was required to tender an additional LOC to cover those costs. Finally, this Replacement SIA also contained a “Restriction on Lot Sales” for Lots 22 – 33 until 1) the improvements were made to the State Highway intersection with Miller lane, or 2) it could be demonstrated that the County has enough security to cover those improvements. As a result, no building permits can be issued until these issues are resolved.

First Amendment to Replacement SIA

Following that, the Developer again fell in to default with the timelines and required improvements required in the SIA. As a result, Staff brought this issue back to the Board on September 17, 2007 (minutes attached). At this point, the Board made the following determinations:

5. The Board directed the County Clerk & Recorder to record an amendment to the SIA (entitled Amendment to Subdivision Improvements Agreement) which was actually originally tendered to the County in February 2007 which covered the remaining improvements in the amount of \$283,288.00;
6. The Board extended the deadline for all improvements to be completed to April 1, 2008 or approval of the Lexie Meadows Subdivision so long as a security is put in place to cover the needed improvements to the intersection of Miller Lane and State Highway 6 & 24. (Note the Lexie Meadows Subdivision received a 1-year extension to file their Final Plat due to the economic down turn.)
7. The Board extended the life of the LOC to be valid for a period of 6 months beyond the life of the SIA (which would bring it to May, 2008);
8. The Board did not agree to a partial release of funds as requested by the Developer.

CURRENT PROJECT STATUS

At present, the Developer is again in default of the terms and conditions of the Replacement SIA and the Amended SIA and the LOC has expired. It appears that the primary remaining improvements that have yet to be completed are the improvements to the intersection of Miller Lane & State Highway 6 & 24.

During the last several meetings with the BOCC earlier this spring and summer, the Developer testified on the following points (see minutes attached):

1. Developer was in the process of obtaining a new letter of credit in the amount of \$383,000.00;
2. Excel had agreed to move a power pole in the intersection; and
3. Developer needed a construction easement from adjoining property owners at the intersection to make the improvements CDOT wanted;

As the Board will recall, on May 4, 2009, the BOCC instructed the Applicant to return to the BOCC with a revised SIA, updated Engineer's cost estimate, and renewed letter of credit. As of June 10, 2009, no documents have been tendered to the County. So, ultimately, the County cannot know the exact infrastructure status without an Engineer's Cost Estimate of what is left to be completed beyond the obvious intersection improvements.

COUNTY ACTION: "Forfeiture of Financial Guarantee"

Based on the fact that the Developer has not completed the infrastructure improvements required in the SIA and the fact that the LOC has now expired, Staff finds the Board has the following options available to them as contained in the SIA and under the provisions of Section 13-106 of the Unified Land Use Resolution of 2008, as amended which is a formal process to deal with Forfeiture of Financial Guarantees. The BOCC might consider the following options:

4. The Board may elect to vacate the Final Plat as it pertains to lots that do not have building permits issued on them. (See the attached Exhibit F, which shows the lots that are still in ownership by the developer and that have not had building permits issued on them.) This action would be consistent with a Board action to "entering an order for forfeiture of the financial guarantee" as stated in Section 13-106(B)(3)(a) of the Unified Land Use Resolution of 2008, as amended.
5. The "Pledge Lots" (Lots 9 and 10) could also be released to the County, which the County would be required to sell for the purpose of generating the funds necessary for completing the improvements. (In this case, that includes the improvements to the intersection of State Highway 6 & 24 and Miller Lane.) This action would be consistent with a Board action to "entering an order for forfeiture of the financial guarantee" as stated in Section 13-106(B)(3)(a) of the Unified Land Use Resolution of 2008, as amended.
6. The Board could re-negotiate a Second Amendment to the Replacement SIA with the Developer to address the completion of the remaining improvements and obtain a new LOC. Staff recommends this amendment would continue to include the current prohibition on the sale of lots south of Antonelli Road (Lots 22-33) as well as a prohibition on issuing building permits and then extend those same prohibitions to the unsold and un-built lots on the north side of Antonelli Lane which includes the following Lots 1, 5-8, (Lots 9 & 10 are held in Escrow to the benefit of the County), Lot 18, and Lots 22-33.
7. By doing this, the Developer still has an opportunity to make improvements to the intersection and the County (if we vacated the un-built lots) would not over burden the already built lots with added HOA costs if they (12 lots) had to carry the costs that would normally be carried by all 33 lots. Note, this action would be equivalent to "withdrawing the notice" (pursuant to Section 13-106B)(3)(a) of the Unified Land Use Resolution of 2008, as amended)
8. The Board could elect to grant another extension to the SIA and require the Developer to deliver a revised LOC in the amount to cover the improvements based on a revised Engineers Cost Estimate. (This is the situation we have been in since March 2004.) Note, this action would be equivalent to "withdrawing the notice" (pursuant to Section 13-106B)(3)(a) of the Unified Land Use Resolution of 2008, as amended)

STAFF COMMENTS

This is what staff sees: If the County were to sell the Pledged Lots (Lots 9 and 10), it is unclear as to how much the market will bear for those lots presently given the current market conditions. Also, we don't presently know what it will cost to make all of the improvements which would still include the intersection of Miller Lane and State Highway 6 & 24. If the Board decides to vacate lots that have not had building permits issued on them, it would seem appropriate to vacate all of the lots south of Antonelli lane (CR 216) but the question remains if the improvements of the intersection of Miller Lane and State Highway 6 & 24 would still be needed to be completed. Staff points this out as an issue to be considered by the Board because the purchasers of lots with the subdivision (who have already built or simply purchased lots in Sun Meadows Estates) relied on the notion that that intersection was to be improved. If the Board vacates the other unsold / un-built lots, that notion of an improved intersection still exists. Staff recently talked to CDOT, which indicated there had been little to no activity on this issue. Finally, as mentioned in Option 3 above, if the Board vacates the Lots for which building permits have not been issued, then the Lots that have been built would end up carrying the HOA costs that were normally going to be spread out over 33 lots at full build-out.

Applicant:

Tim Thulson – We are not out of sync with what the staff wants here.

Fred Cooke said he was here with Roger Neal to give the Board the status of where we believe the access permit is at, which we have been working on diligently all along. I believe we are in a position where we can work out the third recommendation of staff. They are recommending a course of proceeding and we would stipulate. Fred Cooke discussed what has been going on with the interchange in the interim. This has been a struggle for us, as the Commissioners know since the beginning, because we had to delay this in 2006 in order to move forward with Lexie Meadows jointly on the SIA and they withdrew their participation and we had to go back to a total redesign just in the last year. We had hoped to start it last spring. We have redesigned it and addressed a number of issues and concerns that we originally had the last time we appeared before the Commissioners. The first issue was the movement of the power poles. We have met with Xcel and they issued us a letter stating a cost of about \$28,000 to move the power poles. That amount of money is included in our cost estimate so that issue has been overcome, which allows us to meet the requirements for the construction of the improvements without having to acquire certain rights-of-way along the northern portion of those improvements along Hwy 6 & 24. In addition, for the turn lanes, CDOT has accommodated our wishes to allow us to revise our plans where in fact we do not need acquire any additional right-of-way for the project. We will probably have to acquire some construction easement to do some work there while improvements are under construction. Roger Neal with High County Engineering, who is our consultant relating to the construction drawings is here and will explain his portion of the process. The notice to proceed from CDOT is in process.

Roger Neal – Basically, we have talked to Devan Drayton of CDOT at length about some different options we could look at to try and reduce the impacts at the intersection at Miller Lane. Upon his suggestions, we have added about three different variances to the plans minimizing the center/turn island, minimizing the shoulders and moving the power poles. These primary things have allowed us to get away from the right-of-way impacts. There were some issues with the fiber optic line and we are making these changes to that as well. This gets back to us being able to eliminate the guardrail, which also eliminated the impacts of the fiber optic line. I have not received the approval back from them; it has been given to Devan for review. However, from his email it sounded like it would take two or three weeks to look through those and make some decisions on everything. These changes were all based on discussions we had prior to this submittal. It is my impression that CDOT is going to be receptive to everything that we shown. Therefore, this is what the cost estimate that is in front of you is based on.

Chairman Martin – That is \$445,297.50.

Commissioner Houpt – Was that submitted on September 30 to CDOT?

Roger Neal – Yes. Actually, we submitted it on August 10.

Fred Cooke – I think it was the first of September, they have had it in their hands for about 3-4 weeks.

Commissioner Houpt – I am trying to figure out how much time we think you need. The date on mine was September 30.

Fred Cooke – That is High Country's estimate of cost. We submitted the actual plans to CDOT 3 -4 weeks prior to that date.

Tim Thulson – We have copies of the submission but they are unsigned however, they contain the engineering drawings that we would be willing to introduce into evidence today.

Chairman Martin – That would be good for at least for review and the record.

Tim Thulson – The other final matter that Fred Cooke talked about along with establishing a more firm timeline on extending the prescription, which is allowed under your enforcement remedies, is that there be no building permits or certificates of occupancy issue for the north lots either. We are confident in the interim we can get the new SIA amendment in place and we would be willing to go along with that stipulation.

Exhibit O – Tim Thulson submitted the engineering drawings.

Chairman Martin entered Exhibit O into the record.

Chairman Martin asked about the Letter of Credit and is it going to be extended.

Fred Cooke - We provided the Commissioners a letter of credit back in June or July of this year from Alpine Bank saying they are prepared to move forward. They are telling us to find out what the situation is with the Commissioners and what comes first, the cart or the horse. We have deposited with the developers an additional \$100,000 in cash in the form of a CD that Alpine Bank is holding towards the issuance of a larger letter of credit. We believe they will move forward but we did not have the cost estimates until last week.

Commissioner Houpt – If we extended the SIA, what kind of timeframe would you be comfortable.

Fred Cooke – It does hinge on CDOT's approval of our plans but it is our goal to be doing those improvements the first thing in the spring 2010.

Roger Neal agreed.

Fred Cooke – I would think that an extension of the SIA until June 30, 2010 with the improvements and then Alpine Bank extending the letter of credit for 6-month beyond that date. This would be a reasonable solution.

Fred Jarman – Back on the letter of credit so I understand, there was the \$100,000 CD and then the letter of credit that that you currently have with Alpine Bank for \$283,000 so this brings it to \$383,000.

Commissioner Houpt – The letter of credit in the amount of the cost estimate through November 2010 is that what you are suggesting.

Fred Cooke – Yes.

Tim Thulson – As far as an amended SIA we think we can come up with an SIA amendment and you would have contingent cost in it based on our present engineering estimate, which may go up or down depending upon when CDOT issues their notice to proceed. In the second amended SIA, we have that format included and we would be on a quick timeline to present that to you depending upon the Alpine Bank resolution, which we believe will be resolved soon.

Davis Farrar – Western Slope Consulting and representing Lexie Meadows Subdivision. Davis stated that Jim Cable, one of the principals is here as well. We also have our appraiser with us today. First of all a correction to my letter to you, we never did execute the agreement with Sun Meadows. There was negotiation but that did not come to fruition for one reason or another. Primarily, we are here to listen, we think it makes sense for the County to work out some kind of a workable agreement with the developers of Sun Meadows because the improvements to that intersection are needed. Our project as you will recall has an extension until December for final plat. The market still remains the same for developing lots. We are interesting in knowing how this thing works out.

Blaine Peters – My property is adjacent to Sun Meadows directly south of that and I am not sure my issue has anything to do with this proceeding today. However, I have issues with my irrigation system that was installed by

Sun Meadows about three years ago – it is not working properly. They were supposed to supply me with a letter of completion which I was to reply yes it was completed or not and I have yet to receive this letter. This is the third irrigation season after that, we had some damage to the pipe as notified of, and it was to be replaced by them. Deb Quinn – We currently have a letter of credit that expires November 1, 2009 and we have two Board meetings prior to that date. I would suggest that if the Board is inclined to allow the applicant to provide a new SIA and a new letter of credit for the full amount set forth in Exhibit M that they do so before the Wednesday before October 19. If that cannot occur, the Board could declare forfeiture today and allow them up to that date to cure by providing a new SIA. This SIA would need to be acceptable to staff so that we can present it to you for signature on October 19 as well as a new letter of credit so that we do not have to call the existing letter.

Commissioner Houpt – How does this change this recommendation?

Deb Quinn – It does not; it just puts a timeline on them. Basically it says there is a forfeiture and staff can proceed on the existing letter of credit and on the two deeds we have held in escrow unless they cure it by presenting the SIA and new letter of credit by October 14.

Chairman Martin – It does not expire until November.

Deb Quinn – We do not have time for the Board to approve the SIA unless you want to call a special meeting.

Fred Jarman – The question is what date do you want them to come back to you.

Chairman Martin – It would be better if we have everything in place and their letter of credit on November 2, 2009 and we could wait to take the action. This is not putting a burden on the other folks that are going to be out – we would be saddled with that improvement.

Fred Cooke – We prefer to do this and understand the Board's position on why you want to see a new letter of credit in place. We can have an amended SIA easily by your next meeting but the issue is with the bank. We need the bank's approval although the approval and documentation on our behalf is they are waiting for our tax returns and they would not be done until October 15. I think we would like to request that we have more extension time. We can include in the terms of the amended SIA as a term of default that we would provide the County with a letter of credit for the amount of \$400,000 plus amount prior to the expiration. This would give us adequate time to make sure we can get the bank on board.

Chairman Martin – That goes back to the other one, it expires on November 1 and our meeting is on November 2 and we have to have everything in place by November 2, verified by counsel that everything was in place. Can you meet that timeline?

Fred Cooke – Yes.

Deb – I want the Board to be aware that it puts us in a position that if the letter of credit does not happen for whatever reason, the first one has expired and the existing one has expired and we are left with two deeds for two lots that who knows what.

Fred Jarman – The other restriction that is important so the Board understands, there is a prohibition on all of the lots and you can also seek within the bounds of the SIA in addition to the letter of credit so it is not as if that's it. There are other securities in place.

Deb Quinn – Except we do not have the ability to do the improvements that this financial guarantee is meant to secure.

Commissioner Houpt – That is correct.

Fred Jarman – Agreed.

Fred Cooke – Could we make as a condition of the amended SIA, which we can have in front of the Board for your next meeting as a condition that simply says we will provide the letter of credit prior to the expiration on November 1 of the prior letter of credit.

Commissioner Houpt – It just does not give

Fred Jarman – The problem for us is to gear up to pull the trigger on a letter of credit, there is some lead-time built into that and that is the problem.

Chairman Martin – That is the problem I have, the letter of credit is good until November 1, which is a Sunday and we could not take action until it expired or even to gear up because it does not expire until November 1.

Deb – You can take action on that letter of credit when there is a default on the SIA, which exists today.

Fred Jarman – What it does is it preserves the County's wherewithal, so to speak.

Commissioner Houpt – Let's find some middle ground. I am hearing from staff that it is important to have more time. It is not reasonable to ask that time to be within our regular meeting times. It is not unusual for us to have to call a special meeting if that happens and if staff has to do that then that needs to happen. We could put a date in there during the last week in October, would that work for you?

Deb Quinn – If by the Monday of the last week of October if we do not have a new letter of credit, we could call a special meeting to have the Chair sign the letter of default. Or, you could authorize the Chair to sign the notice of default to the bank today which would then call that letter of credit if we have not received it prior to that date which would be October 26.

Commissioner Houpt – Let's just wait for Chairman Martin to sign it.

Tim Thulson – Would it make sense just to continue this hearing to that date?

Chairman Martin – Are you suggesting October 26 to make a final determination if we are going to show default or not and call the letter of credit, which will give you four days to go ahead and get something?

Commissioner Houpt – I will not be here so we need to know if Commissioner Samson is available or not.

Chairman Martin – He will be back from Florida by then.

Commissioner Houpt – We could have a special meeting on October 28.

Chairman Martin – Why don't you extend it out until October 28.

Fred Jarman – That works for me.

Deb Quinn – An action that the Board could take would be to authorize the Chair to sign the notice of default to the bank. If you set that at a certain date then you would have the authority to do sign. Should a letter of credit come in before that date, then you would not have to meet and there would be no letter to sign. From what I am hearing from Tim and his group is there may be a way to get this accomplished; however, if it doesn't then you could still reserve that right.

Commissioner Houpt – Do you see a meeting along with that?

Chairman Martin – If necessary we would meet.

Fred Jarman – Not necessarily, I do not think you would have to in that scenario. We would the Board know if a letter of credit comes in.

Deb Quinn – If you determine today that the forfeiture occurs; and that they have the ability to cure it by doing A, B, and C or whatever you specify that they have talked about today; and if they have not done those things by the October 26 or whatever day you decide then the Chair would be authorized to sign the default or whatever other documentation is necessary to call that letter of credit. That would avoid the need for a meeting.

Chairman Martin – And those remedies need to be addressed.

Tim Thulson – That would work for the applicant and it would be better than having the Board to reconvene again.

Deb Quinn– They are going to present a new SIA prior to October 26 is that correct.

Commissioner Houpt moved to close the public hearing. Chairman Martin seconded. Motion carried.

A motion was made by Commissioner Houpt to approve the re-negotiation on the second amendment to the replacement SIA to be submitted by the developer to the County by October 28; this SIA would remain in effect until June 30, 2010 and address the completion of other remaining improvements; and obtain a new letter of credit which would be good through November 2010 in the amount of \$445,297.60; and would also include the current prohibition on the sale of lots south on Antonilli Road, Lots 22-33 as well as a probation on issuing building permits and then extend those same prohibitions to the unsold and un-built lots on the north side of Antonilli Lane, which includes Lots 1 and 5 through 8 recognizing that Lots 9 and 10 are held in escrow to the benefit of the County also to include Lot 18 and Lots 22 through 33; if the second amendment to the replacement of the SIA is not submitted by October 26, the Chair is authorized to sign letter of default on October 28; and authorize Chair to sign the new SIA provided it is acceptable to staff.

Chairman Martin who stepped down as Chair seconded the motion.

In favor: Houpt – aye Martin – aye Samson – Absent

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

OCTOBER 12, 2009

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on October 12, 2009 with Chairman John Martin and Commissioners Tresli Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn 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

SIGNATURE APPROVAL ON COLORADO’S ARRA CSBG RISK ASSESSMENT ASSURANCE FORM – LYNN RENICK

Lynn Renick submitted the memo regarding the Risk Assessment Assurance Form for other CSBG Grant utilizing the American Recovery and Reinvestment Act Funds, which must be executed and returned by October in order to receive grant funds from the Colorado Department of Local Affairs ,which provides eligible Garfield County residents with a continuum of employment readiness activities from skill assessment through job search to job development and placement. Lynn requested the Chair sign the form.

Lynn added for information that the “tripartite board” for this grant is the Senior Services Advisory Board because the County’s regular CSBG grant assists funding the Senior Transportation program. In addition, they will be requesting the interim chair of the Advisory Board to sign the document.

Commissioner Houpt so moved. Commissioner Samson – Second.

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

Executive Session – Don requested a brief executive session regarding the contractual relationship that we have with RFTA prior to discussion of that agenda item and dissemination of the proposed budget and legal advice on open records. He would like to have opportunity to give the Board direction and legal advice. Lisa Dawson, Patty Frederick and Carolyn Dahlgren were also included in the discussion.

Commissioner Samson made a motion that we go into an Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson made a motion that we come out of Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

No action was taken.

BUDGET PRESENTATION

Don – We have had a request to produce today a copy of the budget presentation that the Board will see tomorrow. Until the Board acts or officially receives that document it is a deliberative process; however, the Board can release that document if you wish but the staff needs official direction on that issue.

Commissioner Houpt made a motion that we release the document but recognizing that it is still a proposed budget and it is not a final budget by any means.

Commissioner Samson – I would second that and ask that the press makes sure they understand it is a proposed document and report as such. In favor: Houpt – aye Martin – aye Samson - aye.

REQUEST FOR ADDITIONAL FUNDING FOR 2010 FOR RFTA – DAN BLANKENSHIP

Bruce Christensen, Dave Sturges, John Hoffman and Dan Blankenship were present.

Dan submitted a letter to the Board thanking the County for the generous contribution to RFTA in 2009 to help support the Grand Hogback bus service. Dan also thanked the Board for providing funds to complete the RFTA trail. He also apologized for the articles in the newspaper that many have been adversarial or critical of the County; unfortunately, I am not allowed to review those stories before they are printed or contribute to the headlines. I personally appreciate the support the County has provided for these services and other programs that RFTA provides

over the years and I think we need to say that as a starting point for discussion this morning. We are in a situation in our organization like many organizations in the region, the state and the nation. We have a significant shortfall that we are trying to grabble. It has required us to defer some capital projects and make some cuts in the operating budget. This coming year we are freezing our wages and we are probably going to be passing on more of the costs of benefits to our employees. We have identified some services that we could cut and we have raised our fares significantly. This year we are thinking our shortfall is going to be somewhere in the neighborhood of about \$1.3 million and that will come out of our reserves. Next year, although we still have some funds in reserves that we could use to prop up the services, the board has directed staff to provide a balanced budget because we do not want to deplete our reserves. There is a lot of guesswork as far as the forecast is concerned for revenues and we have many variables in the budget in terms of expenditures, etc. The board needs to start at least with the premise that we have a balanced budget and then as we get into the year if our forecast do not prove to be accurate, then we may have to hit those reserves or we may have to take additional actions to try to rein in our spending. That is what has prompted the board to look at the services that we provide, as it relates to the Hogback service. We have been providing that service for about eight years now and largely funding it with RFTA resources. The County over the past few years has been increasing its level of support for those services and that is greatly appreciated. Silt provides no support and the City of Rifle provides about \$20,000. The board has asked us, as staff to look at how we can reconfigure the service so that we could eliminate any shortfall. We have developed a plan whereby we could truncate the service at New Castle, operate between New Castle and the West Glenwood Springs park & ride lot, make transfers to the Highway 82 corridor buses there and transfers to the Ride Glenwood Springs bus at the west Glenwood Shopping Center where there is a bus stop. It is less convenient for people because the transfers involve for those folks that live in Western Garfield County and who might work somewhere on Grand Avenue as they would have to transfer to a Ride Glenwood Springs bus or to one of the RFTA regional buses. However, it would still get them where they needed to go and it would probably work okay. It is not as ideal as the service that we have in place now. The board developed a methodology for how they feel we should allocate this cost because we have a need for some additional revenue; and the cost allocation methodology we developed which does include fully allocated operating costs and a fee for capital which is related to equipment more of a maintenance cost but we really do not have a debt service on facilities and things like that in the cost. To try and capture that and have adequate revenue for the service, the board has adopted a methodology for allocating the cost to non-RFTA member, which involves looking at the fully operating costs and a pro-rated capital costs deducting out fares, half of New Castle's sales tax and use tax contribution. Then looking at what the balance is and in the case of the information that was provided to the Board on the back you can look at how that shakes out. We have an estimated cost of \$915,000; roughly, \$186,000 in fare revenue gives us a net Hogback cost of \$727,000, a sales and use tax estimate of \$93,000. I have been in communication with Ed, who initially indicated that the County would be potentially willing to provide \$465,000 for the Hogback service next year; then we netted out the tentatively City of Rifle contribution, not yet confirmed, of \$20,000 but that is consistent with what they have contributed in the past and that leaves a shortfall of \$149,000. The reason I start here is because I would like to see the service continue. We have invested a lot of time and energy to develop the service, many resources; ridership has grown steadily over the years although it is declining some this year because the economy is down. My assessment is that Garfield County might be in a little better financial condition and might be able to bridge this gap. I do not know if that is the case but I assume it might be. My board has said that if we cannot bridge this gap then we should try to save the money by truncating the service as of April 11, 2010. That is not something that I hope we have to do but it may become necessary. The board did not want to just pull the rug out from under people but wanted to give them some time to see if this could be worked out or at least make other plans for commuting. If the County Board can make this additional contribution, the total for 2010 would be \$614,000, which is slightly lower than your contribution this year, which was \$625,000. I am happy to answer questions and I do have some other board members here who may want to provide some comments. Our potential plan to cut these services does not affect anything that is going on in the Hwy 82 corridor. We are still going to be serving CMC, Ranch at Roaring Fork, Catherine's Store and those stops. It is just really related to the Hogback services and our desire to try to shorten those up if we could.

Ed – A question, last year we paid \$187,000 for capital improvements, it was a direct payment. This year we are subject to a cost allocation of capital improvement and it seems like we are mixing apples and oranges.

Dan Blankenship – Last year I do not know what the actual amount was, there was a certain amount. The way it was structured was there a contribution for the existing services, a contribution for expansion of the service and then there was a match for a grant. Then, in addition to that, when you look at how the operating piece of it works, we have a cost allocation worksheet that has operating costs and then a mileage based capital fee, which is primarily for tools and equipment, kind of a more maintenance cost rather than an actual cost to defray the cost of equipment or debt, those kinds of things. That is how it was structured.

Bruce Christensen – That amount is charged to, for instance, the City of Glenwood Springs and the City of Aspen who have contracts to operate our in-city bus systems and that is a part of the costs of our contracts with RFTA.

Ed – And is that just capital to buy rolling stock.

Dan Blankenship – Not in that fee, for example, the City of Aspen and the City of Glenwood Springs, they pay for their equipment separately. They are getting that operating cost and then a capital maintenance fee, which enables us to replace tools and perform maintenance on the facilities but not necessarily purchase any major capital purchases. That is somewhat separate, we have debt etc and with the Aspen Skiing Company, they pay the allocated operating costs and a vehicle use fee. They have the operating costs that maintenance capital fee, which is mileage driven and then they have a cost of capital on top on that for vehicles.

Commissioner Samson – I have a question concerning service, as you point out, you are asking for \$9,000 less this year but what specific service has been cut to the west end. I am a little bit hazy there. I am assuming you did cut some service.

Dan Blankenship – Yes we did, we carved out service in the middle portion of the day. I think we may have somewhere in the neighborhood of ten round trips per day, I do not have the schedule in front of me now but I think it is down to five or six round trips per day. Primarily, what is remaining is service during the peak times so that commuters can get back and forth. I think there are three trips in the morning, a round trip in the afternoon, and there may be a mid-day trip or two and then others are about four trips in the afternoon. Therefore, I wish I could give you a specific number. We probably carved out about four or five round trips per day.

Commissioner Samson – You dropped from ten to five is that what I am hearing.

Dan Blankenship – I think it was eleven to may be six or something like that.

A RFTA schedule was bought in by a member of the public in the audience and given to Dan.

Bruce Christensen – Mike, we also made reductions within the RFTA membership area in service as well. The cost numbers that Dan is providing is for the service as it is operating and not for the service that was operated last year, correct Dan.

Dan Blankenship – Yes.

Bruce Christensen – Your mileage is based on the current level and not what was provided last year. The deficit was larger if we had kept it the same. The other thing while Dan is counting the trips, RFTA is also making a contribution of roughly \$93,000 with the half of the New Castle sales tax revenue. That is not done for any of the other members but we felt like it was unfair to try to leap from one level of support to closer to parody all at once, so after quite a bit of discussion by the board we decided to go ahead and allocate half of the New Castle revenues to the Hogback.

Dan Blankenship asked to approach the bench. This is the existing schedule and I believe there is a weekend schedule on the back so there are a few other cuts. This is what we have. These are services from Rifle to Glenwood Springs so there are four in the morning and there are five in the evening taking people back. These are the return trips from the buses over here that are leaving. What we had was a little bit more service in these gap times here. I think we cut out three or four routes maybe four. I can send you the precise schedule changes. We tried to eliminate the service where the ridership was the lowest. The peak times are really where we carry most of the passengers. It is nice to have that mid-day service because it provides the opportunity to make a trip in the morning and come back around mid-day so it is better if people have more options and they are not stuck going in the morning and not being able to get back until later in the day.

John Hoffman – I just want to present some thought, Dan and the RFTA board are all about service and they want to get the people moved around. They know that Aspen has some needs, Rifle has some needs, and the transportation is critical to quality of life in our valleys. They are all about moving the people but I am a businessman and when you work in-house you work at costs and you go charge a profit to yourselves. However, when you are working for an agency outside of your core organization, you charge a profit because that is how businesses stay strong, that is how they can grow. We are not asking for a profit here but RFTA needs to be strong, RFTA needs to grow. We have connections to make, we need to get through to Dotsero and connect with Eagle. That would double our transportation district. We need to get to Parachute. We cannot do that without participation from Garfield County, it is core to our mission to have Garfield County on board with RFTA. We need your seat and your presence at our table.

Commissioner Houpt – We need that seat too.

John Hoffman – We need you at our table is what we really need.

Commissioner Houpt – I want to start out by thanking the RFTA board because for years you have worked with Garfield County and the various municipalities who are not members of RFTA yet to make sure that the service supplied from the western part of Garfield County thought to Aspen. I also know that Glenwood and Carbondale and now New Castle are carrying a lot of the expenses in Garfield County and the Roaring Fork Valley region that are not covered by Garfield County because we are not members at this time. Thank you for working with us, for being patient with us, and for keeping the Hogback route viable. I think it is important for us to support this request. The expenses have been broken down in a manner that is very understandable and makes a great deal of sense and I do appreciate the contribution portion of this that has been made by the board. I understand that everyone has not has an opportunity to ask questions yet but I will wait on my motion. I would like to emphasize the fact that RFTA partnership has carried service in Garfield County and municipalities who are not members for a number of years. Initially without receiving support and as we have evolved in our relationship contractually with RFTA we have expanded that support but we are still not at the place that we need to ultimately be and I think all of us have been involved in transportation discussions over the years and recognize the need and importance of regional transportation. For that reason, after others have had an opportunity to speak, I am going to make a motion to support this request.

Chairman Martin – John, getting back to your business issue, I reviewed this contract and that is why we had the executive session. It requires RFTA to come forward on any kind of cuts of service, etc because we have a performance evaluation, a performance clause and you have to provide this service. It is agreed upon. You cut the service without coming to us. It is a breach of contract. We have remedies in that either to cancel the contract or to ask for the money back, etc simply because it is a contract. That is one of the business things you are talking about. The other one is, we asked just for the service to go to Rifle and Glenwood Springs and serve our basic need for a basic price. Not an increase in service; we also agreed to go ahead and to match the rolling stock etc; we did that. Therefore, we would like that service. It has come to the point where we cannot afford that service anymore for the amount of service that is being done. I have monitored the buses both from Aspen to Rifle and the numbers are dropping and the ridership is down. There are times that the buses do not need to be running. There is a million plus free rides in Aspen every year.

Bruce Christensen – That is not free John.

Chairman Martin – They are free to the people who get on the bus and they are not paying.

Bruce Christensen – There are 400,000 free rides in your opinion in Glenwood Springs too but the City of Glenwood Springs pays RFTA \$700,000 a year for that.

Chairman Martin – That is the contract that you have with RFTA.

Bruce Christensen – But they are not free.

Commissioner Houpt – No, the people using them are taxpayers and....

Chairman Martin – The gas etc that go from the motels to the ski areas etc and I have been on them and I have ridden for free. Someone pays them for sure, but not the person that gets on the bus and put dollars in.

Commissioner Houpt – It is from a different source.

Chairman Martin – My point is, we would like the service between Rifle and Glenwood Springs and that is what we are paying for. I think it is time to go ahead, do it ourselves, run it from Rifle to New Castle, and use the profit there. It is getting to the point we cannot afford \$1,300,000 a year just to run from Rifle to Glenwood Springs. I am sorry Dan that is my opinion. The other issue in reference to the contract is I have yet to see any insurance indemnity for Garfield County, which is also in the contract, which was a requirement in 2006, 07, 08 and 09. I have looked for

that indemnity insurance and I have not found it yet. I have asked my attorney for that and he has not seen it, my administrator has not seen it, so at that point we have another breach of contract.

Commissioner Houpt – Well potentially, we have not talked to our contract administrator and in terms of whether or not there is a breach or the cut in service last year. RFTA did contact our staff, I would not challenge that there was not a breach in contract, but I think what I would like us to do at this point is focus on the future. I have watched various transportation authority's develop and grow through Colorado in different forms and in there is a great economy of scale issue when you are talking about providing public transportation. I do not think it would be practical for Garfield County to split off from RFTA and provide our own transportation. I do not think that would be a good expenditure of public funds. We are not spending \$1.3 million; they are asking for \$614,000 for 2010 for the Hogback and municipalities in Garfield County are expending more moneys for service that extends through the other half of Garfield County, so it is a shared expense. It is a good solid transportation option for people in this County and I am going to make a motion that we allocate \$614,000 for RFTA for the Hogback service for 2010.

Chairman Martin – I will make a statement while Mr. Samson is thinking about this and whether he wishes to second your motion. That is the citizens of Garfield County outside the municipalities took a vote and said, no they do not want to join RFTA. We uphold that vote. We see that is it important to Glenwood to have some type of bus service and that is on the contract. I am very thankful that the senior program, through a contract was able to go ahead and do that and again, all those items were identified in the contract and you have lived up to all of them. We hope that we would be able to negotiate a successful contract for 2010 on that; I hope that we will. The same thing goes back to what the Hogback route is, we were able to successfully negotiate what services we really needed and provided and that we could cut the overall expense for the Hogback and live within our means, both sides, yours and ours, that would satisfy us. However, we are not there yet. Just to go ahead and increase the request in one way or another, even though it is not a one-time rolling stock contribution and grant, etc it is still an increase overall. We understand that. I will go back to the services being provided running from Aspen at midnight to come down to Rifle or to Glenwood Springs; there is no one on the bus, it does not need to be there. Several others are running through town on a 15 or 10-minute schedule that are constantly empty. I noticed buses 1, 2, and 3 directly after each other with no one at the stops on Highway 82 but those buses are still running. So I look at it and it is a tough call because you never know when people are going to have to use the bus and you are trying to keep a schedule and I know, I understand. However, they are ways to go ahead and run a business but I think you are using up a lot of your rolling capital in reference to that and I just have a different philosophy because I think if Aspen needs a workforce they need to pay for a workforce. We house them, educate them and do everything under the sun down here for them – they need to pay for it. That is a hard cold reality – they need to house their workforce, they need to do everything but that is an old argument. It comes down to dollars and sense. Yes, it is time to go ahead and tighten the belt on everything. I think we need to sit down and renegotiate in reference to the Hogback route and come up with a true cost, what service we need and compliment your service in New Castle but I cannot see supporting increasing the dollars.

Commissioner Houpt – You know if we had a seat at the table, we could have been involved in the discussion on how they came up with the schedule for the Hogback. There were cuts made last year and I am sure that those were not arbitrary. They looked at the numbers, looked at the cost value and made a determination on what was affordable. People are commuting in both directions now. More people are choosing to ride a bus than get into their car, for many it is the only option they have for transportation. I think that as long as we are contracting with RFTA and we are not sitting at the table then some of the questions that you ask John have to be answered by the RFTA board without our input or assistance on that. I would say that when you see an empty bus you also have to ask yourself where that bus has been.

Chairman Martin – I followed those buses Tresi at every point from the beginning to the end as well as to Rifle and I have ridden it from the Airport to Glenwood Springs, from Glenwood Springs to Aspen and ridden around Aspen down to Rifle so I would say I know it fairly well. I am telling you there are problems and again that is truly a business issue that needs to be done by the RFTA Board. I am not criticizing them. I am not saying that it is not essential to some people, it is and that is why I say it is either important for us to do our own or to re-negotiate and reduce the cost to Garfield County on the things that we can afford. Yes, we need to provide a service that is essential for basic transportation, not every half hour, not every fifteen minutes maybe once every two hours but at least we can make adjustments and those people that really need it will have something.

Commissioner Houpt – Those people who really need it are on a schedule and we can afford this. I think we cannot afford not to do it. I think this is a service that people have grown to rely on. I have a motion on the table, and I am looking for a second.

Bruce Christensen – The only thing that I would like to respond to John is I have been on either the RFTA board as an alternate or a regular member and I am now the Chair for over 6-years. The criticism that you are talking about with regard to your monitoring of buses are in the membership district. Those are decisions that we have a very skilled staff that provides us with ridership information and the Board makes those decisions. Tresi is right, those on the board make those decisions, but more importantly we are not in any way whatsoever asking Garfield County or Silt or Rifle to pay for the service that you feel is overly frequent or empty or whatever. We are only talking about the Hogback service. Garfield County is not paying for other costs and we are not asking you to. We have three stops in unincorporated Garfield County in the Roaring Fork Valley and we are not asking Garfield County to pay anything for those services. There is a cost to RFTA members to provide that service. There is a value to the citizens of unincorporated Garfield County. We continue to provide those and those are not included in this formula. The only thing we are asking for is parity with regards to the Hogback service. We are still giving the County or Rifle or Silt whoever comes up with this, a better deal than any of us have with the City of Aspen or the City of Glenwood Springs where we provide free service for the rider but not free to the community than we are giving those communities. We charge more to those members; we are trying everything we can to provide on-going service to the County. John, I agree with you that other options need to be looked at. Mike and I have talked about this in the time I have been on the RFTA board; we have been trying to get stable funding for West Garfield County forever. I think maybe it is time to explore a separate transit district but what we are trying to do right now it to keep the service for another year while that can be explored.

Chairman Martin – Understood and I said, I know it is essential to some and I am not criticizing I am just bringing out reality. We need to talk about and yes, I also acknowledge that and that is what I said, it is a board decision. However, there are inadequacies, loss of revenue or expenditures that can meet that etc through your scheduling.

That is your decision. Mine is in reference to Glenwood to Rifle and what I am saying is I think there are too much service and it cost too much. You still have the contract that needs to go to New Castle. We need to work on that particular issue from my point, either to do New Castle to Rifle or Rifle to Glenwood Springs and trim what service you have to meet our ability to pay that cost; that is all I am saying. The other one is I still have some contract issues and still have insurance issues, etc and that is the business portion.

John Hoffman – Well, I would encourage you to look into creating a transportation district because the district needs a transportation district and that would include the rest of Garfield County going up to Carbondale. Right now, we have a park and ride that Carbondale and RFTA are hosting that is filled regularly by Garfield County residents. Carbondale does not need it near so much as Garfield County uses it. There is that in the equation as well. Once you have your own transportation district and you start looking at cutting that late night bus system, you are going to see people coming out of the woodwork saying well one person who has been at the pubs late at night, if he does not have a ride to Rifle or wherever, then we have a traffic accident on our hands. That is an intolerable thought to many people which is why, because we discussed very thoroughly keeping those late night buses and where you do you make the cut and it is also come down to health, safety and welfare. It is a hard point to argue over economics or dropping a bus, so these issues face you and I know that you are not fresh to these kinds of thoughts.

Chairman Martin – That is a personal responsibility to get home on his own and it is not the government's duty to go ahead and make sure the safeguards are there to protect the individual from himself. That is a choice. That is a freedom of choice. You take that freedom away from them and they have to ride a bus that enables and endangers the person on the bus that is not intoxicated etc. I think we have had police reports and sheriff reports about all those incidents that took place on the bus because of the people who left the pub. We can argue both sides and we are not here for that issue. We are talking about finances and understand I am trying to keep it in a business framework. I do not think we can afford the money right now for the service in cut and trim etc; we need to trim the service to meet the required debt.

Dave Sturges – I have been a part of these discussions for many years. I have come and urged as a citizen of Garfield County to the Commissioners, the public and said let's support a district that serves us. Us is not necessarily a government but it is the people that choose to utilize that bus service, which in most cases I think can be demonstrated, saves them money, provides a safe way to get to their work in a timely way and I struggling to understand how this conversation can advance. It is not about the history, I think it is about a contract at this moment. The most significant thing I hear is that we cannot afford this and we need to see that there are some cuts made in order to make this total system more efficient. There are ways to do this, certainly the County can and should probably offer up what they think an appropriate contract is for their terms. This was a letter not a contract but it was a letter telling you what the consequences of the cost of this district to provide service to Garfield County residents and residents of Rifle. My question is simply, how do we advance this discussion?

Chairman Martin – You hit it right on the head Dave, this contract expires 12-31-2009. We have no contract for 2010 and to come in and ask for funding for 2010 without a contract is a little backward. What we need to do is sit down and have a contract that we can agree upon, present to each Board member and put into our budget system so that we can afford to pay for it. We do not have it identified in our budget per se, \$400,000 and something dollars and now it comes back at \$615,000 but we do not have a contract. What service are we getting for the money? That is my point; we do not have a contract.

Dave – My assumption is that this conversation can continue; you decide whether you want to make an allocation from a future budget. You just released the first draft of your budget. I do not think we are in negotiating an amount or the terms of the contract. I think it is merely that we need to advance this discussion and what are the terms that are acceptable to both parties. We have tried to make a statement of how we have cost this item out and how we assign responsibility. I think the contract in existence, well I have never seen it, must have been satisfactory to you in the past.

Chairman Martin – The 2006 contract, all that is been done in an extension and a cost increase. The service is exactly the same; that service has been cut and the amount has gone up. This contract was for \$249,000, it is now \$615,000 and service has been cut from this contract. We need a new contract and a new service and that is my point. We need to sit down and do that. You have requested the money to go into the budget process, which we have done, it goes out for a draft and now we have to redraft everything to make sure there is enough money, and to make our trim and stay below our 2% increase, our zero increase. It is big issue.

Dave – I do not think that anybody is suggesting that you do not have a serious matter to consider on this contract.

Chairman Martin – This is one of them and the serious matter is that we need a contract so I can justify the allocation and go forward and be honest with the citizens of Garfield County saying; we are spending the money in a wise way but to go ahead, earmark and allocate \$615,000 without a contract not knowing what services we are going to get for it. It may be a little questionable in reference to where the money is going for what type of services.

Commissioner Houpt – However, it is not unusual for us to allocate those funds and direct our staff to write up a contract; we know what the schedule is, it has been represented by RFTA that this is the schedule that will be in place. We have a very detailed letter outlining the costs. I do not think it is terribly unusual for us to agree to the provisions and the price and have the attorneys work with RFTA.

Bruce – John, you released the draft budget and we have not seen that, is there a proposed allocation for RFTA in that budget and could you tell us how much.

Chairman Martin - \$465,000 that was agreed upon with Dan.

Bruce – I guess the question that I have and it would have to be something that would have to go back to the RFTA board. Are you proposing with regards to a contract, it sounds like one of your concerns John is that the cost to Garfield County and Rifle would kick in a little bit more than they have. However, Rifle has not; the cost is going up while the service is going down. You are right; the request to Garfield is going up because the member communities are not as capable of subsidizing that service. The service has not necessarily gone up, it is the subsidy for the member communities is becoming harder right now. My question is from your budget standpoint, I guess there is an alternative that I am hearing you say, which might be that you would like to talk to RFTA about what service could be provided for the amount of money you have put in the draft budget. Is that correct?

Chairman Martin – This is correct. That is what I would expect to be done as long as we could agree upon the contract.

Bruce – Okay.

Commissioner Samson – I guess it is time for me to speak. I agree with Tresi and John on certain points that they have made. I agree with you and publically want to thank you for attending these meeting that I have pulled the mayors together. I think this is an opportunity and we are going to be meeting in two weeks. I would like to pick brains of both the mayor of Parachute as well as the Battlement Mesa representative and Mayor Lambert concerning this and maybe put pressure on them as to can you come up with some more money here, get their feelings, and get some more support from them. I think it is premature; we have questions that need to be answered. If we can work together with the mayors and as John has said, with the contract, put the pieces together; there will be funding from Garfield County for RFTA rest assured of that there would be. What it will be, we will see. We need to get the contract situated and the questions of what is going to be supplied for what amount of money. But we also need and I think we need to direct our staff as I believe it was your comments that I read months ago in the paper, concerning we really need to look seriously about what is going to happen basically from New Castle west and I am meaning, Parachute and Battlement Mesa. I think there is a real need there and please do not think that I fault you in any way – you have limited funds and you are trying to do things. I understand we all understand that. Things are going to get tougher and tighter and that is why we need to work together as some municipalities in the County to try to alleviate those problems. No offense to you but I do not want to second that motion until those questions are taken care of. Commissioner Houpt – Mike, the problem I have with that is that is this Board does not agree how the contract would be structured and I think we need to give staff better direction on how to do that. I personally do not think that any more service should be cut this year; I think we need to work the concerns of the different districts in the next year and look at the cost of that but in the interim service has already been cut from Rifle east. I do not think it should be cut anymore and so I am going to have a very difficult time if at the end of the day if some contract comes before us that has our \$465,000 amount and some cuts in service because that is all we can get for that amount. I am willing to say we can afford \$614,000 to keep this line complete while we have the other discussion about where we want to see transportation go in Garfield County.

Commissioner Samson – I understand what you are saying and I agree with most of it, but I think we are premature. There is not a great rush that we have to pass this right now.

Commissioner Houpt – There is, the rush is in letting the staff know what we are going to do with our budget and what RFTA is going to do with their budget.

Commissioner Samson – Give me an opportunity to talk to people in Rifle, Battlement Mesa and Parachute and get a feel for them first.

Chairman Martin – It is also a decision for the RFTA board because in the present time in our draft budget we have the \$465,000. Can we work that kind of issue out, can we fix it, negotiate with Ed etc, what are we going to do with Rifle and just to up \$614,00 right off the bat releases the pressure from the other two municipalities. It also says, wait a minute, we have a group decision to make, you have \$20,000 from Rifle and is that what you really want to do and this is what service is going to be there etc, sit down and negotiate in faith. Say, can we afford to increase it up to this level or not, or take the other approach, it is cheaper to go ahead or less expensive to go ahead and run from Parachute to New Castle with another system and then compliment RFTA. Those are the options that we need to look at and we need to do those now. We still have not cut anything from our budget; it is still a draft budget with \$465,000 to RFTA. We can work off that amount. If we do our final approval, which will be in December and we need to make an adjustment at that time, then that is the time to make the adjustment with all of the documentation that we would need to justify that increase or to hold the line and not be justified to do the increase. That is where I am coming from.

Commissioner Houpt – So that budget is very draft.

Ed – It is an adoptable budget, which is required by statute by October 15, 2009.

Commissioner Houpt – I think that this Commission has work to do on this question, there is money in the budget, there is a line item so we are not starting from zero. Realistically, if we are going to have this same discussion again next year we have a great deal of research to do. I am not convinced that we as a County can afford to start our own transportation district that has to be proven to me.

Commissioner Samson – I got the impression from you Bruce but I do not know how many other are on your RFTA board.

Dan – We have eight member jurisdictions so we have eight representatives and eight alternates.

Commissioner Samson – The majority of the board, I know you feel that we should probably have the County have its own service from New Castle to Parachute, am I incorrect in saying that I got that impression from you. How many others on your board feel the same way?

Bruce – Mike, the first time I ever thought about that was in the meeting with you and the other mayors. There is real benefit to the County belonging to RFTA; Silt, Rifle and potentially Parachute but the reason that I support at least considering a separate transit district is I have been involved in this for over 6-years now and I know Dan has been involved longer and John is right. These issues have been voted on in Garfield County, in Rifle and Silt and have not passed. So my bigger concern is that there is money for transit services to West Garfield County and is there a way that you guys and those municipalities could form your own district that would pass the voters because whatever the issues are that have caused it to fail in the past could be addressed. John has raised some very legitimate concerns in West Garfield County, the license plate fee. I have reached the point of saying, okay, if we fail year after year, this way, is there another solution to look for and one thing is if that were to happen you do not necessarily have to start with your own bus system, we could still here talking about a contract. You would have dedicated revenue to provide those services.

Commissioner Samson – Absolutely.

Commissioner Houpt – But John Hoffman raised a point that I think cannot be ignored and that is that we have an incorporated Garfield County in the Roaring Fork Valley as well and you cannot just look at creating a district for half of the County. You would have to look at the service for the entire County for that entire portion of Garfield County, so I think that needs to be part of the mix too and it is not going to be resolved today but it is an important piece.

Chairman Martin – Yes, you establish the different boundaries by an election, by the different districts as to where your transportation corridor is going to be. It can run anywhere within the County and include the islands as well, there is a connector. Sweetwater and No Name would love to have it. Out there are Loma and Mack etc north, they would love to have it as well, they get to pay the license plate fee but they do not get to ride the bus.

John Hoffman – At the last Transportation Commission Meeting, I am not sure which Commissioner said it for CDOT; but they described our valley as a group of small transportation agencies coming together into a regional district that was from heretofore unimaginable. I congratulate you and thank you for imagining forward with that because that is what it takes is the thought that we can do it and we will do it and people need that so thank you for your efforts in that respect.

Dan – It sounds like Commissioner Samson that you would like to meet with the mayor and then maybe we have another meeting after that to discuss where we go with respect to the County’s final decision about the funding level for....

Commissioner Samson – I think that would be best and we are scheduled to meet on the 26th of October.

Commissioner Houpt – Mike, what about the contract is there any direction for staff.

Chairman Martin –Well, I think at that point Dan needs to sit with his board and see if they are willing to go ahead and do a contract. If they are let us know and then at that point then we can review the different drafts of the contract and agree upon the term agree upon the level of service. Then we can sit down on the negotiation of finance. Right now, you know you are working off \$465,000, which is in our budget, it has not been given to you but at least it is a starting point.

Commissioner Houpt – That is not, as you can hear at this table today, a final number that at least this Commissioner would like to look at.

Dan – We can begin those discussions and I want to say it is a pleasure working with Mr. Green; you have a professional staff here at the County. If there has been any miscommunication on our side, I apologize. We have appreciated our working relationship with the County over the past few years and we will maybe start the discussion about the contract and then leave the dollar amount open until you have had a chance to meet with the mayors and we have some follow up meetings.

Commissioner Samson – We would not hang you out to dry I promise.

Executive Session

Requested an Executive Session prior to Judy’s report since she has included the Landfill. Patty Frederick has looked into this and Don would like to give the Board legal advice.

Commissioner Samson made a motion that we go into an Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson - aye Martin - aye

Commissioner Samson made a motion that we come out of Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

ACTION TAKEN:

NONE

QUARTERLY OIL AND GAS REPORT – JUDY JORDAN

Judy Jordan submitted her quarterly oil and gas report showing in graphs the complaints from July – September 2009, APD’s reviewed by the Garfield County Oil and Gas from July – September 2009; and the COGCC approved APD’s for Garfield County July – September 2009. County as of 10-05-09 showed additional graphs for the COGCC 2009 Drilling Permits with Garfield County 1403 or 36.0%. The number of Wells by County showed Garfield at 6,590 and the COGCC Drilling permits as of 10/6/09 for Garfield County 1871.

Last week natural gas storage hit a record high of 3.589 tcf and the Energy Information Administration is predicting continued movement toward the peak storage capacity level of 3.9 tcf. Natural gas prices rose through September and as of October 5 were about \$4.40/MM BTU. In the past APD’s were submitted in hard copy, but with the COGCC rule changes, we are now receiving electronic notices of permit applications that need to be downloaded and accessed though a password system. Judy said we are processing approximately 25 of these notices on average per week and because of the additional time it take to download the notices for review, this task is not taking up a lot more of the Department’s overall time.

Specific Reports/Studies

With the BOCC’s approval of an award of contract to GeoTrans to conduct the Phase III Hydrogeologic Study we are developing agreements with property owners I the study area to allow the installation of monitoring wells on their properties. The County Attorney’s office has provided a template to use and preliminary contracts have been made with property owners. The consultant has also developed a brochure for use in describing what is entailed in hosting monitoring wells on their properties. Assuming we are able to negotiate agreements with the landowners, the next task will be for the consultant to begging the well installations.

Site Visits

On August 18, Williams took the Oil and Gas Development on a tour of a stormwater management pond and drilling rig. Susan Alvillar and Donna Gray and other members of the Williams Company took time to provide this tour and it was appreciated.

Conferences/Workshops

Judy Jordan attended the National Association of Royalty Owners Conference and Nikki Reckles attended CDHPHE Odor School.

Comprehensive Drilling Plans

Oil and Gas compiled comments from interested departments on Chevron’s Comprehensive Drilling Plan and provided them to Chevron. Chevron has requested a meeting to discuss comments and answer questions. The meeting schedule is in the process.

Other comments

Oil and Gas gathered comments from all related departments about the Gibson Gulch Master Development Plan and submitted them to BLM.

Presentations

AIPB on fracing was held August 8, 2009;

Lion’s Club on oil and gas development in Garfield County was held on September 15; and

Glenwood Association of Realtors on oil and gas development update and facing was held on September 16, 2009.

Other news

Williams has reported they purchased 21,800 acres of Orion assets south of New Castle.

During the summer, a Rio Blanco County Commissioner visited some well sites along the border between the two counties and called the Oil and Gas to express concern about the condition of the sites. Since the sites are on BLM, Nikki contracted BLM to request permission to access the property. She visited the sites on August 29 with a BLM

inspector and a COGCC inspector. Both inspectors indicated there were violations of applicable rules and BLM advised us that they were issuing directives to the operator to correct the problems. Nikki and Judy visited the sites on September 4 and noted that problems persisted. We met with the operator and two Rio Blanco County Commissioners on September 30 in Meeker. We shared photographs and observations of the problems with the operator, who indicated their management, had told them not to spend any money. They did promise to address some of the more egregious problems at the close of the meeting.

Judy said in summary that most of the operators in the County endeavor to operate in accordance with the applicable laws and are largely successful. Mistakes occur but she has never heard an operator state that they would intentionally violate laws because they were not financially strong enough to comply until this recent incident. We are fortunate that the Garfield County operators are generally in a solid financial position and willing to invest in complaint operations however, the experience near Rio Blanco border may suggest that as well production declines in the future there may be operators who begin to acquire older wells and who are not as capable. This may underscore the need for adequate financial security to be posted in the future, in the event that production begins to decline and less productive assets begin to change hands.

Pit Liners

COGCC held two meetings with the industry and others regarding a new proposal to revise their rules to revert to the old rule of allowing pit liners and waste disposal on site. As Judy reported last quarter, the Garfield County Landfill consultant and managers raised concerns about both the logistics of disposing of liners as well as the nature of materials that are disposed of in pits and attached to the liners. Given these concerns, O & G took the opportunity sample some of the pit liners and contents. The pit wastes have been found to contain hydrocarbons in significant concentrations and we initiated some preliminary discussions about potentially building a landfill specifically to accommodate industry's need to properly dispose of them. However, there are numerous concerns about the County operating such a facility and such a large investment. Among other things, investment in a landfill would need to be repaid through the collection of tipping fees, and there is no guarantee that industry would use the facility to dispose of pit wastes. Meanwhile, COGCC has proposed to recall their disposal rule and is expected to formally announce a rulemaking to allow for a return to in-situburial practices.

Free liquids have to be removed; this is preliminary and not formally proposed. Comment on formal proposal will be able to be made later.

Pit liner results are low numbers. Sludge's may be concern if left in the ground.

Discussion Item

The BOCC may wish to take a formal position on whether to oppose or support COGCC's forthcoming rulemaking proposal once it is released. This will be released in October 2009.

Commissioner Samson – When Tresi, do you anticipate action coming from staff.

Commissioner Houpt – There are various stakeholders and Judy has been involved. As far as feedback, she suggested to stay with new rules from counties. There is great concern is you look back pit liners buried in various locations around the County. She sees some benefits for a solution at the landfill. Conversations have transpired about the disposal and how to treat these. Enough concern was raised so why not support the current rule to make sure that waste is properly disposed.

Chairman Martin – The State of Colorado is the permitter and they should be concerned for the safety of all citizens. His concern is about them making rules and then trying to push the cost on the various counties.

Commissioner Houpt – It is important for the accountability of the waste.

Commissioner Samson – The State makes the rules and they should enforce the rules.

Commissioner Houpt - Pit liners can be disposed of at a facility that accepts pit liners. There is a facility in our County in Grand Junction and another one in Utah. Our staff looked and needs to go back to the old rule or take care of it locally. Our county manager knows what is going on; it is part of the cost of doing business. They create it and they pay for it. We could have a cell designed and then it is the industry's responsibility to pay for it.

Commissioner Samson asked Judy about the site in Rio Blanco.

Judy – Nicki with BLM and the COGCC staff made the first visit.

Commissioner Samson – The state is the one responsibility for enforcement of the rules. Why it is not there?

Commissioner Houpt – COGCC is letting BLM to take the lead. There are many reports on abandoned wells. Old wells in are in place and a great deal has taken place; however there is a growing concern and we all need to work the state, federal and at the local levels. They are aware of the situations and we need to keep a very close communication.

Commissioner Samson – Tresi, COGCC staff should be taking care of this issue.

Chairman Martin – The state has 26 to 29 inspectors. We have four in this Western Slope area.

Commissioner Samson asked Tresi to check this out. During his campaign and after he was elected he has stated that the state is shortchanging us; they make the rules and enforce the rules. Things are not being done properly.

Commissioner Houpt - This is difficult to argue, as the state does not have the resources. I do not disagree with you.

Commissioner Samson – This has been reported to COGCC and BLM but they are dragging their feet.

Commissioner Houpt – We need to make sure we have all the information.

DISCUSSION OF PRATHER SPRING CONTAMINATION – JUDY JORDAN

Judy Jordan submitted the review of the Prather Spring contamination report submitted by Debbie Baldwin, COGCC Environmental Manager and Chrisa Canfield, COGCC Environmental Protection Specialist II.

Prather Spring was found to be contaminated on May 30, 2009 by Mr. Ned Prather. Due to the complaint filed, COGCC tested water samples from the faucet Mr. Prather drank from and found Benzene, toluene, xylenes and other volatile organic components (VOCs) detected. In response to the discovery, Williams Productions RMT Company, Petroleum Development Company, Marathon Oil Company and Nonsuch Natural Gas were issued notices of alleged violations. In response to the notices Williams, PDC, Marathon and Nonsuch formed a group for the purpose of doing a joint investigation of the nature and extent of contamination detected in the Prather Spring.

Recommendations:

Prather Spring

1. Measure water levels and collect samples from the 32 existing monitoring wells in the Prather Spring valley basis as soon as possible after the beginning of spring runoff. Samples should be analyzed for both organic and inorganic parameters.

2. Samples should be collected monthly though October weather permitting. Plot data on maps and graphs after each sampling event and evaluate possible source locations.
3. Investigate areas down gradient of the Williams operations on the southeast side of the Prather Spring Valley, for possible condensate sources, including the Williams MV 6-14 pipeline and the Williams WGV pad.
4. Require Nonsuch to submit a site investigation and remediation work plan proposing how they will investigate the material left in and placed in the pit on their 697-14 pad.

Spring 2

1. Measure water levels and collect samples from the 12 existing monitoring wells in the Spring 2 valley as soon as possible after the beginning of spring runoff. Samples should be analyzed for both organic and inorganic parameters.
2. Samples should be collected monthly though October weather permitting. Plot data on maps and graphs after each sampling event and evaluate possible source locations.
3. Conduct a detailed evaluation of the OXY pad including the collection of soil and rock samples beneath the former production pits, the material left in place within the former production pits, and the installation of additional monitoring wells to investigate groundwater flow paths from the pad to Spring 2.
4. Complete the investigation down gradient of the OXY pad to define the groundwater flow path delivering contaminants to Spring 2.
5. Investigate the groundwater conditions down gradient of Spring2.

Judy informed the Board that Steven L. Lange, Senior Geochemist submitted these recommendations. The met last week and the report was required from COGCC on contamination. Prather's are unable to be present this meeting and would like to come back next week. Judy would like to quickly report on the actually waste; the Prather case is about water. It is based on the theory that the contaminants in the soil will to end up with water issues. COGCC has concluded that there are two spots of water contamination with the wells. Details will be brought forth next week.

STAFF PRESENTATION ON VENDOR PREFERENCE POLICIES AND 'DESIGN/BUILD' CONTRACTS – KENT LONG

Kent Long presented an in-depth packet of materials and the survey of contractors and subcontracts held in September/October regarding vendor preference. He needs direction to amend the current rule or keep as is. Staff examined approximately 144 internet entries comparing design-bid-build and design-build construction models. Of those approximate 144 entries, staff reviewed approximately 43 documents in developing its presentation to the Board. Based on this review of the available literature, it is the conclusion of staff that the most effective and advantageous construction model is design-build. The available literature clearly and convincing supports this conclusion. Accordingly, staff recommends that the Board retain the design-build model for the Construction of County buildings.

Vendor Preference Laws and Rules

Staff recommendation:

The current vendor preference rule is a "reciprocating rule", which is the most common type of vendor preference rule. Staff believes the rule is adequate to protect resident vendors at this time. However, alternatives to this rule are available including a percentage preference among others. Based on a review of the vendor alternatives, staff believes that a (hybrid) rule similar to that used by Mesa County, Colorado may be the best alternative for the Board if it chooses to modify the current rule.

Discussion:

Commissioner Houpt said she appreciate the last few meetings and comments on concerns. She is leaning toward having a regional preference. There are different opinions on the percentage of preference. Smaller contractors may have a different preference. She has seen with contracts that a great deal of preparation has gone it with contracts awarded and it is hard for local folks to be competitive. Therefore, she is leaning toward doing something about it. This needs to be a specific meeting and make a decision.

Public Input:

Richard Keller Western Colorado Contractor represents 600 contractors and 110 of those are in Garfield County. This is a hot issue with Mesa County, Grand Junction and other entities. As an Association representative, he represents 22 counties in the Western Slope and feels this needs to be looked at as a regional issue. All counties should be afforded the same preference or non-preference. Most issues are on a regional basis. As far as Garfield County, he suggested to leave it as is as it is fairest to all. As a contractor, he deals with Western Colorado and he benefits from the Front Range and Utah competing because they have to add the cost of per diem and people who live here to do not; leave as written.

Commissioner Samson – 110 members in Garfield County and there is a 600-member company. You say there are 110 in Garfield County alone. Response – yes.

Joshua Colbert – Agrees with Kent that this should be divided by geography. We are moving into a phase and there other ways to evaluate it. He agrees the size of the project should be evaluated and the abilities of a contractor taken into consideration over a span of time. Most jurisdictions select price and lowest bidder, however if we start evaluating on performance that will service the public more than any geographical basis.

Kent – On large buildings, we solicit through the RFP process and have evaluations. We base those evaluations on past performance, qualifications, having completed specific buildings, and evaluate the entire proposal. For limited projects, we do not use invitation for bids.

Ed said it is a best value approach.

Chairman Martin – We need to discuss this again or leave the policy in place.

Commissioner Houpt – The broader discussion is that she has received many comments and concerns about the way we do this; the Commissioner needs to address this in a work session and take time to go over these things.

A Work Session was scheduled for Tuesday, November 3, 2009.

Commisioner Samson so moved. Commissioner Houpt second.

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

Design Build – Direction was given to Kent to put this subject in the meeting as well.

OPEN SPACE AND TRAILS IN GARFIELD COUNTY – JOCK JACOB

Jock Jacober submitted a proposal to the Commissioners for Consideration of Forming a Garfield County Open Space and Trails Program. The overview is that Garfield County's support and leadership is sought in the

development of a countywide open space program to help preserve and manage lands of significant agricultural, scenic, recreational or natural value for the benefit of the County's residents, visitors, businesses, and environment. The Sutey Ranch/Two Shoes Land Exchange prompted several Garfield County residents to again begin discussing the formation of a countywide open space program. The goal is to create a countywide open space program to acquire, preserve and manage undeveloped properties and trail systems for multiple purposes including but not limited to recreation, agriculture, scenery, wildlife habitat, and public access.

By having a countywide open space program, it would enable the County to access millions of dollars in grant funding from CoGo, the Natural Resource Conservation Service, the Division of Wildlife and other funding sources. The request to Garfield County is two-fold:

1. That Garfield County send the attached letter requesting that the Trust for Public Land perform a feasibility study to assess financing mechanisms for a countywide open space program. This service is free of charge and would not commit the County to any further action.
2. That the County engage in this effort by appointing a staff liaison that could maintain contact with the effort, attend relevant meetings, providing on-going information to the Commissioner and assist the group in addressing specific concerns or questions that arise on behalf of the County.

The core group consists of Jock Jacober, Chris Harrison, Suzanne Stephens, Mary Noone, Laurie Stevens, Martha Cochran, Aspen Valley Land Trust, and Clark Anderson of Sonora Institute.

The draft letter was submitted and the group requested the Chair to be authorized to sign the letter of request. Now is the time to explore open space program.

Martha Cochran –As far as private lands, we need to find out how to best do this and the best way to fund it.

Commissioner Houpt made a motion that we send the attached letter to do a feasibility study as presented and that we engage a County staff member as a liaison to maintain contact with the group that is moving this project forward.

Commissioner Samson – Second. In favor: Houpt – aye Samson– aye Martin – aye

Carolyn – I reviewed the files we have available in the County Attorney's office for this conversation today and found out that the Mid-Valley Metropolitan District is already organized as a recreation district and also the Roaring Fork Open Space Park and Recreation District. She will make sure that Fred's staff has the information available in our office. However, you have two existing districts that may be of use.

Chairman Martin – This information may be useful as a vehicle as this group moves forward.

BATTLEMENT CONCERNED CITIZENS REGARDING ANTERO DRILLING IN BATTLEMENT MESA – PAUL LIGHT

Paul Light and a group of Battlement Mesa landowners and concerned citizens were present.

Don commented that at present time there is no pending application.

Susan Smith said she is a concerned citizen and a spin off Battlement Mesa Concerned Citizens, which is also a part of the Grand Valley Citizens Alliance. She stated she was talking specifically about Antero but she wanted to stress the importance of the health and safety of the Battlement Mesa Citizens. As to the oil and gas impacts, I believe better information is needed in order to make a determination of health risk to older populations. An independent study is what is needed and she asked the Board of County Commissioners to support a risk and development assessment in Battlement Mesa. She presented a petition signed by many of the residents of the community. We understand the report from the CDPHE on air that it did not show the impacts that we smell every day. Therefore, she would request an independent study on air monitoring in this area. Chairman Martin asked Susan who would pay for this study.

Susan said CEPHE.

Paul suggested the Board budget for it.

Commissioner Houpt stated that Jim Rada was in the audience; he is not public health director. She asked Jim if he was involved in the comprehensive assessment and how general that was to the Battlement Mesa area.

Jim – The monitors were in Parachute and we had them placed across the County. He was not sure what Susan or Paul has in mind and is not sure what the citizens are looking for in this study.

Paul replied that he has seen the study. Battlement Mesa has a particular population of elderly and they are already addressing health problems, so the current level of activity with oil and gas is a concern and feels it should be addressed in a new risk assessment.

Jim stated he would need to have a discussion with the state. He will relay the message to Mary Meisner, the Public Health Director.

Paul said they would like to have some input into the discussions.

Commissioner Houpt agreed they absolutely should be included.

RVAC 6060 REQUEST TO VACATE COUNTY ROAD 153. PUBLIC MEETING TO SET REFERRAL AGENCIES AND PUBLIC HEARING DATES BY THE BOARD AS REQUIRED BY SECTION 4-110 OF THE UNIFIED LAND USE RESOLUTION OF 2008 – TOM VELJIC

Tom Veljic submitted the request to vacate a portion of County road 154 aka Big Four Road, the applicant, Iron Rose Land and Cattle I, LLC. The request is to vacate CR 153 from its intersection with County Road 111, past the intersection with CR 165, to its terminus and the

RVAC 6061 REQUEST TO VACATE COUNTY ROAD 165. PUBLIC MEETING TO SET REFERRAL AGENCIES AND PUBLIC HEARING DATES BY THE BOARD AS REQUIRED BY SECTION 4-110 OF THE UNIFIED LAND USE RESOLUTION OF 2008 – TOM VELJIC

Tom Veljic submitted the request to vacate a portion of County road 165 the applicant, Iron Rose Land and Cattle I, LLC. The request is to vacate CR 165 from its intersection with County Road 111, past the intersection with CR 153.

These two were reviewed together and the following applied to both.

Tom stated that Section 4-410 of the Unified Land Use Code requires the BOCC to set a hearing date for review by the Building and Planning Commission and the next available date would be December 9, 2009.

Don asked if Tom planned to have this before or after the Planning Commission has a site visit. It does make sense but there is no mandate and a site visit should occur as a Board all at the same time versus individually but not necessarily with the Planning Commission.

Chairman Martin – The Planning Commission has their rules and regulations, the Board will have to have their recommendations as well as form their own opinion.

Commissioner Houpt made a motion that we accept the Planning Commission recommendation on December 9 for both vacations and the BOCC set a hearing following in 45 days upon the completion of the process of the Planning Commission and that two separate site visits be scheduled one for the Planning Commission and one for the Board of County Commissioners. Commissioner Samson – Second.

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

RVAC 6091 REQUEST TO VACATE COUNTY ROAD 106. PUBLIC MEETING TO SET REFERRAL AGENCIES AND PUBLIC HEARING DATES BY THE BOARD AS REQUIRED BY SECTION 4-110 OF THE UNIFIED LAND USE RESOLUTION OF 2008 – TOM VELJIC

Tom Veljic submitted the request to vacate a portion of County road 106 the applicant, Colorado Rocky Mountain School. The request is to vacate CR 106 from its intersection with County Road 108 to the intersection with Delores Way.

Tom stated that Section 4-410 of the Unified Land Use Code requires the BOCC to set a hearing date for review by the Building and Planning Commission and the next available date would be December 9, 2009.

Tom stated he has a request from Mr. Green who is the applicant to waive the timelines due to a conflict and Tom would like to change the date from December 9, 2009 before the Planning Commission to January 13, 2010.

Commissioner Samson so moved. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin – The same situation is with this road and we need a field visit as well for this one. You have the Sutank Bridge that you are doing a historical preservation on off 106 Road and is that going to be useful or not after that occurs and we have access to public thoroughfare.

MEET AND GREET CANDIDATES FOR APPOINTMENT TO THE GARFIELD COUNTY PLANNING COMMISSION AND BOARD OF ADJUSTMENT – FRED JARMAN

Fred Jarman presented the candidates and their submittals for the Planning Commission.

Five requests to appointment were received from: John Mechling (Geotechnical Engineer in Glenwood Springs; Leigh Letson, Architect in Glenwood Springs, Michael Sullivan, Hotel Industry in Glenwood Springs, Dave Argo, No Name Architects of Glenwood Springs and Tom Jankovsky (Businessman/Sunlight Mountain manager in Glenwood Springs.

Fred commented that because the vacant seat is a regular member, the Board often has filled it with an existing associate member and then filled the associate seat with a new candidate.

The existing associate members are Greg McKennis of New Castle, John Kuersten of Rifle, and Lauren Martindale of Carbondale. The regular members represent areas of Rulison, Silt, Carbondale (2), and Glenwood Springs (2).

Fred noted that we do not have applications from New Castle, Parachute or Battlement Mesa.

Commissioner Houpt stated that this year is a very intense year as many meetings will be scheduled in relation to the Comprehensive Plan and it will require a great deal of commitment and challenge. Therefore, she would like to hear how and why each applicant would state their interest in becoming a part of the Planning Commission. The following gave comments:

John Mechling (Geotechnical Engineer in Glenwood Springs) – The Planning Commissioner process is intriguing to me and think my background and experience would greatly benefit the efforts.

Tom Jankovsky said he has been in and through the process and has an interest in how the process works. He brings a business background to the Planning Commissioner from Sunlight Ski Industry and the US Forest Service so he understands those processes very well. His business is such that my people I work with mainly run it and he is available to leave his job and be prepared. He also has a strong background in volunteering with the Chamber and Colorado Ski Country.

Leigh Letson – He has been an architect for 10 years mostly in Pitkin and Eagle County and he feels he could bring benefits to the Planning Commission and also learn the way this County works.

Michael Sullivan said he and his wife have been before the Board on many occasions in the last ten years and he has following all the process including through the Planning Commission in Basalt. Regarding planning it is no secret in terms of my views. He believes that developers have a right to develop their property but they also have a responsibility to leave what they build in better shape. He has seen it work and where it does not work. He is extremely motivated and would like to see responsible growth in Garfield County. He would like to be involved in the Comp Plan.

John Mechling – A citizen of the County and stated there are several qualified people in the room today who are stepping up to the plate. Many do not do that anymore. He feels they cannot complain if no effort is put forth to volunteer. What he brings to the table is that he makes his living working with his clients who are developers and he is familiar with the process from all sides. He feels he has learned a lot from problems they deal with and when people work together, something is accomplished. He feels there is too much head butting and he hopes to try and do what he can to get better working relations.

Dave Argo, No Name Architects of Glenwood Springs. Dave said he feels he is very qualified. Most of what he does is as a sole proprietor and he lives in No Name. He has worked mostly in Eagle County and a great deal of his work has been in Vail Valley. He has certifications in re-tooling green certifications and other things. The reason he is here today to volunteer is so that he can engage at local level from the business level. No Name is the ideal spot to live. He is investing in the future. The fact that the Comp Plan is being updated is why he is interested in being on the Planning Commission. It is an important time to look forward into the future and he would like to be more engaged.

Commissioner Samson made the comment that it is great when people step up and volunteer. He realizes none would be here if you did not realize how important this job is to the community. There is no money paid for your services, it requires making time in your personal and business life to make a commitment like this as it requires a great deal of time and effort. As an editorial statement, he is disappointed that no one from the west end of the valley applied and that concerns him. So many people want to be on this board from the east end and no one from west end. His district includes Rifle, New Castle, Parachute and Battlement Mesa and he has personally done a great deal to stir interest but so far no one has come forward.

Chairman Martin – Phil Vaughan and Cheryl Chandler are from your district Mike and they have been faithful volunteers for several years and have made great representatives sharing various views and very diverse points. We

need to make a decision on these five and the ones we do not select need to be held in reserve for different boards or hold interest until an opening comes on the Planning Commission.

Commissioner Samson asked each applicant to tell us why you would be the best.

Leigh – I have a passion for getting solutions, understanding the problem, understand where the people are coming from, understand and feel what they are thinking.

Michael – My point of view is my strongest passion. A definite view towards looking at what is best for the community and the best cost of the business aspect. He feels this would be his strongest contribution.

John – I cannot tell you I would be best compared to everyone else. I will say that I do not take this commitment lightly and I always do well at what I take on. I will give you my best shot.

Dave – Maybe another to look at would be being able to understand various points across the valley. Yes, Mike there is no one from Western Colorado here today however; he does not feel that individuals have to be from particular area to represent the entire County. He is originally from Kansas and that state has resources similar to the western end of the County. He knows about the oil industry.

Tom – Everybody here is very qualified. He would bring to the board a business perspective. He agrees with the right of property owners but also understands that neighbors have rights. He would bring a business perspective.

Fred commented that this Board has generally put an alternate into a regular position and then chosen an alternate to fill that vacancy. Greg McKennis has been in the alternate position the longest and that would be his suggestion to move Greg to a regular member and then replace his position as an alternate from one of these gentlemen. He also suggested as was done the last time the Board had interviews was to hold the decision until the next board meeting.

Chairman Martin – Agreed with Fred that we should deliberate this, conclude next week, and notify everyone on the selection. It was decided to hold this until November 2, 2009.

REQUEST APPROVAL FOR AFTER SCHOOL PROGRAM FOR ACCESS ROARING FORK – STEVE KAUFMAN

Steve Kaufman submitted a proposed budget for the After School Program he was requested to do so at the September 21, 2009 BOCC meeting. His proposal is for \$455,572 and submitted in an expense format for Carbondale, Basalt, Glenwood, RE-2 and RE-16. The breakdown is as follows:

Carbondale - \$113,893

Basalt – \$113,893

Glenwood – 113,893

RE-2 and RE-16 - \$113,893

The proposal includes the following After School Courses to be provided:

Music, Art, Technology, Homework Help, Nutrition/Cooking, Fitness, Soccer, Spanish, Red Cross, 4-H, Junior Achievement, Dance, theater, Knitting or equivalent, Sheriff's Department courses and Liaisons. Teacher's salaries will be paid at \$25/hour and the Liaison salary at \$25/hour.

Discussion:

A handout was submitted on the background on the Carbondale program.

Chief of Police for Glenwood Springs Terry Wilson; JP Strait, School Resource Officer in Carbondale; Deb Bath of Wamsley; Debbie Wilde of Youthzone; Joe Markham from RE-2; Holly Hopple – Glenwood Springs; Tony Hershey, Assistant District Attorney and Tanny McGinnis Community Relations Sheriff Deputy were present.

After School Programs are the extension of school. It is a perception of an extended school day however there is an entirely different agenda. He encouraged to Board to read the handout. He gave specific details in the handout but said the largest component in After School Programs was to reduce crime cost.

Deb Wilde from Youthzone said she presented a report to the Board that it cost about \$79,000 per kid once they get into the juvenile system. She is a strong supporter of this program. Secondly, she submitted to Ed the budget for 2010 that includes Garfield County, RE 2 and Garfield 16. They have covered every penny in this proposed budget. Today they are requesting 2009 funding for \$25,310 for the After School Program and then we will come back in November for a request for the budget amount for 2010.

Tom Baker was unable to be present but submitted an email explaining the critical decision of keeping this program alive and well. This is an investment in the safety for our children. Joe Markham, Re-2 and Tanny, Sheriff's Community Relations Deputy also spoke in favor of this program.

Tony Hershey stated this is a law enforcement issue and when these kids are not in school and/or in the summer where you have both parents working and the kids are left alone, they do get in trouble. The juvenile justice system is one to be avoided. He believes that if we keep the kids busy in the late afternoon and evening they will stay out of trouble. He appreciates the program and fully supports it. The County has a fiscal responsible and it will be saving money in other programs.

Terry Wilson – Understands communication and law enforcement and has seen a focus in this program on that percentage of kids that are not active in school sponsored activities such as DECA and sports. This provides our kids positive interaction, positive outlook and he knows it is extremely difficult to keep kids out of trouble. By supporting this program, it gives opportunity to keep them busy.

Joe Markham has seen firsthand and he participates in the school and does many things. He lets kids see him outside of the uniform by developing positive relationships as an officer and as a person. Safety of these kids is number one.

Deb Bath stated the After School Programs offer enrichment and activities for kids whose families do not have time or unable to financial give their kids this opportunity. At Lyons Pond we have done cooking classes, kindness clubs, back up support for the communities such as sending cards for veterans, they go out in the community and sing Christmas Carols, sponsor a Charity tree and auction off the items and the children chose the charity to give it those funds to. She stresses a respect for giving. In the afternoon, they do fitness and nutrition and enrich the kid's lives. Grants for schools do enhance some programs but do not fund them totally. Now that they have gone to having kindergarten every day the district has gone to full-time and many of the families cannot pay for after school programs. They have a USDS grant that provides for snacks for school programs at Rifle and New Castle. Wamsley is directly related to a sliding scale for these resources. Many children go home after school to an empty house, as both parents have to work. These children are by themselves and unsupervised and not gaining anything. We need to have more funding so we can offer scholarships and therefore provide activities that the children are doing something productive, learning skills and are safe.

Tanny is grateful to have these services provided. She supports what Tony Hershey said about the gap in our abilities. Kids lack direction before school and after school before parents get home from work.

Deb Wilde said she speaks all the time so she was being quiet. She does truly support Steve, is helping to organize the programs, and will make sure he will do a good job.

Commissioner Samson made a motion that we to approve \$25,310 for 2009 for the After School Program for Access Roaring Fork.

Chairman Martin - These funds would need to come out of the general fund. He suggested Steve come back in November 2010 for his budget request. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

Carolyn asked who in the County would be responsible for drafting this contract.

Direction was given that Kent would be the one who would develop an agreement for 2009. Then the 2010 appropriation would be heard during budget presentations.

ADOPTION OF AN ORDINANCE FOR THE REGULATION OF TRAFFIC AND PARKING – CASSIE COLEMAN

Cassie Coleman and Don DeFord presented the Ordinance and requested adoption by the Board to be effective January 1, 2010. This was published by the County Attorney's office in the Citizens Telegram and Glenwood Post and it was available in Jean office in late September. On September 21, 2009, we did first reading by title only and today it is up for adoption by the Board. The proof of publication was presented in the Citizens Telegram.

Chairman Martin accepted the proof of publication into the record.

Commissioner Houpt has several questions on the Resolution and she thought the Sheriff would be here. This has been discussed the past three at last meeting and it was not her understand that we were going to invest in the boots. Don stated that yes, that was in the initial Resolution and the boot is less expensive for the taxpayer than having a vehicle towed, the expense of paying for the tow bill and the storage. We did decide not to invest in scales but if at some time, the Sheriff chooses he may want to amend the Resolution.

Commissioner Houpt had several other changes, typos and questions about municipal boundaries.

Don responded that these were corporate limits literally described as legal boundaries and jurisdictions to the extent that we have jurisdiction.

Commissioner Samson moved to close the public hearing. Commissioner Houpt second. Motion carried.

Commissioner Samson made a motion that we approve the Ordinance regarding traffic and parking to be effective January 1, 2010. Commissioner Houpt – Second.

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

PROVIDE STAFF WITH FORMAL DIRECTION FOR A PUBLIC WORKSHOP REGARDING THE HIDDEN GEMS WILDERNESS CAMPAIGN – FRED JARMAN

Fred Jarman was requested by Commissioner Houpt to follow-up on the request from Sean Martin, president of Mt. Sopris Recreational Riders and Tony Fisher, president of the White River Forest Alliance (WRFA) who are both headquartered in Carbondale to attempt to have a coordinated meeting of Hidden Gems and those in opposition of the proposed wilderness designations as various user groups have been left out of the process thus far. The Wilderness Workshop is heading a coalition of environmental groups that want to secure special protection for approximately 400,000 acres of public lands in addition to the 770,000 acres already protected. These acres are in the Barber Gulch area in the very northern tip of the BLM Thompson Creek portion of the larger Assignment Ridge proposal area. It is adjacent to the WRNF's recommended wilderness of Assignment Ridge to the south of mainstream Thompson Creek.

Alan Harvey, Sean Martin and Keith Williams were present.

After a lengthy discussion, Commissioner Houpt favored have a meeting in the Glenwood Springs High School Auditorium as that would hold enough people if they are interested in hearing both sides of the issues. She would also want Fred or his staff to work directly in setting this up.

Chairman Martin would like to have the new service provider at the White River Forest invited.

Commissioner Houpt stated the point of meeting is to understand the Hidden Gems proposal, the Forest Service plan, the Wilderness plan and to be educated on all views. She would like this to be where people do not place blame, yell or scream at each other. The full story is not always what you read in the papers.

Sean said that Sara Fisher did a good job on the presentation in Eagle. There was time for questions and answers and a great deal of information was provided. It took about 1 hour. He said 25 or so attended and 2/3 opposed and 1/3 were for it.

Commissioner Houpt asked that the Website say, "Do not contract Garfield County."

Fred Jarman will look into this and come back to the Board with a date.

PROVIDE DIRECTION TO STAFF FOR DRAFT SCOPE OF SERVICES FOR THE UPDATE TO THE COUNTY'S CAPITAL IMPROVEMENTS PLAN INTENDED TO PROVIDE A FORMAL POLICY FOR COUNTY ROAD INTERSECTIONS WITH STATE HIGHWAYS – FRED JARMAN

Fred Jarman submitted a draft scope of services intended to address County Road/State Highway Intersection Policies. Fred stated that the County's 1997 Capital Improvement Plan does not address how to manage needed improvements to County road/state highway intersections. On July 28, 2009 the BOCC unanimously voted by joint motions made by Commissioner Samson and Commissioner Houpt to give staff direction to draft a Scope of Services to be completed through an RFP process on this issue. Staff has drafted a Scope of Services, which is intended to address the following:

1. Analyze and prioritize existing state highway and County road intersections in Garfield County based on existing and projected use and resultant safety issues to determine what improvements are necessary;
2. Propose a funding method as to how improvements to these intersections are to be funded in the future;
3. Amend the County's Capital Improvement Plan and Unified Land Use Resolution of 2008, as amended to incorporate these new policies.

Today staff is looking for approval from the BOCC on this proposed Scope of Services so that we may send it out with a formal Request for Proposals (RFP) in October/November 2009. Fred attached the Minutes of the meeting as Exhibit A on July 28, 2009. Fred asked the Board - Is this within the spirit of what you want?

Commissioner Houpt – In my motion it calls for a proposed policy but that follows the study. I do not think there was an assumption in there that if the study calls for – I just think; it is obvious what is needed in there but is it proposed and not. We do not know what the outcome of the study is going to be.

Fred said, our hope is that at the end of this effort there are three or four different alternative that could be presented to you and you can choose from a set of alternative.

Commissioner Houpt – That would be wonderful.

Fred – That is the goal I would think. That is direction I feel I was getting but I wanted to make sure this is where the Board was headed.

Chairman Martin – This is wonderful.

Commissioner Houpt – It is consistent with the motion I think.

Fred – Okay.

Commissioner Houpt – Is it consistent with your motion, Mike?

Commissioner Samson – That is fine, yes.

REQUEST TO APPROVE LOC DRAW DOWN FOR CHEVRON – JEFF NELSON

Ed Green submitted a request from Chevron from Shaun L. Carda, Business Manager Piceance Basin Natural Gas Development Program dated September 16, 2009 for CR 204.

Chevron has placed a Letter of Credit (LOC) with a bank in the amount of \$25,000,000 to guaranty their portion of the project funding. To date Chevron has paid \$10,987,620. As per JPA 2.3(B)(1), Chevron requests a reduction of the guaranty by the amount paid to date.

The existing LOC is due to expire October 15, 2009 and Chevron seeks the BOCC's approval to extend it until March 2010 at the reduced amount of \$14,012,380 constituting the outstanding balance of the \$25,000,000 of the original guaranty. Once Chevron has been notified of the BOCC's approval, they will advise their Treasury Group to extend the LOC.

Jeff Nelson submitted the request to approve the Chevron drawdown for County Road 204 and signature of the Chair if approved on the drawdown.

Discussion:

Don – Ed and I received an email response from Jeff last Wednesday indicating that he is in agreement with the figures that Shaun Carda has presented. I talked to Shaun about the proposal and I have talked to Stacey Saunders on Friday of last week. They will place the extended letter to credit with the same bank that it is currently with and use the same form that is already been approved as far as the letter of credit. Therefore, I think you should go forward and approve the reduction requested by Chevron.

Commissioner Houpt made a motion that we approve the extension of Chevron letter of credit until March 2010 at a reduced amount of \$14,012,380 for the reconstruction of County Road 204.

Don – Before that second is made, does that also include authority for the Chair to sign the reduction of \$10,987,620? Commissioner Houpt – It does. Commissioner Samson – Second.

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

PDO CASH PAYOUT PLAN FOR 2009 – LISA DAWSON

Lisa Dawson presented the PDO Cash Payout Plan for 2009 saying the finance office will follow established procedures to pay out 40% of accrued PDO to "buy back" the hours over the maximum at 40% of the employee's pay rate. This would occur in the January 2010 pay period. In order to qualify for the buyout an employee must have taken at least 120 hours of PDO in the 12-month pay cycle.

Lisa gave the Board a handout showing the estimate of what it may cost but reminded them it is too early to give an exact amount as many take vacations around the holidays; the cost estimate was \$12,500.

Ed said this forces employees to take at least 3 weeks of vacation and draw down the liability.

Commissioner Houpt made a motion that we approve the cash payout for 2009. Commissioner Samson – Second.

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

REQUEST FOR BOCC CHAIRMAN SIGNATURE ON U.S. DEPARTMENT OF ENERGY NOTICE OF AWARD UNDER ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM – JIM RADA

Jim Rada presented the Block Grant and requested signature of the Chair on the Notice of Award for the Energy Efficiency and Conservation Block Grant Program. The EECBG funding will supplement a new countywide clean energy program. The Garfield New Energy Community Initiative (GNECI) is a comprehensive initiative to increase energy efficiency for households, businesses, governments and increase energy efficiency of the transportation sector and develop renewable energy. GNECI is a local government collaborative involving the County Transportation Authority, utilities, school district, Chamber of Commerce, and nonprofits are partners in the effort. This period of performance is from 9-4-09 through 9-3-2012. The amount of the grant is \$227,500.00 for 36-months. Commissioner Houpt made a motion that we authorize the chair to sign the signature page.

Commissioner Samson– Second. In favor: Houpt – aye Samson – aye Opposed Martin – aye

Chairman Martin stated he is against federal bailouts and if we do this, the County should fund it.

Jim stated that money is going to be earmarked and \$190,000 will go directly back into citizens of Garfield County in forms of rebates for audits and retrofits on their homes and businesses.

TREASURER'S FEE – 1% NECCI

Carolyn – The issue is in the overall NECI, the BOCC has agreed to pay the Treasurer's 1% fee on the other funding sources so the question is will this happen with this new funding source that is getting folded into the other NECI money or not.

Chairman Martin – I think it is a wonderful thing to do to pay that 1%.

Commissioner Houpt made a motion to stay consistent with the motions in the past to pay the 1% treasurer's fee, this was the intent. Commissioner Samson – Second.

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

CONSENT AGENDA.

- a) Approve Bills
- b) Wire Transfers
- c) Inter-Fund Transfers
- d) Changes to Prior Warrant List

Commissioner Houpt made a motion that we approve the consent agenda items a – d.

Commissioner Samson – Second.

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

Executive Session – Provide the Board with updates on negotiations with development of CR 100 and also receive direction from the Board; my staff needs to talk to you about Resolution of the Continental Rifle litigation; Cassie needs to talk to you about code enforcement issues for KNL, Rocky Mountain Hot Shots, IRMW and Elk Creek.

Commissioner Houpt made a motion that we go into an Executive Session. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson made a motion that we come out of Executive Session. Commissioner Houpt – Second.

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

RELEASE TO CONTRACT #5 FOR CH2ML – BRIAN CONDIE

Ed Green, Brian Condie and Carolyn Dahlgren submitted the release to contract No. 5 for CH2MHILL saying the time for performance for the Engineering Services to be completed under this Release to Contract #5 shall be in accordance with the task-by-tasks scheduled outlined in the packet with an anticipated total time of 9-monhs, with the provision that the work shall be done prior to April 1, 2010.

Chart handed out showing the scope of work and their contract. The FAA requested that we do an independent fee review and that was a couple of weeks late, just received it this morning, and reviewed it. A couple of items that were different from the independent fee, the original scope of work was \$911,510 and the fee came back at \$798,638 and we have to look at the differences which are broken out in the handout. The main difference is after the 65% review the independent fee adjuster put 22 hours in there for final drainage. CH2MHILL has about 150 hours and on the final design so there was a big difference. Therefore, complying with the FAA regulations where we have to be within 10% we renegotiated two of these area fees and took out man-hours on the drainage, which most has been done already last week on their own dime to come to a proposed fee of \$877,770 for release to contract No. 5.

Carolyn – The other difference between what you have in your packets and the final version of the contract is that CH2MHILL had made this a 2-year contract and Brian will come back within extension document in November or December.

Brian is receiving a document overnight of a signed copy; and if you accept it and would authorize the Chair to sign this scope or work and the fee not to exceed the \$877,770, he would appreciate it.

Commissioner Houpt made a motion that we accept the release to contract No. 5 in the amount of \$877,770 for final engineering design and services for the upgrade runway as presented. Commissioner Samson – Second.

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

SCREENING OF “SPLIT ESTATE”, A DOCUMENTARY FILM ABOUT OIL AND GAS DRILLING ON SPLIT ESTATES – TARA MEIXSELL

Rock film, a film by Debra Anderson was shown.

Tara Meixsell presented the documentary film sponsored by three organizations, The Thompson Divide Coalition, the Aspen Center for Environmental Studies and the Aspen Skiing Co’s Environmental Foundation. Debra Anderson is the producer and the film relates to the tales of what those interviews describe as the profound and sometimes poisonous effects of gas drilling on people living nearby in Garfield County in Colorado and San Juan County in northwest New Mexico.

Split estates occur where the surface rights and mineral rights on a given piece of property are owned separately, as is the case in much of Garfield County. One result of the mineral rights essentially have the right to access those minerals, regardless of the feelings of the surface-rights owner. Split estate situations are not what we will see if drilling happens here in the valley. Drilling here will more likely be on federal land rather than private according to Lisa Moreno of the Thompson Divide Coalition, which is opposing gas-drilling plans near Carbondale. The risk of impacts to water and air quality, wildlife and our health will be the same whoever owns the surface. Natural gas will supply a portion of our nation’s energy for years to come and Garfield County will continue to be a major player in gas development through hydraulic fracturing according to Matt Hamilton. It is important that we as a community understand the threat energy development poses to our homes and our livelihoods then work to ensure that when drilling does occur it is done responsibly.

After the film, a time for questions and answers on the issue will be held.

Discussion questions and answers:

Leslie Robinson read the Grand Valley Citizens Alliance Resolution for the SOWA also known as the DeGette Bill to support legislation and repeal the exemption of the Clean Water Act, into the record.

Tara stated her thanks for the Board’s time and encouraged them to help make and protect the Environmental Protection Act.

Commissioner Houpt stated her thanks for the time and Resolution before us. We will be putting this on the agenda in November. The Board still needs to deliberate on it.

Tara stated this would be aired on the Discovery Channel on October 17.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – Litigation update and legal advice on CR 100 – Continental Rifle ligation; code enforcement issues on KLN, Hot Shots, and Elk Creek.

Commissioner Houpt made a motion that we go into an Executive Session.

Commissioner Samson – Second.

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

Commissioner Samson made a motion that we come out of Executive Session.

Commissioner Houpt – Second.

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

Action Taken:

Direction to staff: Code Enforcement Issues

Don – In Executive Session, we discussed two items he had not previously mentioned involving active litigation regarding the Martin v. Vallario lawsuit that is currently pending and I provided legal advice and received direction from two Commissioners, Houpt and Samson with Chairman Martin recusing himself in that discussion and also discussed with all three Commissioners the pending VuOlo litigation in which the case has been recommended for dismissal by the federal court. In terms of action items, code enforcement there was one item that requires action on KNL; the pending code enforcement action has been recommended for dismissal subject to entry of a court order that would confirm that no further violations will occur on the property or will be subject to court action.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Special Meeting – Tomorrow as 8:00 am has been noticed as a Special Meeting for both morning and afternoon.

Discussion on Article 12 and Taking Issues as they relate to Code Enforcement Cases and to receive direction from

the Board and then at 1:00 pm a previously noticed hearing for receipt of the draft budget; then we have also set Commissioner meetings on Thursday and Friday that are posted as Special Meetings - Work Session in the nature of a Retreat by the County Commissioners and designated staff.

ADJOURNMENT

Attest:

Chairman of the Board

OCTOBER 19, 2009 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 19, 2009 with Chairman John Martin and Commissioner Tresi Houpt present. Also present were, Finance Director Lisa Dawson, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn 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

STAFF RECOMMENDATION TO AWARD A FIRM, FIXED PRICE CONTRACT IN THE BASE AMOUNT OF \$1,416,914.94 TO PALISADE CONSTRUCTORS FOR THE CONSTRUCTION OF WATER, SEWER, AND ROAD IMPROVEMENTS AT THE GARFIELD COUNTY REGIONAL AIRPORT – KENT LONG

Solicitation was posted to the Rocky Mountain E-Purchasing System on September 21, 2009 and published in the Post Independent on September 22 and 29, 2009, and in the Citizens Telegram on September 24, and October 1, 2009. A mandatory pre-bid conference was held on October 2, 2009. Nine bids were accepted, opened and recorded. Palisade Constructors, Inc. of Mesa County, Colorado had the low bid and was deemed both responsible and responsive. No vendor preference issue arose as part of this solicitation process. Staff is recommending the Board approve the award as a firm, fixed price construction contract in the base amount of \$1,416,914.94 to Palisade Constructors, Inc. for water, sewer and road improvements at the Garfield County Regional Improvement. Carolyn stated the City of Rifle has considered the IGA, which is related to this, and will be bringing that back for the Boards consideration in November.

Commissioner Houpt – I make a motion we approve the fixed priced construction contract in the base amount of \$1,416,914.94 to Palisade Constructors, Inc. for water, sewer and road improvements at the Garfield County Regional Airport.

Chairman Martin – Second. In favor: Houpt – aye Martin – aye Samson – Absent

COUNTY ATTORNEY UPDATE – DON DEFORD

RECONSIDERATION: 1% TREASURER’S FEE, NECI-USDOE GRANT, PER RESOLUTION 2009-10

Exhibit A was presented showing the Treasurer’s Fee Policy and Statutory Exemptions.

Carolyn stated they had asked last week if the BOCC would pay the 1% Treasurer’s Fee; all federal money is exempt and she is asking the Board to undo their previous action.

Commissioner Houpt said in recognition of the exempt status of Federal funds, I make the motion that we follow the statutory exemption and not pay a treasurers fee on this Grant.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

EXECUTIVE SESSION:

Don stated they needed to discuss/receive direction concerning retention of legal and DHS staff to handle a conflict case.

Carolyn explained there were two items for executive session on code enforcement; Elk Creek and Johnson and the Chairman stated that this morning he would like to have an update on Neuroth.

Don stated the only other question he has, to Lisa Dawson; there had been some discussion about putting on the agenda; concerning the search and rescue fund. Is that going to occur or has direction been given to staff.

Commissioner Houpt said she thinks it makes no sense to discuss in terms of the budget; they will be meeting with Sheriff on the budget.

Don asked if they would need legal counsel for that.

Commissioner Houpt stated yes and asked Lisa when they are scheduling meetings with the elected officials.

Chairman Martin stated it has not been established yet.

Commissioner Houpt stated it could be discussed on a regular Monday agenda; if there is room on the agendas.

Lisa will check on this and get back to them.

CONSENT AGENDA

- a) Approve Bills
- b) Changes to Prior Warrant Lists
- c) Request BOCC Approval for Release of \$14,250.00 Bond Being Held by the County to Guarantee re-vegetation over an Installed Gas Pipeline – John Niewoehner
- d) Authorize the Treasurer to Release \$742.50 to RFTA Pursuant to Resolution 05-95 – Georgia Chamberlain

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to approve the Consent Agenda Items a - d; carried.

EXECUTIVE SESSION:

Don stated there was one other item he wanted to discuss with the Board; he needs direction on the contracting issues with RFTA.

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

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

Action Taken:

Don stated on the Johnson code enforcement; they are asking for authority to dismiss, there has been full compliance.

Commissioner Houpt – So moved.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

Retaining Council – Confidential Case

Don would like authority for his department and DHS to retain either public, or private conflict council and conflict case supervision. He cannot identify the parties; that is confidential, but they would like authority to proceed.

Commissioner Houpt – So moved.

Chairman Martin – Second. Chairman Martin asked if they would be notified as to which agency will be assisting and Don stated absolutely and it will be confidential.

In favor: Houpt – aye Martin – aye Samson – Absent

Search and Rescue

John Colson (Post Independent) asked when search and rescue would be discussed.

Chairman Martin stated that would be discussed in the budget process with the Sheriff. That will not be done today. It should be between now and November 15 within the next 30 days. They will do budget for operation and budget for personnel with all our elected officials.

HUMAN SERVICES COMMISSION:

EDUCATION – MARTHA FREDENDAL

Martha Fredendall, Lou Ann Herman and Jenny Lindsey were present.

Martha wanted to talk about how nutrition affected learning works. She wanted to let the Board know how all the agencies educate our citizens to move toward self-sufficiency. Martha passed out a handout. They make it possible for families and individuals to realize their economic, social and personal potential. For example if someone gets a good education, he/she is more likely to get a job that pays well. In turn if they have a job that pays well, they are more likely to be economical self-sufficient. If they are economically self-sufficient, they are more likely to buy a home and provide opportunities for their children, including their nutrition. That is her point. If their children are born healthy and get a good education themselves, the cycle repeats. They want all of the families in Garfield County to be healthy. Sometimes our families are not healthy and they need help. As Human Service Agencies, they need to educate families about healthy ways of living. Martha wanted to talk to the Board about the many ways that many of the agencies do educate in ways they may not be familiar. She thought hers was obvious; what is the Outreach doing, talking about learning English, learning to read, write, basic math and many of the other agencies are doing that too. She gave the Board a list of some of the agencies.

Jenny referred to the Denver Post, yesterday; the lead article was in response to the Colorado Children’s Campaign, Kids Count. It showed Colorado, again, to be the number of children in poverty is increasing dramatically every year. That is what they are talking of here is breaking that cycle of poverty. Jenny read from a list of agencies and how they help families develop a healthy self-sufficiency and to break that cycle. There is a new conversation out there that instead of slapping band aids on families; help them to set goals and to move toward self-sufficiency. She wanted to share one thing that the family resource centers are doing, and they are doing this all across the State of Colorado; training all of the workers the “Case Managers”; which they are learning is not a very family friendly term. Instead of that, they are talking about using family development workers. Training all the family resource center staff across the State and the family development credential; which was developed by Cornell University and she shared that with the Board. A lot of it is the conversation they have been having in Human Services for years; but really a more deliberate approach to helping families set their own goals and helping workers to look at the strengths of the families. She wanted to make sure the Commissioners understand the goal of most of these agencies is to help families to do for them, not to just continually slap band-aids on and supply them with whatever they need to get through the moment but to help push them toward being self-sufficient and not needing these services.

Lou Ann explained when it comes down to the disability populations of Garfield County; like many of the Human Service non-profits in the area, they really set a goal in trying to motivate people toward education for self-sufficiency benefits. You can see it as a three prong twisted spiral of self-esteem, motivation and knowledge, and when you have those three things together, it helps people to advocate more for them. To be stronger and to desire more knowledge too! Therefore, when they see someone at Pathways they look at where they have been and immediately they help them find services to give them support until they understand that they can do better. Their big goal is education because with education of course comes self-sufficiency and no longer needing the system to support them. It encourages growth, stability and it helps them become stronger in so many ways. They also educate them in self-advocacy; if it is a person who has medication issues, someone dealing with finding services, how to support themselves and down the road for their future. If you can take a person now, who is on disability and part of that is the vocational rehab department of the State also; but if you can take that person and give them something that makes them feel useful, it is so much more rewarding for them growth wise then to just sit on disability and dependent upon the system. They teach them where they can go and how they can do things to find their medication. It is kind of that ultimate dream; if I go to school, get an education, and get a job, what all of this is going to allow them to do for themselves and taking care of themselves. With that comes a degree of pride too. It is really a win win situation that you just cannot say no to.

Martha stated that one of the challenges in Human Services in the economic downturn is to make sure we do not duplicate services because there is only so much to go around.

Jenny thinks Garfield County has come a long way in collaboration with the Human Service agencies. She thinks compared to when she got into this field, 10 to 15 years ago, it seemed very disjointed and one hand did not know what the other was doing. She thinks the Human Service agencies are doing a great job in coming together.

Commissioner Houpt asked; you are supporting each other’s services now; but are we really at a point where there is a concern about duplication of effort. Do we have services in place that are meeting the needs to the point that there is not a need for some duplication?

Lou Ann thinks there is especially when it comes to the disability population. When you look at the Rifle area as a whole she thinks there is so much less there than in Glenwood. Currently you are looking at someone who is indigent, and disabled, and needs to go on disability in order to get advocacy to apply for Social Security. Other agencies say they are covering the area; but they either have to drive to Glenwood or Grand Junction. Therefore, that is something that Pathways is looking at and starting to do.

Commissioner Houpt said that maybe that is not a duplication of services; but it is filling in the holes you were talking about.

Martha said she thinks there are some gaps that need to be filled up and there is always work collaboratively that can be done to make things more efficient. She thinks that will be the challenge for the next year. She thinks they have been communicating really well.

Jenny said making sure they hit all the surface area; Garfield County is huge and making sure that services are in Parachute and Silt that is the challenge in transportation. She thinks they forget about that; we do all our wonderful good work in Glenwood and sometimes they forget there are the other towns out there that really need the support too. She does not feel they are duplicating.

Commissioner Houpt said she is always in awe of the amazing resources we have in Garfield County.

Jenny thinks they have groups that are willing to; when there is a gap identified; people will step up to the plate and try to find a way to fill it. If you see gaps and needs, working with the commission to fill those is always available.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR SEPTEMBER 2009 – LYNN RENICK

For the month of September 2009, client and provider disbursements for allocated programs, totaled \$285,567.88. Client benefits for Food Assistance totaled \$411,649.02. Total EFT/EBT disbursements for September totaled \$697,216.90. A copy of the certification summary has been included in the Boards packed and the department is requesting Board approval and signature.

Commissioner Houpt – So moved.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

CONSIDERATION AND SIGNATURE APPROVAL ON THE COLORADO PREVENTION PARTNERS APPLICATION FOR 2009-2010 CONTINUATION FUNDING

The department is requesting the Board's signature on the CPP Application for continuation funding beginning September 30, 2009 through June 30, 2010 in the not-to-exceed amount of \$110,000.00. This is the last 9 months of this multi-year grant, which has been funded to assist with local policy initiatives toward the prevention of substance abuse. For the past 3 years, community Health initiatives has provided the coordination and evaluation components to support this Garfield County project. A sub-contract with Community Health Initiatives, Inc. will be developed and presented to the Board for consideration next month.

Lynn stated they are now working on a Garfield County advisory committee, which is into a policy group that will be meeting. Commissioner Houpt also sits on this committee. They are finishing the grant this year; it goes through June 30, 2010. It is only a nine-month grant application and is for \$110,000.00 and they are required to have the Chair sign the application.

Commissioner Houpt – So moved.

Chairman Martin – Second.

Commissioner Houpt thinks the group and the efforts that Shelley has lead over the last 3 years have been important.

In favor: Houpt – aye Martin – aye Samson – Absent

CONSIDERATION AND SIGNATURE APPROVAL ON AN OUT-OF-HOME PLACEMENT AGREEMENT

The department is requesting consideration and approval on the following out-of-home placement agreement/child specific addendum: SS23B with Third Way Center for State ID Y195388 in the not-to-exceed amount of \$51,800.36.

Commissioner Houpt – So moved.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

PROGRAM UPDATES

A summary report for State Fiscal Year 09 Closeout is included in the Board packet.

Garfield DHS along with 4 other counties (Arapahoe, Jefferson, Larimer and Fremont) is partnering with the Colorado Department of Human Services' Child Welfare Division in submitting a Federal research and demonstration grant application towards the development and implementation of 'Differential Response' of DR. DR is a model that provides at least 2 paths to serve families who are referred for child welfare services: an investigation pathway and a non-investigation pathway. The non-investigation pathway is more of a family assessment process with the development of increased formal and non-formal services and supports within the community. There is a need to understand whether or not this 'differential response' is effective.

Lynn explained they would be returning about \$489,000.00 to meet the 70% cap on the TANIF allocation. The reason for that is that they are anticipating not mitigating child welfare to offset the amount; but they were asked by the State to prepare the mitigation, which ended up to be \$456,000.00. They are mitigated out and that is a good thing. They are receiving \$144,000.00 through the State strategic use fund for a six county coalition for rule runaway homeless and youth programming over the next 18-month period. Lynn stated she has some very good news; Friday afternoon the A & D program was totally restored. They will have to change their budget for 2010 to reflect that.

BOARD OF HEALTH:

STEPP TOBACCO CONTRACT AMENDMENT WITH CDPHE – MARY MEISNER

This amendment to the original task order contract is in response to the Colorado Governor's Executive Order, D 017 09, issued August 29, 2009 regarding suspension of the expenditure of seven million dollars in the Tobacco Education Programs Fund, and the Tobacco Education, Prevention and Cessation Grant Program Review Committee's recommendation on September 11, 2009 to reduce the budget. The State promises to **decrease** the amount of funds to be paid to the contractor by \$13, 931.00 during the current term of the original task order contract in exchange for the promise of the contractor to perform the **decreased** work under the original task order contract. This amendment is for the current term of July 1, 2009 through and including June 30, 2010. The financial obligation of the State is in the amount of \$49,392.00.

Mary said it allows them to continue with the community with the tobacco cessation program.

Lucy thinks it is unfortunate in addition to the cuts from the Governor that they had a shortfall as well within the program funding. She had to cut a lot of infrastructure type of things and she hopes the plan is to continue with the projects and the community partnerships she has going now.

Commissioner Houpt – I make a motion we approve the STEPP Tobacco Contract Amendment with CDPHE in the amount of \$49,392.00 and authorize the Chair to sign.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

PROGRAM UPDATES – MARY MEISNER

Passed out a situational report on H1N1 giving them an idea, to date, of where they are with all their activities. The report goes over the plan and what it will look like. They work hard to stay well informed, current, and get the most viable information out to the media and provide timely accurate information to the public.

Commissioner Houpt saw an ad in today's paper; she asked if they put it in, as it was a very good visual. It looked like it was more of a national ad. It talked about different risk groups; identified them and encouraged people to get their vaccinations. This is great except we do not have information on when those vaccinations are going to be available to the various risk groups.

Mary said they are in the first tier level; they did get their flu mist and they pushed that out to all of their providers and partners and first responders and they are hoping to get their first inject able H1N1.

Commissioner Houpt asked if she had a sense of what the schedule might be looking like.

Mary said she could e-mail her with more information by mid-week. As its being produced, it is being released.

Commissioner Houpt stated that the seasonal flu vaccine has been trickling in too.

Mary stated it is all over the country and it is affecting all providers. She believes the manufactures are pushing hard to get both the H1 and seasonal flu out. Normally this is the time of the year that they would be starting the seasonal flu vaccine; it is not too late, we can get the vaccine up until December.

WEST ELK MULTI USE CLUB – REQUEST FOR FUNDING – TOD TIBBETTS

West Elk Multi-Use Club is a volunteer organization, supported by donations and voluntary user fees, whose mission is to mark, maintain and promote trails in the White River National Forest North of Rifle, Silt and New Castle for horseback riding, hiking, biking, cross-country skiing, snowshoeing dog sledding, and other non-motorized uses. They are requesting financial assistance to solidify their ability to continue servicing the current trail system they have built and to further their efforts to fulfill their mission. Tod stated their financial request is two-fold. First is operational funding to cover their annual insurance and outreach costs. This funding request is \$1,000.00 annually. The second request is for funds to purchase trail-grooming equipment. This is a onetime request of \$3,000.00. Tod included a brief history of their club with a basic explanation of their needs. Tod also included a letter from Larry Dragon, Executive Director of LoVA, dated October 13, 2009. Larry is in support of the \$1,000.00 donation for Garfield County as he feels West Elk benefits Garfield County visitors and citizens.

Tod explained that the club was formed in 2002 and the club is a volunteer organization supported by donations and voluntary user fees. Since its inception, the club has been supported by 82 donors; giving between \$650.00 and \$800.00 per year. These donations have covered the cost of maintaining the winter ski trail system. Most of the donors are from the town of New Castle and Silt; but each of the municipalities from Parachute to Carbondale is represented on the donor list. A very small group of dedicated volunteers has accomplished a lot in the groups seven years of existence; but the success has put a strain on the organizational capacity as user numbers continue to grow. The realities of tightening budgets have pushed the responsibility for national forest trail systems to user groups; like West Elk Multi Use Club. Building and maintaining trail systems takes an organized effort to produce and manage the financial resources to support the volunteer labor as well as the expenses incurred by the organizational entity itself. Transitioning from a grass roots volunteer group to a formally organized non-profit corporate entity necessary to support the group's mission year after year is a critical and an essential move for the long-term viability of West Elk Multi Use Club. In 1925, the club was required to carry insurance, which more than doubled their expense. Tod went over the costs they are requesting; he stated the current financial needs are twofold. The first is operational funding to cover annual insurance and outreach costs. This funding request is \$1,000.00 annually. The second request is for funds to purchase trail-grooming equipment. This is a onetime request of \$3,000.00. Along with the financial assistance and the organizational changes they have made this summer; they are on the path to strengthen their organizational effectiveness. The changes are; they are starting to raise awareness of their trail system through press exposure, a newsletter, a web-log to show snow conditions this winter, and they hope to produce a brochure with a trail map to distribute locally. They have increased their board of directors from four to six people; the increase size allows this volunteer board to delegate tasks more effectively. They are working on getting together an organized trail-grooming program so the quality of the trail experience is raised and a broader range of users can enjoy the trail no matter how much it snows during the week. Every year more Garfield County residents use the West Elk Ski Trail System. In talking to people, they are finding that people are saying this trail system is the best-kept secret in Garfield County. With a small amount of financial help, West Elk Multi Use Club can make potential users aware of the current trail system, provide the grooming service required to give users a great experience and grow the organization so it can expand its trail service to both summer and winter trail users. Garfield County's financial support will be instrumental in moving this group of dedicated volunteers from a small club to an organized organization that provides long-term recreational assets that can be enjoyed by residents and visitors alike. The biggest issue they have is the liability insurance that runs about \$700.00 per year. They have been able to eke out, through user donations, to make payment year after year. They have enough funds for operating this year; but the biggest issue is because it has been a small group strictly with volunteers it has been difficult to continue going while our users have increased. They need to be more effective being able to get the word out, and then grow our volunteer donation base. The other issue; their contract with the Forest Service comes up for renewal next year and they want to be allowed to have that as a summer trail system as well so they can include the mountain biking community. They want to start getting a more organized way of getting the word out; if you look on the National Forest Website, their trail systems are not even mentioned. The trail system has been up there, marked, and used; this will be the 6th winter.

Commissioner Houpt said she is not familiar with contracts between user groups and the National Forest; will they at some point include this system and their materials.

Tod stated he has a meeting with the Regional Ranger, out of Rifle next week, and that is one of the big discussions he wants to have. This is something that he feels is missing and is very important to bring visitors in when they know there are trail systems within the National Forest within our County. He stated they are obviously not doing a good enough job; even with our local residents because most often when he talks to people about the trail system,

they don't know it existed. This spring they were included in the Regional Recreational Guide that the Citizens Telegram puts out. They will do a few newspaper articles, on the trail system this winter to raise awareness. Chairman Martin stated it promotes why we get fees off the public lands. This would actually be under Secure Rules Schools Act and the other one under Pelt, payment in lieu of taxes. He thinks that \$3,000.00 could be included within that. It is not taxpayer dollars directly; it is indirectly through the Federal Government. He stated they could put that in there and request it be put into the budget to see if it holds.

Commissioner Houpt stated; the \$3,000.00 for the grooming equipment and then an annual request of \$1,000, but she thinks what they could do is look at that on annual basis. She explained they could not commit for several years. She stated they could put that in as well and she thinks it would fit with the funding.

Chairman Martin said the first time request is \$4,000.00, \$1,000.00 for operating and we will see how it holds up in their budget hearings.

Commissioner Houpt – I make a motion we direct staff to incorporate the \$4,000.00 requested by the West Elk Multi Use Club into the proposed budget and then you would come back for a different number next year.

Chairman Martin – Second.

Don wanted to comment; if that amount is approved, as far as the budget for next year, it would require a contract agreement with Garfield County. Don asked Lisa to note; Ed would designate someone as manager for that contract.

Todd asked who he would contact if more information is needed for budget information and Chairman Martin explained it would be Ed Green.

In favor: Houpt – aye Martin – aye Samson – Absent

UPDATE – COLORADO RIVER WATER CONSERVATION DISTRICT – DAVID MERRITT

David stated their quarterly board meeting is coming up in the next couple of days and as is the case with most of the government entities here; one of the big items is the review and adoption of the budget. That will be done on Wednesday. The mornings for the River District are normally on Tuesday mornings when they take up with the executive session, the general council report to the Board and discussion, and then in October they do the General Manager and the Attorney's review. The general open items they will be discussing a grant program going on for about 15 years, and that grant program provides funding for both some development of small projects and assistance in some studies. This year it is being changed slightly, it is being enhanced; a base of about \$250,000.00 per year as opposed to \$150-175,000.00 per year. It is being broken into two components a small grants program for projects under \$60,000.00 and then a larger grant program for larger projects. The larger projects are still small projects; \$½ million dollar projects, such as assisting with a new water line for small towns on the Grand Mesa. They have had many head gate improvements; help with sprinkler system installations, water quality actions, some assistance on replacing a ditch delivery system. Dennis Davidson, recently retired from the NRCS office here in Glenwood, has been very active over the years in getting his producers applications. We look at the assessed valuation of the contribution of the River District; over the past decade, the River District this year will have tax revenue of around \$4 million, the majority coming from property tax. They have 15 counties in the River District comprising the drainages of the Yampa, the White, the Colorado and the Gunnison. Garfield County this year will account for about 24% of the assessed valuation of the River District. A decade ago Garfield County was about 7 ½% of the assessed valuation record. It has been a phenomenal shift in the last two years and three out of the last four years, Garfield County has been the highest assessed valuation in the District. Eagle County is still up there very heavily. A decade ago, it was the ski areas, Eagle, Summit, Mesa and Pitkin that were the largest assessed valuations. However, the River district is TABOR limited and so their mill levies have gone down significantly in the past decade. They are down to a mill levy of .165 and their assessed valuation, 2009/2010, total across the entire district increased by 29%. The tax revenue will be going up by 7.4%, which is using the statutory TABOR calculations of essentially new construction, plus any growth in the district.

Commissioner Houpt asked if that was sufficient for what is being projected to be needed.

David said they make sure it is sufficient. They have had two attempts to DeBruce and they have both failed. Part of the issue is a large geographic extent through the River District and the lack of knowledge of most people of the River District. Frankly one of their faults in DeBrucing the first attempt was right after 2002 drought, and as water managers they did too good of a job in that drought period. The majority of people were not affected in Western Colorado unless you were a rancher, or diverter on a side tributary. The majority of voters, in Western Colorado, were not affected by the drought. There had been planning, coordination, and everyone worked hard to get through that period. They had another attempt at DeBrucing, and they are very expensive, they cost because of the coordinated elections, well over \$100,000.00 to attempt to DeBruce. For an entity with a budget of about \$4 million, that is a significant amount. Yes, they could always utilize more funding for assistance; but.

Commissioner Houpt said they have more educating to do before you attempt it again.

David replied yes and probably the largest single item on the River District budget is their cooperative stream gauging program, the USDS that is over \$ ½ million per year. They support stream flow gages, water quality gages in all the basins; they have a good cooperative program with District and various entities. Garfield County is assisting them with the Grand Hogback Gage.

Chairman Martin asked if there were three or just one.

David stated the Grand Hogback Gage; but there are also some water quality gages. Over the years, they have developed relationships with various user groups in particular basins to identify issues of interest and they are able to have, essentially everyone puts a bit in the pot and they have developed a good network on the USGS. USGS stream gauging network; those are expensive, however they are extremely valuable because of their longevity. You can go on the web and look at some of these that go back 50 – 75 years. The River District in the library has USGS publications that go back over 100 years.

Chairman Martin asked; within the budget, that will be heard, do you have any anomalies or issues that you have heartburn.

David stated no they do not. They do have a small amount for staff salary increases about 2%.

Chairman Martin asked if they were still looking at the same formula in which they came up with in cost to Garfield County for membership; that has not changed.

David stated yes; that is a very small amount; Garfield County tax bills. In 2004, they enacted temporary mill abatement. They are looking at 2-4 years out that they will see a real crash in property values and living with that temporary mill abatement; which was at the .25 mill levy, currently they will do .165 for next year. They should be

able to essentially maintain their revenues. They are moving along, and he spoke with Chairman Martin back in July on the 10825 Study; this is the recovery program water with a joint funding from the Front Range and the West Slope interest. They have secured contributions; right now, it is estimated it will cost about \$500- 600,000 dollars for the EA, for the study. It is frustrating it is costing that much because all you are talking about doing is re-operating existing facilities. Rudi currently has 5,000 permanent, 5,000 on a 3 out of 5 year basis and another 10,825 acre fee that is released, and that contract is due to expire in 2012. They are going through the process that the 10825 would be converted to a permanent 5412 for essentially the West Slope obligation and they are working with congressional offices to make that non-reimbursable. Otherwise they would have to come up with a significant \$7 ½ million dollars of West Slope funding for that. The Front Range for their 5412, Northern had already purchased a portion of the Red Top Ditch above Lake Granby and is working at securing an additional amount of that. That water would be, instead of being diverted at the Red Top, would be used for irrigation which is facing out their anyway. It would flow into Lake Granby, would be reregulated and would be released from Granby in the August, September period. What that would do; it is 10-20 CFS does not seem like much when you are talking about river flow down here. When you are talking about the flow in August or September out of Lake Granby when it is 40 – 75 CFS, it makes a big difference.

Commissioner Houpt asked if August worked for them.

David stated yes the August, September timeframe is when it is most critical. That is when the stream temperatures are getting up the most.

Commissioner Houpt asked; she knows for the EA they were going to municipalities, do you have enough funding put together for that.

David stated yes; they have received a commitment so far of \$122,000.00 from the municipalities. From the other water conservancy districts, they have received \$44,000.00 in commitments, and \$21,000.00 from commitments in the agricultural entities. Grand County itself tossed in \$50,000.00 because of the importance to Grand County. They really wanted to have a seat at the table. When this process started, 3 years ago, the way they were looking was going to be something out of Rudi or even what Northern and Denver were talking about was a sulfur gulch reservoir; at the head of DeBeque Canyon. Granby really represents a great win for Grand County. Currently the whole 10825 is being released by the water users. It is interesting that there is so much diverse opinion on that; folks in the Frying Pan Basin do not want to see it coming out, but they don't want to see it going out somewhere else.

Commissioner Houpt stated you have to find that level that will be a healthy level because there has been concern about impact on the ecosystem.

David explained there are a number of issues that need to be addressed; we will see how much can get addressed in legislation. Essentially, re-computation of what should be the marketable pool in Rudi and what should be dedicated to the recovery program and other fish and recreational purposes.

Commissioner Houpt asked; is the Board talking about going to other counties for support. Have you made your goal?

David explained that now they have commitments of \$313,000.00 and the current estimate of the EA is \$500-\$600,000.00. They only have half of that; the Front Range has the other half. Currently they have sufficient funding; depending on how the process goes, sometimes EA's can cost more than anticipated.

Commissioner Houpt said that certainly we are part of the discussion.

DISCUSSION OF THE 7TH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 7TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Theresa published in the citizen Telegram

Don stated he has the publication (October 15, 2009) and it is adequate and gave to Jean Alberico.

Theresa presented Exhibit A, supplement number seven; which includes some increases and decreases to the existing 2009 budget. They are requesting they be allowed to make changes.

Commissioner Houpt stated there are a few things that have not been in front of the Board or have not been discussed; the commissary.

Theresa explained the commissary is a reduction in revenues that were anticipated in the budget process. The revenues that were anticipated are not being received; so they are evaluating with the Sheriff's office the reasons for that. There are a few reasons, mentioned on the form.

Chairman Martin stated; you are talking about a total reduction, actually of anticipated revenue of \$65,150.00 and that is what is in discussion with Sheriff; correct.

Theresa stated yes and Commissioner Houpt asked what those reasons were. Theresa stated the pop machine has been broken and they are hoping to replace the machine and see revenues come back up. The phone cards; this is what they have been told, as a result of the economy. The third one the resale of goods they have had some changes in their process. Before any revenues and expenses related to commissary items were recorded in New World Systems; now they are recording all of those revenues and expenses in KEFFE and she believes it is any net income or losses recorded in New World System only.

Commissioner Houpt said that might not be a loss or we are not following why....

Theresa said they do have some further discussions with the Sheriff to further explain; more details and reasons. She will be meeting this afternoon on this subject and after today, they will set-up additional meetings with the Sheriff's office to help further explain some of the reasons behind the changes in the process.

Commissioner Houpt asked if the phone cards are bought in advance.

Theresa stated they do; they buy them in \$5.00, \$10.00 and \$20.00, and then they are available to the inmates.

Commissioner Houpt asked so they bought \$21,000 worth.

Theresa said no they anticipated that amount in revenues and the inmates have not been buying them.

Commissioner Houpt asked if there is money tied up in those phone cards.

Theresa said she would have to check on that. She will confirm for her.

Commissioner Houpt said it looks like the expense for the assessors is something that makes a great deal of sense.

Theresa said yes; the Board has not approved that and John Gorman is here today. That is recent they are going through some new software training. This was an add on module that was brought up in the training process that Mr. Gorman would like to get set-up and in place as soon as possible to save a huge amount of staff time.

John Gorman explained this was something they talked about and was foreseen for some time. They wanted to wait for the upgrade to the new addition of the software; they are essentially going from a Model-T to a Macerate. There

is a variety of realities when you make an upgrade of that magnitude; including software based on an old Doss system to a Java based system. They have the oil and gas module; but it does not include for this county or any county, the ability to take electronically transferred NERF (report form), bring that directly into the system, and populate their schedules with the numbers provided by the oil and gas producers. Instead, currently what they have to do is take a complex form, and by hand transfer those numbers into their system. What he has is a \$20,000.00 estimate, from the software provider, to create the app. that will allow a direct transfer to populate our schedules. This will allow a lot more time, a lot sooner to begin to analyze the information delivered to them so they can; at the earliest possible date, as part of that analysis question what the amounts are that they have in question about compared to what has been reported. They look at these things very closely. This is part of his rationale for applying for the DOLA Grant to help them with the cost of the software upgrade. I hope that if you approve, he will be able to get a contract with them so they can begin work on that little applet. He was hoping to be able to do this in conjunction with other counties; but other counties have actually a different, and in fact, a more complex NERF netback expense report forms that they turn into the counties in which they operate. Part of the reason for that; say LaPlata County has many Native American royalty aspects; this county has none of that. It looks like each county will have to create their own system.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt – I make a motion we adopt the resolution concerned with the 7th amendment to the 2009 budget and the 7th amended appropriation of funds and authorize the Chair to sign.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

REQUEST BOARD DETERMINATION OF REFERRAL AGENCIES AND TO SET PUBLIC HEARING DATES FOR AN APPLICATION TO VACATE A PORTION OF COUNTY ROAD 121 (COULTER CREEK ROAD) – APPLICANTS; JAMES AND HENSLEY PETERSON – KATHY EASTLEY

This right-of-way was deeded to the County in 1904; however, the physical roadway was not constructed within the described right-of-way. A map was included to provide the general location of the area in the southeast portion of the County.

Kathy stated she had a request from the owners on County Road 121, which is Coulter Creek Road; the site is located northeast from the town of Carbondale in Missouri Heights. They do have a Coulter Creek Road that is in place and existing and there is a right-of-way that was described and deeded to the County in 1904. The road was not built within the right-of-way that was deeded to the County and therefore Mr. Peterson is requesting that, that portion a deter minis of 121 on his property be vacated and the existing roadway to function as it has in the past. The purpose of this meeting is to determine planning commission review and other referral agencies. In the staff report, Kathy provided the Board with the staff recommendation on the agencies who should be requested to comment on this. She said she did leave out the Colorado Department of Transportation because it does not affect any State highways and she left out municipalities because there is none within two miles of the proposed vacation. She has added in a request to refer to the Aspen Valley Land Trust because there are some easements on the property, both Mr. Petersons and some property just to the north. As far as the hearing date they do have two vacations already set for the planning commission date of December 9, and if you choose to refer to the planning commission, it could be scheduled then.

Commissioner Houpt stated for the other three vacations scheduled there are site visits planned. Is that something that would be beneficial?

Kathy stated she and Deb Quinn have been to the site and there is nothing to see other than the road itself; the right-of-way is not described or marked. Certainly, Mr. Peterson could show you approximately, where the area is, of the deeded right-of-way.

Commissioner Houpt asked if they would have maps and other exhibits they would be able to....

Kathy answered yes and the question came up on whether this would be a Board site visit or if the planning commission would be required to do a site visit as well.

Chairman Martin asked; did your determination of the water right holders, such as impoundments, he thinks there is a reservoir up there somewhere. Also the ditch companies and grazers that have leaser permits that have grazing on the public lands, or adjoining properties. The other one is the mineral right holders, if there are any, and the other is the affect of any public utility, communication towers that may or may not have access. Is there any up there Mr. Peterson?

Mr. Petersen stated there are not any up there. The only access from the County Road is his neighbor's ranches, and he named them and the reservoir company. He stated his family, limited partnership, has a parcel of land and those are the main ones north of the road.

Chairman Martin said they may have shared or agreements in place; that would be a public meeting and that would all be disclosed. He just wants to make sure they have all the people they need to notify so they can have an open public hearing.

Kathy said they would add in consolidated reservoirs and ditch companies that may be affected, and any utilities that may be affected.

Chairman Martin explained the other one is the public grazing permit holders, leases, if there are any. He said he saw they did the Division of Wildlife for a service, and the public utilities just in case in reference to the towers, the transmission lines etc. that goes along the canyon wall.

Mr. Peterson would like them to come for a site visit and show as much as he could. This request for vacation is a 1904 right-of-way that as far as they know was never used; there was no trace of it. It cuts through their yard of the house and goes past an old historic cabin. It is something he feels they really need to do; hopefully this will be passed on to his kids and grandkids and he would like to have this cleared up.

Chairman Martin said he understood; but as long as they do not lose access to public lands. We need a motion to set on the agenda for either this meeting or to the planning commission on December 9.

Commissioner Houpt said the date for the planning commission would be December 9 and then they would be scheduled after that (for the Board). She said she actually heard two different things from staff; it would be important to have a site visit and that there was nothing to see, so she is confused which way to go on that.

Deb stated that when she visited the site she thought it was helpful simply to see where the road was not, and where the existing access has been for years and years. However, Kathy took a number of photos and that might give you the same information as being on site.

Kathy said she did take many photos of the site both where the right-of-way is and where the roadway is located. Commissioner Houpt said you need a motion to move forward with referrals and so – I make a motion that you move forward with referrals on the vacation of County Road right-of-way for County Road 121, and schedule a hearing in front of the planning commission on December 9, 2009, and will you then select a date at that time for it to come in front of the Board of County Commissioners?

Kathy stated correct.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

REQUEST TO AMEND THE UNIFIED LAND USE RESOLUTION OF 2008 RELATED TO LODGING FACILITIES – MAJOR AND SEWAGE TREATMENT FACILITIES IN THE RESOURCE LANDS – PLATEAU AND RESOURCE LANDS – GENTLE SLOPE ZONING DISTRICT – TXTP 6009 – TOM VELJIC

Nathan Bell, Bell Consulting was present.

Deb Quinn 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 Tom Veljic submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit C – Staff memorandum; Exhibit D – Application; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department, dated July 20, 2009; Exhibit G – Summary of proposed text change; Exhibit H – Staff Powerpoint and Exhibit I – Draft Resolution.

Chairman Martin entered Exhibits A – I into the record.

Planner Tom Veljic explained:

The applicant, David Furr, is a landowner with land holdings located north of County Road 200 and west of County Road 204. The applicant is considering a lodging/guide service business on his property which is currently zoned Resource Land (RL) and within the Gentle Slope and Plateau categories. Current, the RL zoning district does not permit “Lodging Facilities-Major” or “Sewage Treatment Facilities”. The applicant is requesting a text amendment for a future Land Use Change Permit to construct a lodging facility with related accessory uses in the Resource Land – Gentle Slopes and Plateau zoning district. To accomplish this the applicant is proposing to add specific uses to Table 3-502 that allow the proposed uses to support a lodge/guide service activity. In addition, the applicant is proposing to modify two current definitions related to the proposed use within Article XVI: definitions. The Planning Commission considered this application at a public hearing on September 9, 2009 and accepted the modifications proposed by the Planning Staff to the language of the amendment as summarized in Exhibit G. The Planning commission is recommending the Board of County Commissioners approve the text amendment with the following findings:

- 1.) That the hearing before the Planning Commission and the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard.
- 2.) That the proposed text amendment can be determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
- 3.) That the application has met the requirements of the Garfield County Unified Land Use Resolution of 2008, as amended.
- 4.) Such use does not create any more hazards to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted in the district to which is added.
- 5.) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is added.
- 6.) The proposed uses added to Table 3-502 is compatible with the uses permitted in the Resource Lands-Gentle Slopes and Resource Lands-Plateau.

Commissioner Houpt asked; under minor lodging establishment, why wouldn’t you allow on-site recreational amenities?

Tom said they altered the proposal based on what they knew. As far as minor lodging, there was no request to alter that. They are so small; why would you have additional recreation at those facilities?

Commissioner Houpt stated you could; you could have a cross county ski trail, or horses....

Tom said they did not consider that.

Commissioner Houpt asked; they would not be considered recreational amenities.

Tom stated that was correct.

Commissioner Houpt asked; so people can have anything on their property, but it’s not, if you use this language will you be disallowing those types of amenities, or will it be okay that they exist, they just won’t be recognized as being regulated by the County.

Fred Jarman stated they would not be allowed; this was taken straight out of the land use code that you have already looked at. He stated they did not focus on the on-site recreational amenities for the minor. Can you make the case that a minor little facility could have recreation for sure. It is probably within your discussion right now to make that change if you feel it is appropriate. Fred said Tom did not focus on it because it was not the focus of the application.

Commissioner Houpt stated it seems it would be more consistent since you did change it.

Fred replied sure, and this came from how we have treated in past, in the county where these were old B & B’s, or rooming and boarding houses; that was the mind frame they came from. Which typically did not have an on-site recreational amenity like your larger facilities; typically, the larger facilities do, and there is nothing to say you cannot. It is truly up to this Board whether you feel you would be precluding someone from getting approval for a small B & B.

Commissioner Houpt said that is what she does not want to do. She does not want to preclude them from being able to do that, so do we need to change the language to allow that to happen

Fred stated certainly; he thinks it makes sense. If the goal were to allow a small B&B and not get in the way if they have some kind of amenity; then he would do that.

Tom stated they could end number one minor lodging, at 10 quests. Delete without on-site recreational amenities and have the final statement as what they used in the major lodging establishment for on-site or permitted as noted.

Commissioner Houpt said yes, let's do that.

Mr. Bell said perfect. He wanted to make sure that they were obviously trying to limit how many things they were trying to modify in this. They wanted it specific to their project 6 to 10 cabins, 1 to 2 bedrooms, so they are over the ten guests. They want potentially some bird hunting type stuff; this is out of Dry Creek out of DeBeque. They are making sure all the pieces were in place from number 1 the lodging facilities, and number 2 the sewage treatment. The intent is to keep a small amount to be able to go with the disposal system. Until they get out there and run perk tests, review areas; they may be into a small treatment plant scenario. They want to make sure that is available for them to do. He thinks all the changes that have been made certainly accomplish that goal for them. He likes the changes they made in the sewage treatment facility to include all of the works associated with that as well. Sentence two; item number 1 obviously works quite well for them; even if the owner decides to do 5 cabins.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt – I make a motion we approve the text amendment to the Unified Land Use Resolution of 2008 to amend the table in Section 3-502 of the Unified Land Use Resolution 2008 to allow lodging facilities major, requiring the major impact review and allow sewage treatment facilities, and allowing lodging facilities minor requiring a limited impact review, and allow sewage treatment facilities requiring a limited impact review all within the resource land and plateau and gentle slopes within the resource land zoning districts, modify the definition of lodging facilities major and lodging facilities minor within Section 16-101 to allow on site recreational amenities and modify the current definition about lodging facilities major and lodging facilities minor within Section 16-101 to allow on-site recreational amenities.

Tom stated and the expansion of standards for sewage facility in 7, and also the change to the definition of sewage treatment facility.

Commissioner Houpt stated they would add that as well.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

CONSIDER A REQUEST FOR A LIMITED IMPACT REVIEW TO ALLOW A PUMP STATION AND APPURTENANT PIPELINE ON A 7-ACRE PARCEL LOCATED WEST OF THE TOWN OF NEW CASTLE ON COUNTY ROAD 335 IN THE RURAL ZONE DISTRICT – APPLICANT; JACE, LLC – APPLICANT HAS RE-NOTICED THE HEARING DATE FOR NOVEMBER 9, 2009 – KATHY EASTLEY

Chairman Martin asked if they wanted to open these public hearings to continue.

Deb Quinn stated they had a glitch in their publication so they will be starting over.

Consider a Request for a Limited Impact Review to Allow a Water Impoundment and Appurtenant Pipeline ON A 2130-ACRE PARCEL LOCATED WEST OF THE TOWN OF NEW CASTLE SOUTH OF COUNTY ROAD 335 AND WEST OF COUNTY ROAD 312 IN THE RURAL ZONE DISTRICT – APPLICANT; RICHARD AND MARY JOLLEY FAMILY LLLP – APPLICANT HAS RE-NOTICED THE HEARING DATE FOR NOVEMBER 9, 2009 – KATHY EASTLEY

This also will be starting over.

A CONTINUED PUBLIC HEARING TO CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT FOR “PROFESSIONAL OFFICE FOR THE CONDUCT OF BUSINESS OR PROFESSION” IN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT; OXY WTP, LP – FRED JARMAN

were present:

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

Chairman Martin swore in the speakers.

Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Unified Land Use Regulations of 2008, as amended (ULUR, the Zoning Code); Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F - Staff memorandum; Exhibit G – Staff Powerpoint; Exhibit H – E-mail, Garfield County Environmental Health Department, Director Jim Rada, dated August 25, 2009; Exhibit I – E-mail, Garfield County Road and Bridge Department Administrative Foreman, Jake Mall, dated August 31, 2009; Exhibit J – E-mail, Garfield County Planning Department- Project Engineer, John Niewoehner P.E., dated September 8, 2009; Exhibit K – E-mail, Garfield County Vegetation Management Department – Director Steve Anthony, dated September 16, 2009; Exhibit L – E-mail, Garfield County Oil and Gas Liaison, Oil and Gas Representative, Nikki Reckles, dated September 15, 2009; Exhibit M – DeBeque Fire Department, Chief Nick Marx, dated September 15, 2009; Exhibit N – E-mail, Division of Wildlife, District Wildlife Manager Albert Romero, dated August 21, 2009; Exhibit O – E-mail, Colorado Division of Water Resources – State Engineer's Office, Mike Bender, dated September 16, 2009; Exhibit P – Draft Minutes from the BOCC hearing on September 21, 2009; Exhibit Q – Memo from the Vegetation Management Director dated October 13, 2009 and Exhibit R – Supplemental Staff Memo dated October 19, 2009.

Deb stated at the last hearing they did enter into evidence exhibits a-q and these need to be re-designated as R, S and T.

Chairman Martin entered Exhibits A – T into the record.

Planner Fred Jarman explained: The applicant proposes to install and operate a permanent office facility to replace a small complex of trailers that have been permitted as “temporary” office facilities. The site is approximately 3.09 acres in size, situated up the Conn Creek drainage north of DeBeque accessed by County Road 213 from County Road 204. The proposed facility is in a neighborhood that is industrial in nature, including two compressor plants, a control facility, well pads, pipelines and storage areas. The applicant initially requested the facility be scaled and permitted to allow up to 25 people to occupy the office. At the time of this writing, however, the applicant's representative has expressed that the personnel number will be reduced to 19 to conform to well water limitations

and keep the facility below certain thresholds for sanitation facilities. The applicant requests one of the seven trailers remain on site and agrees to cap the number of people at the site at 19. The office (called the field office) will be accessible to employees 24 hours every day throughout the year, with the standard occupation times, working hours of 7:30 a.m. to 6:00 p.m., Monday through Friday. Better radio communication links to the Grand Junction operations center will reduce employee travel. Diesel generators provide power and lighting to the site is limited to downcast lights on the building. A water tank with a 10,000-gallon capacity is proposed as the water source. A diesel fuel storage tank, a gravel-surfaced parking area, bear-proof dumpster, and ISDS/leach field complete the facilities on the site. Staff recommends Board approval 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. Vibration generated: the professional office facility 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 professional office facility, diesel generator, related roadway and parking area shall be so operated to comply with all Federal, State and County air quality laws, regulations and standards, including CDPHE APCC Regulation 1 for dust.
6. Emission of heat, glare, radiation and fumes: the professional office facility, diesel generator, related roadway and parking area and shall 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
7. All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors to reduce glare and mitigate any visual impacts
8. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes and COGCC Series 800, for Light Industrial Levels
9. Lighting shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property
10. To ensure safety to wildlife and domestic animals:
 - a. Division of Wildlife "wildlife friendly" fencing shall serve as the guide for fencing on the site
 - b. A bear-proof dumpster or waste container shall be provided on the site
 - c. No domestic animals, such as dogs, shall accompany employees or subcontractors to the site
11. Prior to the issuance of a Land Use Change Permit, the applicant shall provide the following documents to the satisfaction of the planning department project engineer in the county building and planning department:
 - a. An adequate site map and documentation that depicts pre and post development drainage, and how the drainage plan satisfies section 7-206 of Unified Land Use Resolution of 2008, as amended.
 - b. Drainage calculations that demonstrate that the drainage basins (existing and proposed) are sized
 - c. Adequate drainage plans and spill containment measures for the diesel fuel tank shall be included as an amendment to the Drainage Plan.
12. The applicant shall provide a short-term re-vegetation security in the amount of \$7,500 (\$2,500 per disturbed acre) or another security acceptable to the BOCC to be held by the county. This re-vegetation 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 security release consideration.
13. Regarding erosion control, any straw or hay bales used in erosion control shall be certified weed free
14. Prior to the issuance of a land use change permit, the applicant shall provide proof of proper building permits for the office trailers and permits (if applicable) for overweight/oversize vehicles as administered by the Garfield county road and bridge department
15. Prior to the issuance of a land use change permit, the applicant shall be required to drill a water well shall be drilled and meet the following standards pursuant to Section 7-104(B) of the Unified Land Use Resolution of 2008, as amended:
 - a. A minimum 24-hour pump test shall be performed on the well(s) to be used. The results of the pump test shall be analyzed and summarized in a report including basic well data (size, depth, static water level, aquifer, etc.) pumping rate, draw down, recharge and estimated long term yield. The report shall be prepared by a qualified engineer of ground water hydrologist and include an opinion that the well will be adequate to supply water for the proposed uses. The report shall also address the impacts to ground water resources in the area.
 - b. Water use assumptions shall include an average of no less than 3.5 people per dwelling, using 100 gallons of water per person per day, plus and irrigation and livestock watering uses
 - c. At a minimum, the water quality of the well shall be tested by an independent testing laboratory for the basic Colorado Primary Drinking Water Standards for inorganic chemicals (heavy metals, nitrate, sulfate and asbestos), bacteria and radioactivity. The results should show that the applicable standards are met or otherwise identify a treatment system to meet the standards. Testing for the secondary drinking standards (taste, odor, color, staining, scaling, corrosion, etc) is recommended.

16. The office facility shall contain no more than 19 employees. When the ISDS is installed and operational, the incinerating toilets presently on site shall be removed.
17. Prior to the issuance of the land use change permit, the applicant shall provide the county with a letter from DeBeque Fire Department that concurs with the following requirements:
 - a. Fire suppression for the office trailers can be accommodated by the installation of appropriate hand held extinguishers and augmented by a fire department connection to the existing water supply of 2,500 to 3,000 gallon storage tank
 - b. Fire suppression for the proposed stick-built structure will be determined prior to construction and after a meeting with the fire protection district to identify an appropriate fire protection system, which may include CO2, Halon, water, or a combination of these. No building permit application shall be accepted by Garfield County without an appropriate fire protection plan that has been approved by the DeBeque Fire Protection District.
18. No land use change permit shall be issued until a permitted water well and a permitted ISDS have been installed and proper building permits for the trailers have been issued.
19. The applicant may replace the seven office trailers with a stick-built structure at any time in the future so long as the proper building permits have been obtained and that the office employee count does not exceed 19 employees

Fred explained that he has prepared to review a recap on the main discussion point that the Board had; which they reviewed in September. This is Exhibit T. The first one was a question of what was permitted or not out in the field as of today. He wanted to be clear that this is a facility that is currently operating without building permits from the county or land use permits. However, the County was unaware that the facility was operating and it was the applicant who came to us to say they were operating, but we would like to prevent ourselves out there, it was not, contrary to his last sentence, not because of a code violation action. There was no cause to go out and find them, they came to us; saying that it does exist as a zoning violation. Number two; there was a lot of discussion as to what is temporary versus what is permanent. The way the staff has taken the approach, and this has been true and consistent in the past, that these are the services generally that make something temporary in nature. A lot of the discussion the Board had with temporary employee housing for example; that was debated for many months. In this case, you have the request to have either office trailers or a stick-built structure. Both of which could be considered as a permanent facility; it is the services that serve it which would be temporary or permanent. Temporary, he means to say these are more; in the case of water, it could be a hauled water scenario, bottle water is more a temporary kind of scenario verses a well; which is clearly a more permanent type of water facility. On the wastewater side; very similar, you have Porta-potties for example that are a temporary treatment verses having an ISDS; which is a permanent way to treat that. Therefore, if you think of it in that light; you could certainly have trailers, stick-built structures; it is primarily the way we view this application particular is services. Fred stated they do know that the applicant is proposing to provide permanent services to the structure and it will be permanent. At some point, they would like to construct a stick-built structure to replace 6 of the 7 office trailers. That is the issue on temporary verses permanent. Another point on re-vegetation verses reclamation, you will recall originally there was the thought that perhaps we hold bonds; the County would hold a very long term security in the amount of "X" so that in the event that the office was no longer used as an office, they turn the key and close out the lights, there was this notion that they had to perhaps tear the structure down and reclaim the ground. That has not been your practice as a Board; it has been your practice however, when you are looking at more types of industrial facilities. For example LPG tanks, you do currently hold many securities, long, permanent, long-term reclaim securities for removals of gas plants, for example. However, it has not been your practice to hold these for offices or those kinds of uses, because there are these adaptive reviews types of scenarios that someone could enter into. You would hate to think that once they turn the lights out they have to tear the structure down. That was not the intent of your vegetation manager; Fred received a follow-up e-mail from him, which is Exhibit S. You will see that long-term security provision is not here. He has focused on a short-term security; as you built structure, this is the disturbed site around the ground and certainly, that is an interest of the county to make sure that is re-vegetated and weed free. They do typically hold securities for that; in this case it was suggest by Steve Anthony that we hold \$7,500.00 to basically put the site back together once it is constructed. Fred has carried on the same recommendations from Steve Anthony to the Board with another exception; there was a comment on an annual ongoing investigation, or audit, a weed audit every year by the county staff and that was not his intention either. There are certain provisions already in place that deal with that. That has been removed. On timing, number 4, it is the timing for required services, water, wastewater, with the notion of when this can be occupied. There was a lot of discussion about that last time of when do these services get constructed and installed, and two can the facility stay occupied while this happens or not. What is the pleasure of the Board? Fred has provided the Board with A, B, C and D. A is basically saying that you require the applicant to go in today, put the well in, the ISDS in today; page 5, large letter A. The Board has within their authority to request that these office trailers be vacated until those services are put into the ground, and then they can go back, occupy them, and continue the use. B says you can elect to allow them to continue to operate, as they are, all the while, they are obtaining their well permit, drilling the well and getting their ISDS permits and also building permits for the office trailers to exist. C is virtually the same thing, it provides within an approval provided by the Board, their ability at some point in the future to replace 6 of the 7 office trailers with a stick-built structure. The Board has the ability to approve that today. As a matter of history, the Board has done this many times before. You are approving a complete package. The oversight to the county continues because we get to look at that structure as it comes through building permits. Fred stated they would get to look at that to make sure that the occupancy works, egress, accessibility; those issues are satisfied. That is also within the Boards ability to approve today. D is the other alternatives proposed in the original staff report. Fred thinks the main question they are trying to present is a timing question; what you will feel comfortable with should you want to approve this use. At some point, you would probably like to have a horizon when they have to have a well and an ISDS in and have building permits. Fred has suggested a 6-month window; get's them through the winter. It is completely arbitrary; you can choose whatever date you believe makes a lot of sense. Number 5; fire protection, this is pretty straight forward. The land use code basically requires that the water supply demand, for fire protection, shall be based on recognized and customized standard requirements of the applicable fire protection districts. Ultimately, this really is a call from the fire protection district. They have discussed the proposal with the applicant and they have talked about points A and B. Point A is specific to the fire suppression type and how that is to be

accomplished. Whether it is hand held extinguishers and augmented by a fire department connection to an existing water supply. B, when they come back to construct the stick-built, they have to meet with the fire protection district to make sure there is adequate fire protections in place for that. That is something Fred looks at as part of the building permit review process also. There are a couple of examples, or alternatives that are in that letter B. Fred stated he was not sure if it was in the record; but there was an e-mail exchange he has between Loren Prescott and the fire protection district where those points are laid out. The fire district agrees to those two points. Staff does recommend the Board approve this with the one major question that needs to be answered where the Board would wrestle with the timing. When certain things have to happen the provision of services, can they continue to operate as they do and occupy the office trailers? With that staff recommends approval with the following conditions. The bulk of these we have already been over. They have deleted the annual weed audit and if you move into number 11; prior to issuance of a land use permit the applicant shall provide the following documents to the satisfaction of the planning department engineer. There are a few drainage issues and calculations that they would like to see. Number 12 the applicant shall provide a short-term vegetation security; this changes what you saw before. The note on that is that the applicant will describe for you that they already have security in place that they are ready to tender to the county. Number 14 part of the issuance, the applicant shall provide proper building permits for the office trailers. Fred thinks this is an important one, particularly of the accessibility issue. We are suggesting they get together with the plans reviewer and make sure the office trailers meet code.

Chairman Martin stated these are prefabricated office buildings with the certificate from the State of Colorado and their registration number and all of that good documentation. It is already posted on each building. The applicant stated they would install ramps.

Fred went to Number 15 specifics putting in the well. Number 16 is important because this is the occupancy number. This is relative to services being provided, the ISDS, and also the well, and what it can legally provide for 19 people. Number 17 is the fire protection. Number 18 is that no land use permit shall be issued until a permitted water well, and permitted ISDS, and building permits have been issued. Number 19; the applicant may replace the 7 office trailers with a stick-built structure at any time in the future so long as the proper building permits have been obtained and the office employee count does not exceed 19 people.

Chairman Martin stated there is only one problem he has with number 18 knowing that particular area. Sometimes water is extremely hard to find especially with a well. Is there any back-up that they can't bring in the well and they have to use hauled water as many people, who live up there do, on a daily basis. They have to haul water and we have to consider that.

Fred said that is certainly a risk and the way the condition is written; if they cannot find the water then they do not have a permit. You as the Board would need to think of your fall back and what you feel comfortable permitting. Commissioner Houpt asked; the difference between permanent and temporary, in her mind, she thinks that saying people are having to haul water for permanent uses, isn't a good reason to alter our requirements or expectations for permanent use.

Chairman Martin said they just want something to fall back on because he knows there are many citizens in Garfield County that do not have a well, they have to haul water and they have to limit it simply because of where they live; there is no water for drinking.

Daniel Padilla with OXY said, on item 19, they would like to request instead of 7 trailers, 6 trailers. They would like to leave one trailer for their contractors to use.

Commissioner Houpt asked if there were 7 in place now and Daniel answered yes, well there are 6 in place now. They had a 7th and that one was hauled off.

Fred replied; they are talking about getting a stick-built plus one trailer, and Daniel stated yes and not to exceed the number of 19 employees.

Loren Prescott with Olsen and Associates, representing OXY – He stated they appreciated the efforts that staff has made and believe that the staff report accurately captures the status, scope and intent of his clients application. Prior to the hearing, they had an opportunity to interact with Mr. Jarman regarding a few editorial issues that were embedded in the report and they have been fully resolved. His client would like to request that they be allowed to continue to occupy and utilize the office facility during this process of permitting toward it being designated as a permanent facility. This includes the installation of the appropriate services, securing the appropriate building permits and including the well. There have been a couple of drilling operations out there that resulted in a significant amount of water being detected. It was with significant confidence that his client feels they will be able to secure the appropriate water. Then we have the report, specific to the drilling that demonstrates an approximate amount of water that could be extracted.

Daniel stated they have obtained and secured bids for the water drilling and they do have a high degree of confidence they will find water. There are alternate locations they could look at for drilling another well and that is closer to Cascade Canyon or Concrete. The reason they opted to stay away from there; there are a number of pipelines in the ground. They think if they head closer to the creek they could find water. Depending on what option they choose and whether or not the Board decides to allow them to continue to occupy; while they are looking for a permanent water source, they would like to extend, if you choose option B, the 6-month staff recommendation to 9 months. That way he guesses the 6 months they are looking at now; that is most of winter, the mud, the wet snow season, and if he gets those three extra months it might be enough for him to properly site his water well and ISDS system.

Chairman Martin explained the elevation there as well as the climate and the canyon they are in cold weather as well as snow and mud.

Loren said they are concerned, given precipitation is beginning right now and could continue for the next few months; it would represent some obstacles to them getting both the well drilled and the ISDS installed. The three additional months would accommodate them completely.

Commissioner Houpt asked; the well and the ISDS, and Loren replied yes. Commissioner Houpt asked if that would be both for the well and the ISDS and Loren stated yes. The last time you were here you indicated that it was not your intent to build a structure and complete the well or the ISDS in any time certain, and they are a bit surprised this application would give you a year to accomplish that. If you settled into this concept, and you are fine with the idea that what you are actually asking for is a permanent solution to office facilities?

Loren stated yes; the primary variable was associated with construction of the stick-built. He apologized for any miscommunication. The installation of the water well and ISDS system was an assumption that was embedded

within the approval of the application and its association with trailers. It was the construction of the stick-built structure that still represents something of an ambiguity. The system as it is currently designed both the water well and the ISDS system is designed to accommodate the stick-built structure and the remaining trailer they would leave on site. Of course, it is designed to accommodate the current configuration as well.

Commissioner Houpt stated; what you are saying is that what we could end up, within 9 months, would be the 6 trailers in place and water and ISDS and Loren stated that was correct.

Daniel stated he guessed the big issue with the water was whether they could haul the water or drill the well to secure the source. They thought that by permitting the well they had secured the source, staff has made it clear not only do they have to permit the well, we have to construct the well and so that was the big difference.

Commissioner Houpt said she was wondering where you are with the well. Nine months have you started the ISDS or the well?

Daniel stated yes; they have bids in from contractors, water well, and pump installers for the water well.

Commissioner Houpt asked Fred if he saw the plans and Fred said he had not seen the ones they are talking about. Daniel stated the plans for the ISDS are in the permit package. The ISDS system has not gone out to bid; the water well did go out to bid. The bids were received and it is a matter of getting them to management for approval.

Commissioner Houpt explained that was her concern; it is more in terms of the necessary documents for securing the representation that this is going to be accomplished. She always appreciates when people come forward and admit to a situation that they need to fix. She does not want to be too hard on them today; because she really does appreciate the fact that they came forward and admitted that these were not permitted. She cannot emphasize the importance of making sure that these systems are in place regardless of what you decide to do about the stick-built or what your period is on that.

Fred wanted to draw the Commissioners attention to condition of approval number 18. Fred read; no land use permit shall be issued until permitted well and permitted ISDS have been installed, and proper permits for the trailers have been issued. Maybe it is there that you thought you could put; by the way, these all have to be done within 9 months.

Commissioner Houpt asked if Fred had an opinion on the 9-month request.

Fred stated that certainly within this area of the county it is a challenge, as the Chairman pointed out, because of the topography you have the shading in there, your elevations are higher, you have precipitation and it is for a long period. Fred thinks that is certainly plenty of time; an engineer will tell you they can do it whenever, it frankly does not matter. Is it easier and less of an issue to do it in the nicer months; of course it is? It sounds like the testimony from Mr. Padilla is that they are on their way right now in securing their bids to move in that direction.

Chairman Martin stated they also have a time line from the water resource folks. They have a well permit number for a commercial exempt well, which is mentioned and was issued in 2009, April 6. It expires two years later; if they do not do that and do not complete it, the permit goes away.

Commissioner Houpt asked if that was within the 9-month period.

Chairman Martin stated it expires 2011. Yes, you could do that.

Commissioner Houpt said the language she would want to add would be that the water well and ISDS would be completed within 9 months of today's hearing.

Deb asked Commissioner Houpt if that would allow them to continue them to occupy the temporary facility and Commissioner Houpt replied yes.

Daniel wanted to clarify on their re-veg bond.

Chairman Martin asked what he wanted to clarify; how will he do that?

Daniel said he had spoke to Fred about it last week and they obtained the long-term bond; the \$12,360.00 and they will hold that until they obtain the \$7,500.00 bond and then submit that.

Loren explained the bond his client is holding is in excess of the amount that has been recommended.

Commissioner Houpt asked if it could be used for this purpose and not just one term the way the wording is and Loren stated yes.

Deb stated she has not seen the actual language of the bond; but it required very specific language for the resolution so that the \$7,500.00 one will do that, we will make sure that it does.

Commissioner Houpt stated okay and asked should we add a condition allowing them to remain in...

Chairman Martin stated that would be one of the options you have.

Commissioner Houpt asked the modulars and Chairman Martin said yes.

Deb said she would recommend that they add a specific condition so it is absolutely clear that they are permitted to be there temporarily.

Fred asked if they could amend number 19; says by approval today, by the Board of County Commissioners the existing 6 office trailers may continue to be occupied, the caveat the first 17 conditions; number 18 talks about services he feels they are covered there and let the rest of that condition play out so it allows a daytime.....

Commissioner Houpt said no; that is pretty open. It makes it more of a permanent; if we want to make the trailers there permanent office, then she thinks they have to have...

Chairman Martin said they would have that option.

Fred said that's exactly what the presentation does, what's being proposed in the staff review would allow these 7 office trailers, sorry 6 office trailers to be there in perpetuity basically so long as the services that serve it are permanent. That is what he meant be careful so we do not confuse the stick-built as meaning permanent verses the trailers being out there.

Chairman Martin said you also addressed if they chose to move forward with stick-built that they would be allowed to following the building codes and moving over from a water to that system, as well as the ISDS that is approved, and then doing away with all except one trailer. This has been addressed in there.

Fred said that is right; that is the way it is written.

Chairman Martin said it would be up to them to see if they wish to go ahead and continue that. In the buildings themselves they are inspected and meet all requirements by the State of Colorado, saying from winds to snow loads, to tie downs, to how they are put together, plus the wiring, fire suppression etc. etc. Each one of those units has a certificate which then you would have a record of those certificates; which is like a temporary housing facility that meets those requirements. Therefore, they do meet that code; it does meet the building codes. It is not like we have an old 1968 single wide mobile home type next to a 1972 etc. These units are made specifically for these purposes; inspected by the housing authority and the State of Colorado housing.

Commissioner Houpt asked; are you uncomfortable putting a date in for constructing the building that is the topic of this application; the stick-built?

Daniel said he guesses he would be yes. He is not the facilities manager, he is the regulatory guy and they have asked for an open ended; they have asked for the permit as written.

Commissioner Houpt asked why.

Daniel stated money.

Commissioner Houpt said no; money except, we are asking for different things in this application. You are asking that the trailers be made a permanent office facility if you so choose or if you so choose you will build a stick-built for a permanent office facility. As the person approving this application, if it is approved that way, we walk out with two different scenarios and when do we find out what the actual scenario is going to be?

Daniel said they know they will have permitted trailers, or will have trailers there now, so that is what we have now. He would not mind having a COA that say within 90 days of deciding they want to proceed with a stick-built; they will notify staff that is their intent.

Chairman Martin said that is the requirement now that if you change from the permanent facility, which are going to be the prefab trailers, if you choose to go ahead with the building permit on another facility the requirements are that you have all permits in place, inspected etc. following all that permit process and then remove all except for one trailer on completion of that building. He thinks that is where they are now and that is what you have been asking for.

Daniel said yes that is what their preference would be. The number of people will not increase; it would just be a stick-built structure as opposed to the trailer and when funding permitted the stick-built, then they would go after the stick-built.

Commissioner Houpt asked if they knew there was a time this will be in place and they nodded yes.

Fred wanted to ask a clarification on what Commissioner Houpt said.

Commissioner Houpt said if not acted on this application; it does not remain active forever does it?

Chairman Martin said yes and Commissioner Houpt asked if they did not have to come back after a year?

Fred stated right now, the only time line that is in place right now is the time line that they need to put their well in and their ISDS. Now, let's say that doesn't happen; let's say 10 months go by and they haven't done that; then yes you do have an issue and they are cross ways by the approval provided by this Board, should you approve it.

Chairman Martin stated you could then revoke that.

Fred said you are also going on the premises that a well and ISDS were put in place; regardless if it is 6 trailers or a stick-built construction.

Deb said that perhaps what Commissioner Houpt is thinking of is the code provision that says you have a year to satisfy conditions of approval; but she thinks where she is getting hung-up maybe that what is being requested today is approval of these trailer offices with the permanent infrastructure. In addition, the option for them to come back in the future with building permits to do a permanent facility stick-built. They may never do the stick-built and the approval you give them today says that is okay. Deb just wanted everyone to be perfectly clear about what is being requested.

Commissioner Houpt stated if at the end of the day, the stick-built structure is not done and the trailers stay in place; are their different reclamation requirements. If they leave, do not they need to haul trailers away?

Chairman Martin said they would and the reclamation and reseedling would probably be in there because of another bond they have in reference to the site. Is it 3-acres?

Daniel answered 3.03.

Commissioner Houpt asked are you treating it differently at the end of the day.

Fred said that is a good point in the sense that we can always haul the trailer off the site and you have an area that was not re-vegetated; there is no doubt about that. You have a spot where they sat that would not be reclaimed.

Chairman Martin explained it is right outside their parking lot, or the graveled area and driveway where they come in on. That would be a flat area that has already been leveled off, graveled etc. with tie downs.

Daniel said that maybe they keep their long-term bond.

Fred said that would be an elegant way to look at that actually.

Chairman Martin stated and not go with the other one unless you decided to go ahead and do a removal and a new stick-built at which time all new stipulations and approvals would have to go.

Daniel asked Tresi if that would be okay to keep the \$12,360.00 bond.

Commissioner Houpt asked Fred what he would do with the short-term vegetation. Still require that?

Fred thought the way the structure was to keep the short term; hold the \$12,000, the long term until they replace it and relieve that bond. The point is kind of mood at that point.

Loren said within the application, the client has identified within that reclamation plan they will remove all equipment and structures and they go on to explain the specifics that would be associated with the reclamation.

Including recommended seed mixes, he thinks regardless of whether it be the stick-built or a variety of trailers out there. They have committed to reclaiming the entire site as identified.

Chairman Martin stated within the application.

Loren said he thinks the idea to apply the long-term bond in addition to the short-term bond would accommodate it completely.

Commissioner Houpt said she thought it would.

Loren said you will end up with two bonds and at the last meeting, it was his understanding they had gotten out from underneath the short-term bond.

Commissioner Houpt said the short-term bond is just for re-vegetation; it is only going to come into play if you build the stick-built because of the entire disturbance that is created.

Deb said the ISDS and the well as well and Commissioner Houpt said she was right.

Fred said the concept is to give it two growing seasons and the county says okay here is your short-term bond back.

The hitch in it that, you pointed out, is what if they pull the trailers out. So then they do one of two things, they finish re-vegetating it or they build a stick building.

Chairman Martin said or they make it the parking lot.

Commissioner Houpt asked if they were okay with both of those bonds.

Daniel said they are okay with that yes.

Commissioner Houpt said what she is adjusting to is the notion recognizing 6 office trailers as permanent office facilities, or one stick-built and one trailer as per the permanent scenario. And that is at the end of the day what this application will allow you. And in any case within 9 months of today you will have a water well an ISDS in place to serve either of those scenarios.

Fred said one other item; should you want to think about a time line for getting proper building permits. At what point do you want to have them do that?

Commissioner Houpt stated if they are not building... Oh, you meant for the trailers immediately. Because we need to make sure, everything is in place. Is there any reason why you would not be able to do that?

Daniel stated; will he pass his inspections for his water, or plumbing if he does not have everything hooked-up?

Chairman Martin stated only pressure tests; you could do that, but again you will have to hook up your well and then you would have another inspection.

Commissioner Houpt stated they would be inspecting the well on the ISDS anyway separate from that.

Chairman Martin said if it is already in use; if they already have a water holding facility, they already have an ISDS of sorts.

Fred said if you turn the faucet and water comes out, they are basically satisfied from a water perspective. The other key thing is snow load, wind load tie downs, foundations, and accessibility.

Chairman Martin said that is already included within the building inspections.

Loren said they would get after them as soon as possible to secure the building permits approximately 40 – 45 days and then that permit then, just based on typically timeline. After that once the building permits were approved for the current configuration, when they complete the ISDS in ground installation and the water well, then they would update the building permit. We would submit all the appropriate materials to Mr. Schwaller and then the building permits would be updated.

Commissioner Houpt stated if we give you 60 days. She asked Fred if he had a condition for that.

Fred said he would put that in.

Commissioner Houpt said that would be condition number 20.

Fred said he has 21; he heard them say to hold a long-term bond for the reclamation when the trailers come out and Commissioner Houpt stated okay.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Houpt – I make a motion to approve the land use change permit through limited impact review for a professional office to conduct business or profession for OXY USA WTP, LP with the conditions provided by staff and the amendments to the conditions discussed during our hearing; to include language that requires the condition 19 that adds language requiring the water well and ISDS to be completed within 9 months of today’s hearing and recognizes the existing 6 office trailers, and recognize the two configurations of office space, 6 trailers or one stick-built office building with office trailer.

Fred stated that was number 19 and number 18 was the additional language where you said no permit issues until the water well and ISDS installed within 9 months of today’s date.

Commissioner Houpt stated 20 would then be the long-term bond in the amount of \$12,360 and condition 21 would be allowing 60 days to secure proper building permits for the existing office trailers.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

EXECUTIVE SESSION:

Don would like the Board to consider in executive session provide legal advice on the operation of the search and rescue fund.

Commissioner Houpt – I make a motion we go into executive session.

Chairman Martin – Second.

In favor: Houpt – aye Martin – aye Samson – Absent

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

Chairman Martin stated there was legal advice only; no policy discussion and no action is required on legal advice.

John Colson wanted to formally object to the executive session. He feels it is an improper executive session. Legal precedence shows that it is not simply a matter of if you have to give them advice on something; you can go behind closed doors.

Chairman Martin stated so noted; keep us honest that way.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

OCTOBER 30, 2009

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The SPECIAL meeting of the Board of County Commissioners began at 1:30 P.M. on Friday, October 30, 2009 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson were present. Also present were County Manager Ed Green, County Attorney Don DeFord and Clerk and Recorder Jean Alberico.

Budget presentations:

Georgia Chamberlain, Jean Alberico, John Gorman and Lou Vallario provided comments related to their specific budgets. The Commissioners had few concerns or questions and had previously reviewed the request of each elected official. Discussions with the Sheriff included the new Rifle building and the Model Traffic Code to be in effect the first of January 2010. A discussion was held with respect to the Search and Rescue and Lou justified his actions for making this department go through the same background checks as his deputies and staff.

PILT Legislation

The new PILT regulations were discussed and Lisa Dawson informed the Board that three representatives from the schools would need to be selected to make decisions or assist with decisions on the forthcoming new legislation. The three Commissioners would also serve on the decision-making committee. This will be agended in the future and additional information will be provided.

Adjournment

Attest: Chairman of the Board

NOVEMBER 2, 2009
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 21, 2008 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson were present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn 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
STAFF RECOMMENDATION TO AWARD AN INDEFINITE QUANTITIES IN THE AREAS OF
BATTLEMENT MESA, PANORAMA, AND WEST GLENWOOD SPRINGS DECEMBER 1, 2009
THROUGH MARCH 31, 2010 IN AN AMOUNT NOT-TO-EXCEED \$300,000.00 – JAMAICA WATTS

Bob Prendergast, Katherine Ross, and Marvin Stephens were present.

This contract will start on December 1, 2009 and end on December 31, 2009 with an option to renew in 2010 for the months of January, February, March and December. Total contract amount will not exceed \$75,000.00 in 2009 and \$300,000.00 in 2010 subject to 2010 appropriated funds. A request for proposals was published and five offers were received and evaluated by county staff. Consolidated Division, Inc. was determined to be the best value. The criteria used to select the proposal was based on best value to Garfield County on cost and past performance.

Commissioner Houpt asked if this was built into budget and Marvin stated it was built into next year’s budget.

Bob passed out some information with numbers on this project. They are saving approximately \$81,000.00.

Commissioner Samson – I move we give the award to Indefinite Quantities Contract for snow plowing in the areas of Battlement Mesa, Panorama and West Glenwood Spring and it will run December 1, 2009 through March 31, 2010 in an amount not to exceed \$300,000.00. Commissioner Houpt stated it is \$75,000.00 for 2009 and \$300,000.00 for 2010.

Commissioner Samson added to the motion \$75,000.00 for 2009 and the balance of \$300,000.00 for 2010.

Commissioner Houpt – Second.

Chairman Martin asked if this interfered with their maintenance program with Battlement Mesa. How does that play into the education of this company; is there a conflict in which roads will be done.

Marvin stated they would have a meeting and designate what roads they will plow He had talked with Steve Rippy. Don wanted to point out that the Board has awarded a contract for 2009 that is subject to renewal for 2010; the 2010 renewal has to be made contingent on appropriate budgeting and appropriation, which you have not done yet. You really cannot award for 2010.

Ed Green stated it is incorporated in their proposed budget.

Commissioner Samson – Contingent upon being approved. Commissioner Houpt – Second.

In favor: Houpt – aye Martin – aye Samson – Aye

CONSIDER SETTING A REGULAR WORK SESSION FOR THE BOCC EACH MONTH – FRED JARMAN

Fred stated this is directly relative to the meeting the Board had a few weeks ago with Ed and some of the staff, putting together a regular work session date once a month. He has in his department ready to put together in that format.

The Commissioners agreed to have these meeting on the first Tuesdays of every month at 2:00 p.m. They will also settle on topics on the second BOCC meeting of the month and give them to Ed beforehand. There also may be topics that are just brought in by Ed. The first meeting will take place on December 8 due to a CCI meeting on the first Tuesday; thereafter it will be the first Tuesday of every month.

SALVAGING POLICIES AT AREA LANDFILLS – MARVIN STEPHENS AND KRAIG KUBERRY

Presented was a salvage policy survey:

<u>Landfill</u>	<u>Salvage</u>	<u>Re-use Area</u>	<u>Alternative</u>
Eagle County	No Salvaging due To liability issues	No	Eagle Valley has a yard close to the landfill that the public Drops reusables
Pitkin County	No Salvaging due To liability issues, Except for wood Brush, which is Placed in a reg-ulated area	Yes*	*Customers are charged full fee regardless if it goes to re-use area and there are restrictions as to what goes. No electronics no upholstered items, etc. Operators clean out the area once a week.
South Canyon	No salvaging due to Liability issues.	No	None at this time
Garfield County	No Salvaging due to	No	None at this time
Rio Blanco County	No Salvaging due to	No	None at this time
Mesa County	No Salvaging due to	No	There is a re-use area for

Marvin stated they visited about a month ago. He has prepared the above to show what other counties do. All the counties have no salvage due to liability issues and Marvin recommends they stay the same with Garfield County. It depends on how big this grows; if they put stuff aside and put a free sign on it.

Ed Green asked where they would put it and Marvin suggested by the scale house.

Commissioner Houpt suggested they set them aside for a certain period.

Marvin said if they had the staff, he would not have an issue. He is recommending they limit it, if no one picks it up in few days.

Don explained they will need to post “enter at your own risk and use at own risk”.

Marvin stated this is just an update on where we are; they have researched what other counties have done.

Kraig said it is very difficult to keep this at a minimum.

Commissioner Houpt said they would have to see how it works. She said this leads to Habitat for Humanity, they have an over abundance of contributions and need help with land filling those. Some of those might be good candidates for this type of yard however, that could be overwhelming as well. Do we have information where we are on that?

Ed said he thinks Marvin has investigated.

Marvin explained it would cost the county about \$15,000 a year to accept the waste; they did not realize it was so big.

Commissioner Houpt said she is not surprised and the Board has granted people in-kind resources before.

Ed stated mostly lift-up and the communities when they have hay days.

Commissioner Houpt said they have helped folks out in the past

Marvin stated when lift-up first started it became a dumping ground; they could not control it. When they built the new building, they have a handle on it now. His concern is this may end up the same way and end up as a dumping ground. His recommendation; if they have some way to fence it off and control where they dump stuff off. That is a lot of money in a year’s time.

Commissioner Houpt agrees that there has to be some way to make residents more responsible.

Marvin said it was a daily job for lift-up.

Commissioner Houpt said she would like to help them; maybe we do \$10,000.00 worth of vouchers, and after that, they have to control how much they take in, and then it becomes more important to them to figure out how to fence the area in or be more discriminating on what they take in.

Marvin stated one concern; in the past, he has seen when times get tough people dump things in the ravine. He has not seen a lot yet; but he has in the past.

Commissioner Houpt stated that it is separate from this.

Marvin stated it is separate; but it goes along with it.

Commissioner Houpt said she would like them to work something out. She asked if they needed more direction.

Ed likes Commissioner Houpt’s idea of limiting it to \$10,000.00.

Marvin said, maybe they could give discounts per load after the \$10,000.00.

Commissioner Houpt said that is the limit and it does give them a better understanding of what they need to work towards finding a way to control this.

Don stated this does need action by the Board, as it is a fiscal issue.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – Aye

ENERGY EFFICIENCY OPTIONS FOR HUMAN SERVICE ANNEX BUILDING – RANDY WITHEE AND JEFF DICKENSON

A letter was given to the Board from the New Energy Communities Initiative with their recommendations. Randy presented the following:

Background:

The goal in considering energy efficiency options for the Garfield County Human Services Annex is to reduce energy consumption, reduce the environmental impact of operation and to provide a higher level of human comfort.

An energy analysis was performed to compare the “base case” building to the energy efficiency options.

Alternatives for the HVAC system and additional energy efficient improvements were evaluated.

Alternatives & Improvements Considered:

- White TPO roof membrane – higher reflectivity, reduced heat gain
- Higher shading coefficient glazing – less heat gain through windows
- Lighting system & control upgrades – reduced energy use
- Tankless hot water heaters – less energy use
- Additional of clerestory windows at the open office – more natural light, less energy use during daylight hours
- Efficient base HVAC equipment – right sized equipment for space
- Variable volume and temperature (VVT) HVAC system – better controllability for improved comfort
- Variable air volume (VAV) HVAC system (Trane Voyager) with hot water re-heat – reduced operational costs and improved comfort
- Variable air (VAV) HVAC system (Trane Intellipack) with hot water re-heat – reduced operational costs and improved comfort

Energy Efficient Improvements:

After reviewing the performance of the alternatives and improvements and with consultation from Jeff Dickinson, Sustainability Consultant to CLEER/G-NECI, it was determined that all alternatives should be bundled with the following energy efficient improvements:

- White TPO roof membrane
- Higher shading coefficient glazing
- Lighting system & control upgrades
- Tankless hot water heaters
- Additional of clerestory windows at the open office

Final Alternatives and Improvements:

- Base System
 - HVAC system-four constant air volume roof top units
 - Base building package is based on 2003 International Energy Conservation Code and includes: Black EPDM roof membrane, standard low-E glazing, prismatic T8 light fixtures, traditional tank style hot water heaters, no clerestory or light dimming technology
- Alternative Design 1
 - HVAC system-four constant air volume roof top units with variable volume temperature upgrade with energy efficient improvements
- Alternative Design 2
 - Variable air volume (VAV) HVAC standard efficiency system with hot water re-heat (Trane Voyager series) with energy efficient
- Alternative Design 3
 - Variable air volume (VAV) HVAC high efficiency system with hot water re-heat (Trane Intellipak series) with energy efficient improvements.

Payback Findings:

Alternate Packages	Installed Cost	Incremental Increase	Annual Energy Cost	Energy Savings per year from base	Payback (years)	% of Energy Savings from base
Base Package	\$121,235	-----	\$10,041	-----	0	0%
Alternate Design 1	\$236,120	\$114,885	\$7,799	\$2,242	32	22%
Alternate Design 2	\$343,499	\$222,264	\$6,411	\$3,630	40	36%
Alternate Design 3	\$349,242	\$228,007	\$6,257	\$3,784	39	38%

(Payback in years is rate of annual energy cost savings over base package multiplied by an inflation factor of 3% annually)

Environmental Impact:

Environmental Impact (per year)	kWh Consumed	Therms Consumed	CO2 Emissions (lbs)	Nitrogen Oxide Emissions (lbs)	Sulfur Oxide Emissions (lbs)	Mercury Emission (mg)
Base Package	76,948	2,212	163,481	211	159	337
Alternate Design 1	56,806	1,954	124,447	161	117	249
Alternate Design 2	53,799	1,039	108,357	140	111	235
Alternate Design 3	52,350	1,026	105,614	136	108	229

- Funding:
 - Budget \$500,000
 - Use of Funds
 - ✓ Sheriff’s Annex \$160,000
 - ✓ Human Services Annex \$114,885
 - Remaining to be allocated \$225,115

Xcel Energy provides incentives for new construction, the estimated rebate incentives for Alternate Design #1 would be \$2,200. We will work with Garfield County to recognize the maximum rebates and tax incentives possible as the design nears completion.
- Energy Alternatives – Recommendations:
 - Based on the analysis, we believe that alternative Design 1 provides the best balance of cost, comfort and environmental stewardship. We recommend the BOCC consider a change order to the Neenan Company for the design and installation of Alternative Design 1 for a not-to-exceed amount of \$114,885.00.

Randy went over the list of various options and explained they preformed an energy analysis. In the 2009 budget, they had \$500,000.00 and they put \$160,000.00 into the Sheriff Annex already. If you choose to go with alternate one; that is another \$114,885.00 out of this budget.

Commissioner Houpt stated and \$228,000.00 if we went with alternative III. She wanted Jeff to explain the significance of the carbon offset. There is quite a significant difference depending on which alternative you select. Jeff explained he posed that question on his memo; what do we want to be looking at; paybacks, or carbon offsets. On the table prepared, the environmental impact lists the CO2 emissions, nitrogen oxides, sulfur and mercury emissions that was prepared by the consultants. We are focusing right now on the CO2 emissions. Jeff explained how much carbon they are looking at in the atmosphere per year with that system. He explained the other systems, the carbon they would produce, and how much carbon you would save going into the atmosphere each year. Commissioner Houpt asked, when you looked at these various packages; did you also look at them in relation to the existing building and whether any of this can tie into those processes.

Randy stated this is more of a separate building and we are looking at what we can do with solar array.

Jeff stated also the potential for the performance contracting aspect that GNECI program is undertaking; that building could be upgraded and other efficiencies done.

Commissioner Houpt asked if they could be upgraded in a more cost effective manner if we tied it in with what is happening with this new section.

Randy said it is two different systems already in place. It is very expensive retro to get those together.

Ed stated as Randy has said their strategy is to work on solar electric in the existing building, the roof mounted systems.

Commissioner Houpt asked if that would serve the new portion of the building too.

Ed replied no, it would draw down the load for Human Services and Public Health.

Jeff explained it would offset the entire complexes energy use; it would be a grid tied system. Wherever you have the solar panels, it would feed back into the grid. It does not matter whether they are on that building or the new one. It made more sense to put it on the existing building; more space.

Commissioner Houpt asked if there was a standard or a norm being established as people become more interested in energy savings. Is there a percentage people shoot for? We are looking at the various packages the percentage of energy savings from the base ranges from 22 – 38%.

Jeff explained a target goal many of communities are using is about 30% better than code. Bills that are in process on the federal level are looking at 30% or more above some of the existing codes that are just coming up to state of the art.

Commissioner Houpt said 38% is good.

Jeff explained the package they used, the base case for doing the energy modeling was not up to the latest version. There is the American Society of Refrigeration Air Conditioning Engineers; they put out a standard, 90.1, that is adopted and revised every couple of years just like the building code. 2009 is the latest the version and this building is compared to 2004 so it is a little bit outdated.

Commissioner Houpt asked why they were looking at 2004.

Randy said they are looking at the codes they have in place now the counties and cities code. They are meeting the minimum code.

Commissioner Houpt stated that is what they have to compare. She is leaning toward alternate three; she thinks having county government take a lead in energy savings and in offsetting carbon emissions is important. Those numbers look significantly different enough to her to make it worth the investment.

Chairman Martin stated that carbon monoxide is a real debatable issue. Even trees reach a maximum of absorption and then start putting off carbon they have taken in. They can produce carbon as well. Also one forest fire will put more carbon into the atmosphere. It depends how you are measuring carbon, what you are trying to do; is the cost payback enough etc. etc. It depends on how you look at it.

Commissioner Houpt stated that is fine; if you can control certain things that is, when you take the act to actually accomplishing that. We cannot control natural phenomena's; but we can control what we put on the ground when we are building a building.

Jeff stated there is efficiency, which is what they are promoting. We are not saying planting trees; we improve efficiency and it keeps carbon out of atmosphere. The other part is the payback to it; you are saving the county in the end. These estimates were done at a 3% energy escalation; but who knows what it will be.

Chairman Martin explained the other variable is the cost of replacement if it lasts 20 years. When is the real payback or is it just offsetting the same thing.

Commissioner Houpt explained when it has to be replace we would assumedly have a new energy code in place. If its 20 years down the road, you will have to look at more substantial energy efficiencies anyway.

Commissioner Samson asked Randy and Jeff if they were both recommending design 1.

Jeff said he was going along with the team; they developed package one together. He wanted to put out that alternate 3 is available and it is really a funding issue. He would love to recommend alternate three.

Ed said it is really a balance on between energy efficiency and how much you spend for that incremental amount.

What is your best bang for the buck and the group concluded that alternate 1 was the best bang for the buck.

Commissioner Houpt asked if they looked at CO2; was that part of the equation and Ed said they looked at everything.

Commissioner Samson – I move we accept alternate design 1 for the installation of the energy alternative for the Human Services building in an amount not-to-exceed \$114,855.00.

Commissioner Houpt – Second for discuss. Commissioner Houpt thinks it is important that as a county they take the lead in recognizing the importance of energy savings and not only carbon offset over the lifespan of a building but the offset of these other emissions as well. She believes that alternate design 3 is within our budget; certainly is covered with what we designated for this type project and she sees no reason not to support an energy savings from the base of what the original package was at 38%, and she will not be able to support this motion.

Commissioner Samson said he agrees in substance; but he thinks the recommendation from these two gentlemen and the group that worked on it is sufficient to cover those. You have to take a balance of cost and everything else. He believes that if they were in landscaping era of planting trees, scrubs and everything else will offset this. He said he is curious as to what they would say the life span of the building would be.

Randy stated 40 years.

Commissioner Houpt - The significance of the additional funds for increasing the energy savings by an additional 16% is very small in relation to the life of the building. Before we vote on this, she wanted to ask where they were on the lead green building guidelines.

Jeff said they are working with the design team and he thinks that the design team that was selected; they are going through checklists and he thinks they are in the silver to gold range, but still in process.

Commissioner Samson explained within 10 years or less than that many of our buildings will be undergoing energy audits and we will be installing much more advance equipment.

Commissioner Houpt said she completely agreed. We may be able to put off having to upgrade this if we went with alternate three.

In favor: Martin – aye Samson – Aye Opposed - Houpt – aye

Ed explained they had \$226,000.00 left from the \$500,000.00 and he assumes they want to carry over in anticipation of another building.

Commissioner Houpt said they might want to reassess that and add additional funds to that since we are looking at doing audits on our buildings.

UPDATE PRATHER SPRING AND REQUEST FOR RESOLUTION – JUDY JORDAN

Commissioner Houpt sat in the audience as she has been working on this with the Oil and Gas Commission.

Richard Djokic Attorney and Dick Prather were present.

A presentation was given to the Board. Contamination in Ned's spring was discovered on May 30, 2008. Testing of the spring water in June 2008 confirmed BTEX contamination – Per COGCC, level of benzene at 100 ug/l at June 2, 2008. NOAVs issued to Marathon Oil Company, Nonsuch Natural Gas, Inc., Petroleum Development Corporation, and Williams Production RMT for contaminating in spring. BTEX contamination in second spring (Spring 2) discovered in late July 2008. NOAV's issued in August 2008 to Marathon, Nonsuch, and PDC for failure to notify COGCC and others regarding contamination in Spring 2. NOAVA issued in August 2008 to OXY USA for contamination in Spring 2.

Investigations: Initially by COGCC in June 2008 – sampled Ned's spring, in addition to three others – Spring 2; Donna and Dick's spring.

Joint Investigation by operators – Focus around two springs to determine nature and extent of contamination, and possible flow paths of contamination – Installed monitor wells and soil gas probes.

Investigation continued through November 2008 – Result – source(s) of contamination not established, nor extent of contamination – COGCC issued NOAVs in December 2008 to Williams for contamination in Ned's spring based on these investigations.

Each operator conducted its own separate investigation on respective pads to determine potential source(s) of contamination. These investigations continued through November 2008 – Result – source(s) of contamination not established, nor extent of contamination – COGCC issued NOAVs in December 2008 to Williams for contamination in Ned's spring based on these investigations.

Subsequent Developments:

COGCC conducts sampling of springs in February 2009 at the request of landowners – Results show BTEX contamination in Ned's spring and Spring 2 – above action levels. COGCC February, 2009 meeting – presentation to full Commission regarding the spring contamination and investigations to date – Based on a Report, COGCC staff received from its outside consultant with conclusions and recommendations for further work required, COGCC staff was to respond to all operators by May 1st as to specific further work/investigation that would be required. COGCC consultant conducts sampling of Ned's spring and adjacent monitor wells in May 2009 – Results reported August 31, 2009. Benzene, Toluene and xylenes still present in the spring, with benzene at a level of 47 ug/l. Two monitor wells – PSMW-28 and PSMW-31 had concentrations of 140 ug/l and 63 ug/l (pictures shown).

Subsequent Developments:

Meeting with COGCC staff in late May 2009 to discuss the status of the investigation to date and enforcement options. Enforcement via citations or consent orders during the first week of June 2009. In conjunction, have operators do monitoring and conduct further investigation of pipelines in the area owned or operated by the companies. Result – no enforcement action commenced and no plan for further investigation implemented. Spring 2 and adjacent monitor wells, as well as Donnas Spring sampled by OXY in July-August, 2009: Results – benzene present in Spring 2 and two monitor wells trending to the south/southeast (picture shown). Donnas spring – BTEX undetected. Conference call with COGCC staff – September 1, 2009. Purpose – To update and discussion of plans moving forward. Based on COGCC review of information, indications are that contamination in Ned's spring coming from southeast, toward Williams' WGV pad, and westerly, from the direction of the OXY 15-54 pad relative to Spring 2. Three operators under NOAVs for contamination of the springs released from the NOAVs. Negotiate with the two remaining operators to do additional investigation on or around their respective pads and infrastructure – No formal enforcement discussed by COGCC. Representation that work plans for these investigations would be submitted to landowners for comment/input. Continued monitoring of all four springs – understood to be part of additional investigation by the two operators. COGCC consultant's report of September 16, 2009: Summarizes investigations by operators and joint consultant through February 2009. Review of each operator's own investigative efforts, and findings on pads. Discussion of inconsistencies in the investigations – lack of consistency between the various labs used by the operators and the target lists/methods utilized; samples not tested consistently for the complete suite of organics/inorganic substances. Inconsistency concerning type of sampling and level of geological supervision during monitor well drilling events in 2008 – led to complication in evaluating occurrence of groundwater. There are no boring logs or field screening data submitted by the operators for 21 monitor wells installed on the eastern side of the valley where Ned's spring is located-data regarding soil, rock and verification of the screening intervals of the wells is incomplete.

Conclusions/Recommendations:

Both Ned's spring and Spring 2 have been contaminated with unauthorized E&P waste. Distribution of BTEX in groundwater samples in monitor wells around Ned's spring would indicate source of contamination likely located on eastern side of valley where Williams has facilities. Distribution of BTEX as well as chlorides and total dissolved solids in Spring 2 and monitor wells, the presence of similar organic and inorganic compounds in the fluids collected from one pit on the OXY pad, plus the operational history of the pits on the 15-54 pads, indicates the pad is the likely source for the Spring 2 contamination. Many ground water samples not analyzed for general chemistry or certain organic/inorganic constituents. Sampling of monitor wells and springs should be conducted monthly through the fall, weather permitting. Sampling in springtime when run off begins. Investigate areas down gradient of the springs to determine the extent of contamination – it may not be confined to the area immediately around the springs. Investigate area on southeast side of Ned's spring for possible source(s) of contamination. Conduct detailed investigation relative to the 15-54 pad, and install additional monitor wells investigate groundwater flow paths to Spring 2. Additional investigation of Nonsuch production pit should be considered for materials left/placed in pit.

17 months later

BTEX contamination still present in Ned's spring – benzene exceeds acceptable levels. Contamination still present in Spring 2 – at lower levels; however still present. No formal enforcement has been instituted – surface owners have doubts any such enforcement is eminent. The responsible operator(s) have not been identified or cited – three have been released from the NOAVs. COGCC's consultant has recommended further investigation; however no plan has been put in place and surface owners have not been consulted. No plan for future sampling/monitoring of springs is in place.

Rich stated at the end of the presentation they would be asking for a resolution sent to the Colorado Oil and Gas Commission concerning unauthorized waste in Garfield County. At this point, he went over his presentation. Commissioner Samson asked Judy; since Garfield County is going to be wrapped up in this; what has been the part you played as the liaison.

Judy explained that the COGCC is the regulatory authority and she has no authority. The only thing she has done as the liaison was to be available to all of the parties. When Marathon and OXY wanted to meet she set up meetings with the operators. She helped them get on the agenda, as they did not know how.

Commissioner Samson asked about Marathon and OXY what about the others.

Judy said she remembers Marathon and OXY making presentations to the Board; she thinks Williams did also, but she has not heard anything from Nonsuch.

Commissioner Samson asked if Nonsuch is still an incorporated company doing business. He heard they sold all of their interest and are out. Are they still in the natural gas producing industry?

Judy said her primary contact, with most of the energy operators is through the energy advisory board and she sees all the operators except Nonsuch and Orion. She does not know about Nonsuch.

Rich said as far as they knew they are still operational in the area.

Commissioner Samson asked if Williams has been contacted and has Judy been working with Williams.

Judy said she thinks Williams made a presentation about their findings to the County so you would be apprised of their investigation.

Chairman Martin said Williams is here today and you can ask those questions.

Commissioner Samson asked Rich, as he looks at this, his first reaction without hearing everything, always more studies will have to be done and more will have to be concluded; but what you're saying Rich, it has been proven that this contamination did come from OXY and Williams. Is he reading this correctly?

Rich stated it has not been proved; what they are reporting is the history of how we got here and toward the end the conclusion that COGCCs staffs consultant has reached with respect to the likely sources of contamination of the two springs. Based on their review of the data and information with respect to Ned's spring seems to be pointing toward the Williams operation with respect to spring 2 the OXY operation; but it has not been adjudicated either through a responsible party hearing, or the like that those two operators are actually the responsible parties for those two springs.

Commissioner Samson wanted to make that clear and asked if they drafted a resolution.

Rich said yes, and the other part was to ask the Commissioners to consider a resolution, since the property is in Garfield County. Since the property is contaminated, it affects the waters and the soils of Garfield County. Since the COGCC is the primary regulator to oversight these matters, he is asking the Board to consider a resolution favorably to encourage the COGCC to exert its statutory authority and duties and to either undertake or direct that the matter be remediated on the Prather property.

Commissioner Samson asked, when you say this to the COGCC what is the response you get.

Rich explained not very satisfactory. It is a very frustrating response. From the landowners standpoint and he will summarize, it is very frustrating that their assurances to the landowners that there would be formal enforcement action at least two meetings; nothing has happened. There has been no definitive determination of responsible parties to the contamination notwithstanding that three operators have been leased minimally based on the information that has been reviewed, and despite the assurances of work plans going forward there has been nothing emanating from the COGCC and it is frustrating.

Dick stated from a landowner's point of view what they really feel like is, they keep getting told this will be done, enforcement will take place, a plan will be in place and none of that is happening. It still goes back to the COGCC letting operators go up and review their pad. He thinks it will take more assertive actions from the COGCC than letting the individual operators go up and check on their pads. They have insisted more drilling of monitor wells, deeper wells up by the individual pads down to water sources, and they keep being told it is a shot in the dark, you might miss, you might hit it but you might not hit it. Well, until that is done he is not sure there is any answer that will come out of the whole thing. From his point of view, he has a trespass hunting operation on the cabin down valley and the consultant said it would not get to his spring. In the report from the State consultants, it is very likely it is headed down valley. He stated he is paralyzed as far as his cabin; it has a water source there, but he would not put his hunting people there; he does not want them to get sick. Until this is solved, they are paralyzed on the whole situation.

Commissioner Samson asked what kind of reaction he has received from the companies that have been involved in this.

Dick said; it is not us, it is him, it cannot be us; every company says it cannot be us.

Commissioner Samson asked if anyone has made a statement that, if it is found to be them they would be more than willing to do whatever is necessary.

Dick said one company came out in the paper and said that. As far as telling them that; no. He thinks some of the companies would; but it has to be proved who it is.

Commissioner Samson asked whose responsibility is it to prove who is responsible.

Dick said he sure does not believe it is his gas conversation committee.

Commissioner Samson stated to Commissioner Houpt that this is one of the things that frustrate him. You do represent them; but he has tried to tell his constituents that Garfield County is not responsible for drilling permits or the rules and regulations of those drilling permits. We really have no enforcement, as those are state laws and instituted by the Oil and Gas Conservation Commission. He feels in many ways, and made that a major point in his campaign, that he feels the State of Colorado specifically the COGCC has short changed Garfield County tremendously. They are to oversee this from A – Z. We have a big problem here and he feels the COGCC is stalling and not taking care of things, as they should. He is frustrated and does not say this as a political ploy but as a factual statement. He is frustrated with their State government, our governor who wants to take away or has plans of taking away severance tax monies from counties to balance the State government funds. He has frustrations with him wanting to cut funds back to us where we are impacted and yet instead of putting more money into the COGCC. There needs to be more people hired to take care of these problems. The COGCC needs to step up and do what needs to be done to rectify this. That is their job and it is not being done. The question is; Tresi, you are a Garfield County Commissioner and a member of that commission and things are not being done, why not?

Commissioner Houpt said if you go through the property owner's power point you will see there has been a great deal of activity on this site to try to determine where the contamination is. Figure 9 shows numerous monitoring wells, we know that activity in the area has created some real problems. Noone has ever denied there are problems there. The concern is trying to isolate that problem so it could be remediated. She has been as frustrated as Commissioner Samson has been over the years in having this type of situation remediated faster. Sometimes it is

physically not possible; they have to figure out where the contamination is coming from. You can ask any energy company in this room she has been a great critic of that. We do impact people; you are moving heavy industry into areas where people live. There has to be upfront planning, there has to be mitigation, there has to be remediation when there is a problem and she agrees with Commissioner Samson. She does not think there has been intent by the COGCC not to pay attention to this. The timeline is extensive on them being on the property and making certain they had a consultant give them an opinion on all the various tests conducted. She feels it is acceptable for Commissioner Samson, as a County Commissioner, to go to the Oil and Gas Commission and say; we are concerned and want you to move faster. We need to see some results and conclusions for this property owner. It may or may not be possible; we saw with the Divide Creek seep, it took a very long time for that seep to clear up and there is still a question if that is a problem. In this particular situation, a lot of work has been done on this. It's fine for you to come forward and let the commission know you are watching them. She does not disagree with Mr. Prather or his attorney; but more work should be done especially before another season is lost. It is fine for you to come forward and say we are watching this; it is impacting our constituents and we expect you to find some kind of conclusion. If you believe that the staff of the Oil and Gas Commission should work more closely with the companies involved and be on the ground then make that your request too. As local officials, maybe it is not our responsibility to enforce the rules that are put in place by the State; but it is our responsibility to represent the folks who live in our county. We believe we need to put some pressure on the people who are enforcing; she thinks it is acceptable. She thinks it is important to note there is a timeline of activity and she is frustrated they have not figured this out. She thinks they need to get to a point where we figure out how to bring people to remediate instead of having people saying it is not their issue. Everyone should be working together to figure out how to clean this up. Do what you need to do. She would urge Commissioner Samson not to feel as if the State and the Oil and Gas Commission do not care.

Commissioner Samson said it seems that the major problem you have as a commission you do not have the resources to get this done. He hopes that you as a commissioner, or whoever the powers need to force the governor's hand and the authorities, so you have more monetary resources and more manpower. We need people over here to take care of these problems.

Commissioner Houpt said that is a huge part of the problem.

Commissioner Samson said we have millions of dollars generated from this industry that go into taxes. Some of that needs to be earmarked to fund to make sure this industry is safe.

Commissioner Houpt - If there is a way to remediate there is the Environmental Impact Fund that can be used at the State level. You have to get to the point where you know how to remediate the problem. It would not hurt her feelings if he challenges them.

Commissioner Samson said he is not attacking her, he is frustrated with the State they are the major player here.

Dick stated 17 months ago you had two cowboys, Ned and I; why do you want to drill around this spring? We know it is contaminated. Different consulting folks said, with that kind of money they could have found the source.

Commissioner Houpt said, maybe they need to be very specific about what you want to see from the State and this certainly is an avenue for accomplishing that.

Rich said that is what they thought they would have with the invitation if you do not have the work plan.

Judy said she is going to assume part of the reason you brought her into this is because she has had a quarter of century of dealing with contamination. Both from a regulatory and industry standpoint and she has negotiated from both sides. This does not have to do with the commission itself; it has to do with the staff. These situations are not new, what a state can do is access the funds they have, remediate the problem, address it, and if they find the source, they can go back and get their money back. The State has not done that in this case. One point Mr. Prather made is this has dragged on for 17 months; the State could have taken that type of action. Let's not talk about what the source is; that is not a concern we can actually identify. We cannot fix that problem; the state can fix that problem and address the funds they have. The staff should be recommending that to their commission. The Prather's would not be in the situation they are in now if the state would take that kind of decisive action; plenty of States have done that before.

Commissioner Houpt thinks that is reasonable.

Chairman Martin said if you go back to the original visit, when they were up there that is exactly what they suggested and he believes the staff was on the scene.

Dick stated is not how you saw the situation; you know the contamination is here. Maybe we ought to move up hill. He said they keep hearing, from the State, it is too expensive. The way it is now, we cannot point the finger.

Susan Alvillar from Williams – These have been very trying times for everyone involved in this situation. You heard the level of frustration with the presentation. Let the record reflect that Williams has not made a formal presentation to the board about their investigation. They have not spoken about it at EAB because it is not appropriate; everyone is represented by counsel. Her company has a deep concern to go out and clear their good name. She would like to read into the record a letter to their employees, dated October 21, 2009. (Submitted for exhibit)

Commissioner Samson asked if there was anything Garfield County could do to help this along from our standpoint, whether as a commissioner or a liaison.

Susan believes they need to continue to following along with the investigation and hearing from the different parties as to what they are doing how they are doing it, and being informed is important. They just finished the investigation and they have reams of data. Maybe by the first of the year they will have reports from the data. They could come back once they have submitted to the COGCC and explain their findings.

Chris Lark, OXY – OXY's position is they have received a notice of alleged violation from COGCC Spring 2. The contamination levels in Spring 2 have been such that there has been no impact on human health or wildlife.

However, they continue to work with COGCC to find the cause of the contamination of that spring. They actually have crews up there as we speak. They are working on the access agreement to drill some wells and do some other investigation. From OXY's standpoint, it was written in the paper. OXY is a good corporate citizen and if they are found to be responsible for the contamination, they will do what is right to clean up their issue.

Chairman Martin - You would like us to consider a resolution and send it to the Oil and Gas Conservation Commission.

Commissioner Samson asked if we send this; is it going to get their attention.

Chairman Martin explained it depends if it is worded properly. Do you feel it is worded properly and gets to the point that you are trying to send?

Commissioner Samson said he is wondering, he thinks that some of the crutch of the matter is that they need more resources at their disposal to do their job. Mike asked Don what would be the wording that would be appropriate to put in there; philosophically we are asking them to do their job. Could we help them by saying that the Colorado State Government needs to fund the commission properly so they can do their job.

Don said he thought they should first encourage them to look at the resources that are available to them right now. It has already been discussed that the Environment Remediation Fund is available. He is not sure if they have explored utilizing that fund. It seems from the discussion he has heard that perhaps they have not. It is specifically available for this type of problem. If that fund is exhausted or insufficient, they should look to the general state budget and perhaps they should first look to those resources that by statute have been designed for this purpose.

Chairman Martin thinks that the 17 months that have gone by and we should mitigate this situation and then do a parallel course to find out who is at fault. However, let's go ahead to find the source immediately, remedy the situation and then take action. The real issue is we have not remediated anything yet, other than we have tested. We know pollution was there and we knew that the first day. We knew where it was coming out of, now we need to mediate it.

Commissioner Samson asked if Chairman Martin wanted more language in there.

Chairman Martin said he thought the last sentence is to take immediate action in relation to the mediation.

Commissioner Samson asked if that would cover it.

Chairman Martin stated it was strong enough for him and using all available funds.

Commissioner Samson said we should probably put that in.

Chairman Martin stated yes because he does not think the exploring of all options for paying is there. He asked Judy how many inspectors we have in Garfield County from the Oil and Gas Conservation Folks, 3.

Judy stated they just added 2 or 3 and she believes that makes it 5 or 6 in Garfield County.

Chairman Martin said there are always two if not three in Garfield County. If they have four and five he thinks the resources are there; it is putting priorities there and taking care of the particular issue.

Commissioner Samson asked where you would put that after immediate remediation by using all available funds and Chairman Martin stated correct.

Ed stated he had a suggestion; after should, put evaluate and apply the resources available to the COGCC to affirmatively discharge its statutory duty.

Commissioner Samson – I so move we adopt the resolution with the amendment as such and send post haste to the COGCC.

Chairman Martin – Second. In favor: Martin – aye Samson – Aye Houpt – Sat in audience and did not vote

Don asked if the language included specific direction to the Energy Impact Fund.

Ed stated it did not.

Chairman Martin stated that was County dollars and they were saying State dollars.

Commissioner Houpt said it is the Environmental Impact Fund, which is a huge resource.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Cancelled

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION:

Don explained he had a number of items for public discussion; all of which require some degree of legal advice or discussion concerning contract negotiation before public action is taken. Regarding items 3A - D concerns both legal advice of contract negotiation. Item 3E concerns legal advice prior to taking public action and legal advice is needed on 3F before public action is taken. He also needs to discuss and provide legal advice concerning code enforcement issues; K & L, Cozza, H Lazy F and we need to provide legal advice on the status of the Dunton exemption request; provide an update on contract negotiations and legal advice on the redevelopment of County Road 306; he will need members of the road and bridge staff. On 3A through D, Don would like the county engineer present also as well as the county administrator.

Chairman Martin said he had one other item, the request to consider overturning a decision made by the planning director regarding a PUD amendment.

Don asked if that was legal advice and Chairman Martin stated yes to make sure we have policy in place and position.

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

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

Action Taken:

K & L Code Enforcement

Don stated on the K&L code enforcement matter do you wish to proceed with any public direction or proceed with direction already given.

Commissioner Houpt stated to proceed with the direction.

Don stated the code enforcement we have asked the Board to authorize Chris and Fred to have some authority at mediation. We need by motion, please. Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – Aye

H Lazy F Code Enforcement

Don stated on the H Lazy F code enforcement issue on the special use permit we need public direction from the Board on the proposed resolution; do you wish to accept or not.

Commissioner Houpt said that is the one with the condition of approval. Proceed; do you need a motion?

Don said if you believe the proposal that was discussed meets the terms of the condition of approval on the existing special use permit, we need action to that effect.

Commissioner Houpt said she does not believe it and she made a motion we not accept the proposed settlement.

Commissioner Samson said he needs a site visit.

Commissioner Houpt said the reason she does not; there are two very clear conditions of approval and in order to change that she thinks they need to come in and amend that special use permit instead of saying we know we are out of compliance; but how about doing it this way, we do not really let anyone else do that.

Commissioner Samson said, he needs to look at.

Commissioner Houpt said they would need a site visit.

Chairman Martin said they would put on agenda to make a decision and to give direction next week.

Don stated on the remaining items for executive session when you have the opportunity.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers – COPS Debt Service for December 1
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Grants – Sales Tax Recovery Distribution for October, 2009 - \$51,658.53 – Georgia Chamberlain
- f. Request Approval to Release \$6,569.39 Plus Interest to Gilead Gardens subdivision – John Niewoehner
- g. Request Approval to Release a \$32,500.00 Letter of Credit for Pinyon Mesa Subdivision. They have Fulfilled Their Re-vegetation Requirements – John Niewoehner
- h. Request to Amend the Unified Land Use Resolution of 2008 Related to Lodging Facilities-Major and Sewage Treatment Facilities in the Resource Land – Plateau and Resource Lands – Gentle Slope Zoning District – Tom Veljic

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - h; carried.

REQUEST FROM ROARING FORK SCHOOL DISTRICT FOR FINANCIAL ASSISTANCE FOR CARBONDALE AFFORDABLE HOUSING PROJECT – CHUCK PERRY AND JUDY HAPTONSTALL

Judy Haptonstall, Chuck Perry, Shannon Pelland, Nichole Sherwood, and Bill Lamont were present.

A letter was presented to the Board explaining what areas had the highest cost of living in western Colorado. They also shared the single-family home listings during the last week of August 2009. They explained that the difficulty in locating housing has resulted in a significant increase in staff turnover for the Roaring Fork School District. For example, teacher turnover has increased from 7.3% to 16.5% during the past ten years. The District alone sees a staff turnover of 60-80 teachers every year. The costs associated with recruiting and training new staff places an additional financial burden on the District; it reduces the financial resources available to serve the student population and community as a whole and hinders the District's ability to provide a quality education. Several recent research reports have shown it costs approximately \$10,000.00 to hire a new teacher in terms of time, actual expenditures and training. When teachers leave, they are often replaced with less experienced or qualified teachers. In some instances, the District is forced to hire some teachers on "emergency" licenses due to the lack of qualified applicants. Providing affordable staff housing is identified in the District's Accountability Plan as a top priority. The District also has retained a market analyst and completed an Employee Housing Survey to assess the needs and interest of District Employees in purchasing or renting affordable housing on the CES site. In this survey, 159 families indicated they would like to purchase a home and 139 families indicated they would like to rent. Most of the respondents were families with only 13.4% of the teachers responding that they live alone and 86.6% responding they have a family. The majority of these families make between \$57,000 and \$103,000 per year, between 80% and 146% of Garfield County AMI. The Carbondale Elementary School Neighborhood Redevelopment Project (CESNRP) is designed to address this critical community and regional need by creating deed-restricted affordable housing units for school employees, town staff and Garfield County employees and residents. The project will also include the Carbondale Library, recreational and cultural spaces, and affordable commercial space for community serving nonprofits and the Bridges Center providing a location for an alternative high school, a technical education foundation, and Family Resource Centers, which coordinate health and other support services for at-risk students and their families. The Roaring Fork School district has donated its land in order to make the project economically feasible and we are working to secure multiple funding sources for the development to assure the project meets the needs of the District, Town, County and community. They hope the county will join in helping to finance this needed project. The proposed community includes up to 120 housing units. Of these, 20% (or 24 units) will be market rate units to help pay for the affordable units and to create economic diversity within the development. The other 96 units will be affordable deed-restricted homes. To their knowledge, this is the only proposal under consideration by any entity in the valley that proposes this level of affordable units. They are requesting the county provide \$10,000.00 per affordable unit, or approximately \$960,000.00 over three phases to support (CESNRP). They have also provided a brief project description, the proposed site plan, the proposed phasing plan, and a project pro-forma showing sources and uses for the project.

Judy stated they are here to ask for some housing dollars, \$10,000.00 per unit, and have met with Geneva and she said this was a standard request. They are looking at about a \$76,000.00 gap. They are starting with single-family units; but there will be a mix. Of the \$76,000.00, the district is backfilling \$54,000.00 of that between the land and other funds they are contributing along with funds they will contribute in the future. They have zoning approval by the P&Z, and they should be out of hearings in a couple of weeks.

Commissioner Houpt stated you have this broken into phases; what does that mean for entities that are contributing. Chuck stated in the packet there is a phase plan and you can see the proposal is to do this in three phases. The first phase utilizes existing infrastructure and is designed to take advantage of the proximity of this site to the existing town grid, and the existing infrastructure, and to reduce the cost of first phase. They plan to sell the units on a presold basis and actually marketing the units to the various priority groups, town employees, employees of the district and county employees and other employees within all of Garfield County and Carbondale. The phasing is designed to allow the project to start with minimal infrastructure cost to test the market to really see where the most demand is and then proceed on to essentially 1 phase a year. Their goal is to build the infrastructure for phase I in 2010 and have the first units available in either 2011 or 2012. As the units sell and they understand the demand to build the additional phases. It is about 40 units a phase so it is equally divided; but the first phase has 32 units. Commissioner Houpt asked, are you requesting funds for all 120 or just the 96 affordable housing and that is 32 in 2010 and breaks out to be evenly split the whole way. What kind of priority agreement have you been thinking about in terms of who gets access to these homes.

Judy said the agreement they put together started out with the district having first priority, the town second and the county is third.

Chuck stated that is how the PUD is currently written, as they seek partners and as entities like the county step up and provide financial assistance. He will recommend for the partners who actually provide funding to have their own set of priorities. If the county provides funding, county employees would be on an equal basis.

Chairman Martin asked if they were using any state funds through Geneva Powell. If you do that runs into federal regulations of housing, prioritizing and you cannot do that under the Fair Housing Act. Those are real problems if you do that and those are problems we have seen in the past. If you use any federal funds, that priority system will not work.

Chuck explained this project does not include Federal funds. The issue they found in Garfield County and with District employees, and they did look at the option of doing a low income housing tax credit rental project, because that requires a majority of the units at 60% of medium or below. Many of the district employees did not qualify and therefore what you have before you is primarily for sale. They hope to do rentals; if they find other partners, they may be able to do that. Currently that issue of Federal Funds is not an issue in this pro-forma.

Commissioner Houpt asked if the \$10,000.00 per unit level filled in the gap you have.

Judy stated not all of it; part of it. It makes the first phase workable; but on the proformas, we have a gap of about \$1.2 million on the next two phases.

Don wanted to comment and follow up; you might remember on other affordable projects that have come to the county; the county statutory authority is limited on how you approach this. Any funds you use for affordable houses because of those limitations on the authority must come from nonprofits and it must be directed through the housing authority by contract. The Glenwood Meadows project specifically comes to mind.

Commissioner Houpt said she is very impressed with the planning. It has been going on for a long time and certainly begins to fill a true need we have in the county. Historically it is difficult for our local workforce to find housing in or near the community where they work. She thinks it is important to look at what kind of balance they would have for the various entities participating. She is assuming they have had the conversation, as you bring more partners in, that you will be able to do what you are setting out to do. We were supportive of the meadows project; it was just too expensive to build. We looked at one in Rifle.

Ed Green explained that the DOLA funding disappeared for the Rifle project.

Commissioner Houpt said this one is coming to us with a plan and with other funding, that does not restrict the use you really want it for. She is very support of accomplishing this. She thinks we have to approve it obviously phase by phase on an annual basis.

Ed stated they usually stipulate that we are the last dollars in.

Commissioner Houpt asked how that would work for them.

Chuck explained they met with Geneva and Ed, and they were both clear that was standard county policy. What that requires from a development standpoint; we “bridge” your money during the construction period. The manner in which we plan to finance this through conventional financing; again financing is difficult if you do presales, you can get loans between 60 and 70% of those costs. Having the county money come in as last funds is something that is anticipated in this pro-forma and all it means is we have slightly higher interest cost until the units are sold.

Commissioner Houpt asked; do you anticipate being able to do more than one phase a year.

Chuck said, at this point no one ever knows with this market. At this point, they feel it is prudent to plan one phase per year.

Commissioner Houpt asked; is it necessary to look at this in phases or if we are making a commitment to the 96 units; do we make the commitment as a whole package.

Don explained you have to look at it year by year and what you will commit is through a given budgetary cycle.

You may also recall, we have done these in the past and when the county is involved, we need to have a three party contract. Our contract is directly with the Housing Authority so the Housing Authority is responsible for meeting the terms and conditions you want imposed on the expenditure of your funds. That is our contract, then the Housing Authority would have to do a contract to distribute those funds and we need to get Geneva involved.

Ed asked Chuck if he was looking for distribution in 2010 and Chuck thought it would be in 2011.

Don stated the Rifle project comes to mind on this issue. In the past, the Board wanted to be assured there was a hard product available before the county’s funds were expended. We had a condition imposed on the Housing Authority that they could not release funds until there was a CO issued; that sounds like 2011.

Chairman Martin said he is struggling with this particular issue philosophically that the school district is building houses and parks. He is sympathetic that people need houses; it is \$800,000.00 to live in Carbondale. In two years, it will be a lot less than that. He sees the roll of school as educational not building houses, parks and whatever. He thinks their money is well spent in education not housing. The average wage is from \$52,000.00 to \$103,000.00 for a teacher.

Shannon informed Chairman Martin that was a family income.

Chairman Martin said he did not know of a family now that does not work two or three jobs and they are still not making the affordable housing now. He sees we are building government housing for government employees and hoping more people work for the government and soon everyone works for the government. Philosophically that is wrong to him. If you have a job, you live where you can, you afford what you can, and struggle to make it to the top. It is a generational issue. You just do not walk into a nice facility and start your job. You have to earn that; you do not start at the top and hit the glass ceiling right away. He cannot support the school district building houses. He wants them to put their money into education. I want the college to put it into education. Get the best education for kids. He knows it is a struggle; but we are hitting on to a situation where the school district, who collects all their money on taxes, to run their school system.

Commissioner Houpt explained this was the model in Rifle. We had the school district as partners and we asked the school district to be involved. You gave a good argument for us potentially looking at contributing more than \$10,000 a unit.

Chairman Martin said not in his estimation. He did not always support the Rifle project.

Chairman Houpt said it was not Chairman Martin’s intent to; but we have taken on the conversation of affordable housing as a county. When we did, in Glenwood the school district was mentioned as partner, she does not know if they ended up being a partner. In Rifle, clearly RE2 was a party. She looks at this an opportunity to begin to develop some base housing for people who otherwise would either commute an hour to work, each way, or more

each way, or who move out of the area because they can't afford to make it happen. Someone had to take the lead in putting together a project that could actually move ahead. She would start making a commitment on what was requested. She stated she would not be averse to looking at what needs to happen to allow phase 2 and 3 to be successful as well, if phase 1 is successful. We spent hours talking about how to structure the allocation of public funds; because we are dealing with public money and make sure there are safeguards in place. We do not want to spend money on something that would not actually happen. She would also be supportive with them moving forward with the same type of three party contracts they had in the past. She will wait to make a motion until Mike has had a chance to speak; but she will support this.

Commissioner Samson said it is heartbreaking to see someone come and then have to leave. They give their heart and soul to the profession only to find there is no light at the end of the tunnel. They move on. They want to own a house and are tired of living in an apartment. He can assure you, Mr. Martin, the average income is not \$52,000.00. Chairman Martin said the medium income is \$71,400.00 for the family in that area and if you have a teacher and a spouse working he bets they are making \$71,000.00 or better.

Commissioner Samson said he would say most of them do not make that kind of money. The beginning teacher in Rifle makes less than \$35,000.00 and their spouse probably does not make that much. He thinks we need to address how much money is available to help people. He brought this up several months ago; he needs to get a handle on that for the budget. If Garfield RE2 gets together and says they need money; whoever it is, the three of us need to sit down and say for 2010 here is the pot.

Commissioner Houpt explained that when they committed funding to the Meadows affordable housing project, they decided after that fell through that we would.

Commissioner Samson asked if that was a three to zero votes.

Commissioner Houpt stated yes. We decided we would allocate those funds for affordable housing so when we started talked to various entities in Rifle.

Commissioner Samson said just to clarify; there was the City, School District, Fire District, Hospital District, and the County.

Commissioner Houpt said we took those funds that were not spent at the Meadows and put them into an affordable housing fund.

Commissioner Samson asked how much that was and Ed stated \$1.5 million.

Commissioner Houpt said, it is there and has been there for the Rifle project. She assumes the money will be there for this project. We are trying, as a county, to help our governmental partners find a solution also. It benefits everyone and our contribution is considerably less than the school districts; but they have the land, which brings a lot to the table. She sees that money as being sacred, because the previous commission and we can change this, but the previous commission had made a commitment to use those funds to take to another project for affordable housing.

Commissioner Samson asked how much the City of Carbondale was putting in.

Judy stated nothing at this point; but it does not mean they would not.

Commissioner Samson asked; the three big players are the school district, the county and then is there anyone else beside the City.

Bill Lamont stated they are scheduled to visit with the hospital district; the man they were supposed to meet could not make it. They have talked with RFTA and discussed going to Eagle and Pitkin because they have children in the RE1 School District. They are in the process of going through various potential players who could provide assistance in this project.

Commissioner Houpt said, with the county's support she is assuming that others may lend some level of support as well.

Bill stated to Chairman Martin, the school is using an asset they have with the land. They did a survey how many teachers needed housing and it is an overwhelming need.

Chairman Martin stated he knows there is a need. Is this the right time to build and are you using your asset into its best interest. It is an open market, let a builder come in, take the proceeds and put it into your capital improvements project. How do you meet the need at the end of the day; what does this overall project cost. How do you meet that obligation at the end of the day when you have 120 units you have already built? Where is that money coming from; its coming from the tax you are collection from the people.

Bill said they would own their own units.

Chairman Martin - Who pays everyone; it's the taxpayer at the end of the day.

Commissioner Houpt said they are going to sell the home before they build them; it is not as speculative, you are building to meet the needs.

Chairman Martin asked who is putting in the infrastructure.

Chuck explained the infrastructure would cost about \$4 million total for the whole project. Private financing is paying for it by an acquisition and development loan, which is repaid from the sales.

Chairman Martin asked who pays it initial that is his point; the taxpayers. Where are you getting the money?

Judy said they are barrowing it.

Chairman Martin said how do you pay back the loan.

Judy said because they have resold the homes and the loan is paid back.

Chairman Martin said he has heard this so many times before from developers and they will prepay and make sure the sales are there. What is the backup on default who pays if it does not sell?

Commissioner Houpt said our money would be protected in the way this three party contract is put together. She is assuming this would not go forward until a plan is in place to allow it to occur. This is not a plan that came to us without numerous years of planning and research. In this county, we have been looking for financing that will actually work for affordable housing. She is intrigued with what they are talking about because it is not easy to put something together that actually allows governmental entities to make this successful.

Chairman Martin said his point exactly is that the plans that have been presented to us in detail with great number of months and years and planning and financial schemes how many have succeeded, none.

Commissioner Houpt stated to Chairman Martin that he has sat at this table and said every time let's stop studying this, let's start planning, let's get something on the ground, and here's our opportunity to get something on the ground.

Chairman Martin said agree; he is hung up on this, maybe it was his upbringing. Schools do not build houses; schools educate children and young adults. That is what their call is and we need to focus on this instead of broadening the scope. We need to narrow the scope. We need more engineers, mathematicians, more chemists; we should have more geniuses in this community and we have less in the world.

Shannon said they could not agree with him more but the bottom line is we have to have teachers in order to get those people. We need to keep them more than 4 years.

Chairman Martin said that is our whole society. They are only here for a short period; they move on and have 5 or 6 different occupations throughout their life.

Shannon said virtually everyone they have asked, a large majority, on their exit interview say if they could find housing here they would stay.

Chairman Martin said he has had more than one phone call from existing teachers, long-term teachers; that say they do not support this issue. They are in District 1. It may be sad; but it is there. It is because they had to work to get where they are and they feel it is only an educational process for the teachers. He said he is not arguing that there is a need, but it is the approach we are taking he has problem with.

Commissioner Houpt said there was a study done that looked at the potential earning of a teacher in our valley and looked at it in relation to the market price of homes. That study indicated that teachers would never be able to afford a house in this district and that is what they see after 4 years.

Commissioner Samson said and it has only got worse. When he started 30 years ago, he made \$10,000.00. The problem was you could probably buy a house for \$20,000.00 then. Now they make 30,000.00; but to buy a nice house in Rifle its \$300,000.00. You cannot ever touch it.

Commissioner Houpt asked about homes in Carbondale; what are they going for.

Shannon said they have dropped to about \$650,000.00.

Judy said people understand you do not get something handed to you. She thinks what they are trying to build for people is not the dream home; it is a starter place. She agrees they are in the business for education; but we cannot without good teachers. They have waited and waited for someone to step up and do this.

Commissioner Samson asked Ed about the money and Ed stated; you are not talking about money until 2011. This is really talking about an agreement in principal to do this and it has to be subject to Board approval in 2011.

Don stated there are a number of ways to structure this and we need to talk to the Board about that. You could fund this at the front end through the contract with the Housing Authority and then restrict from the Housing Authority releases funds. Another way to approach it is to not have an agreement with the Housing Authority but it would be subject to appropriation in 2011; so no funds would be released. There is a way to fund it through the Housing Authority right now if you want to do that.

Commissioner Houpt stated she would rather do that because it will make it easier for them to obtain funding for the project.

Ed asked if they wanted to do that for 2009 or 2010.

Don said it makes more sense to do in 2010 since we have a three party contract.

Commissioner Houpt said they would make that subject on approval of the budget once they do that. I make a motion that we become a partner to the Carbondale Elementary School Development Neighborhood Redevelopment project and contribute to the project the amount requested by the partnership for \$10,000.00 per unit 96 affordable housing units that will be built. We ask staff to create or work on a 3-party contract between the Housing Authority, CESNRP, and the County so that we are contracting with the Housing Authority providing the \$960,000.00 and that we will appropriate in 2010 to the Housing Authority for the purposes of funding \$10,000.00 per unit of affordable housing through the CESNRP; to be funded through the traditional manner that we have funded Affordable Housing in the past that the funds go in place after the structure is constructed.

Don said the motion is sufficient to give to staff, as we would work through the contract; it has to come back to the Board.

Ed said he does not think they are asking for a \$960,000.00 commitment just the first phase.

Commissioner Houpt wants to make the full commitment; they are asking for \$10,000 for 96 units, if they have that commitment and they do not have the money, it goes to the Housing Authority; but if they have that commitment it makes it easier to go to other parties and obtain the other funding.

Ed asked; you want the \$960,000 to go to the Housing Authority next year and draw down fund balance.

Chairman Martin said that is what the motion says.

Commissioner Houpt said although this is 3 phases; it is a community motion.

Commissioner Samson said once the money is given to the Housing Authority and it does not go through.

Commissioner Houpt explained they return it to us. Commissioner Samson – Second.

In favor: Houpt – aye Samson – Aye Oppose -Martin – aye

**REQUEST FOR TRANSFER OF LIQUOR LICENSE TO BV HOSPITALITY LLC D/B/A BEAU JO'S
– APPLICANTS; KURT FISCHER AND JACK HARRIS**

Jean stated there are two types of notice publish in the newspaper and Jean presented both newspaper publications. It also required we post and that was accomplished at the same time. Jean has pictures of the posting.

Chairman Martin swore in speakers.

Jean received a complete application and this has come before the Board before for a temporary permit, which you granted. The background checks are done, fingerprint information has been received and no bad information to report. You received in your packet the application and all the documentation showing the sublease and the transfer from the current Beau Jo's Corporation to the applicants. All the proper paperwork has been paid for and the fees and they are asking approval to transfer.

Jack said they are working hard to achieve the makeover on this restaurant.

Kurt said they will continue Beau Joes product and are adding more. They have some entertainment for 21 and over. They want a place you can come, watch the game, and bring the kids. They want to be a part of the community. He and Jack have been partners out of college and have been friends for 20 some years.

Jean said she has spoken with the Department of Health; they are working under a temporary permit as with the County. She spoke to Leeann and thought the final inspection was complete; but it has not. They anticipate it being sometime this week or next. If the Board approves today it will still take time; Jean feels they could make it contingent upon getting the final health inspection. Kurt and Jack are keeping in touch with everyone and doing everything they need to do.

Commissioner Houpt – Motion to close public hearing. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – Aye

Commissioner Houpt – I make a motion to approve the transfer of owners for the Colorado liquor retail license application for BV Hospitality LLC. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – Aye

**TO RECEIVE PUBLIC COMMENT ON THE 2010 PROPOSED BUDGET PRIOR TO ITS
CONSIDERATION FOR ADOPTION – THERESA WAGENMAN**

Don stated this was published October 22 in the Citizen Telegram. It is adequate.

Commissioner Houpt said she won't challenge this time; but if they are really seeking public comment, there are a number of people who don't receive the Citizens Telegram and they would not know we were having a public meeting to review the budget. Her question to staff is; is this the only opportunity that the public will have to comment on the budget.

Theresa said as far as she knows this is the only one.

Commissioner Samson said let's open it up for another one.

Chairman Martin explained that all meetings are public and noticed and any changes that can be done can be discussed before final adoption. We can take public input at any time.

Don said if you want to do as formal matter you can continue today's hearing to a different date. There may be members of the public here today.

Commissioner Samson said he does not know if they want to continue this; let's have another meeting scheduled and advertise it.

Commissioner Houpt also said let's advertise outside of the norm; but advertise with larger ads so people have the opportunity to be notified.

Commissioner Samson said we would take comments today and let's do it the November 16.

Chairman Martin swore in speakers.

Theresa stated she does not have anything other than comments from the public.

Chairman Martin asked if she receive any comments at her office.

Theresa stated she did not publically.

Mark Gould – 0020 Oak Lane Glenwood Springs – He has not seen how they are proposing to spend the \$71 million; he read this in the paper. He has not ever shown up for these meetings and he is amazed that no one is here. Last year you collect \$44 ½ million dollars, as reported in the paper, and you presently have in reserves 196% of that amount of money, as reported in the paper. Let's talk about where we are in the economy and should Garfield County collect more money than they need. Should it be in the hands of the people who are going through the crisis right now or should it be in the hands of these three commissioners to put it in the bank and invest it for rainy days. By the way do not take this as lecturing; I get excited with my adrenalin. The fact is you have done a great job of creating rainy day dollars and a reserve fund for Garfield County healthy financial institution, and being able to meet your commitments. The question is, we are in a financial crisis right now in the economy; most other governments aren't going to collect extra money this year; they will collect less unless they are a special improvement district because their sales tax are down just like you expected 9 and your gonna get 5. The question becomes why is it going to get worse and not better and why should you not collect the money that you could collect this year and let business have that to try to get through these economic times. He was in a 10-person round table with the Chairman of the Federal Reserve in Kansas City. They talked about the disconnect between the treasury saying let's continue to let banks loan money and the Federal Reserve that says let's tighten the balance sheets of our community banks and make this tougher on small business. He talked to Lou Cordoba and said he does not understand that you are trying to tighten up the dollars that are lent to commercial operations right now at a time when we need the money the most. She said her job is to take care of small banks not small business. What does this mean for everyone; right now, the tax rate for commercial is 3 times the tax rate as for personal. We are looking at commercial real estate that is going to go through a crisis that we are going to have between now and 2012. How do I know this; about 1/3 of the dollars when people loan or borrow money for commercial real estate, they borrow it through a commercial mortgage back security. There is 700 billion dollars of that out there and it comes due by 2012. The problem is that the cap rate now, is about 6-7 and the Federal Reserve is modeling 10. What that means; you have a simple little business storefront that has a net revenue stream of \$10,000.00 per year. If you have a cap rate of seven, which building is worth \$140,000.00 if cap rate of 10 it is only worth \$100,000.00. You have seen a 30% depreciation in what that property is worth. Why is that important; because many people have their notes coming due and now you take 70% of their old loan of \$140,000.00, which means they were borrowing about \$98,000 on that property? Now they go up for; banks are trying to get rid of these loans. Why are they trying to get rid of these loans? Because the Federal Reserve has said, community banks will have 300% of their capital in commercial real estate. They have it in the vicinity of 500%. They have to run 200% of their capital loans out of their banks. They are running people out of the banks because they have to. Not because they want to and they would not tell you this. If you listen to the bankers right now, they tell you there is money out there. There is money out there as long as you are mortgaged at the new model 70% of a new cap rate of 10. Therefore, you have all these businesses in distress. The only reason he points this out is because commercial real estate is going to have a down turn just like residential real estate had 2 years ago and we will see more pain. What does that mean; if you can keep a few extra dollars in the hands of the business community, not collect it, and put in the bank for a rainy day you will help those businesses out? You are collecting dollars you do not absolutely need during this time of economic crisis and he hopes you consider that when you adopt the new budget.

Commissioner Houpt said it looks like that; but in reality in 2011, the budget will drop dramatically. If we have a reserve, we would not have to lay people off. We will be able to keep services going and we will have a healthy county and infrastructure. That is one side of the argument. The other is; if we bring funds in from oil and gas development; the previous commission put together a response fund to segregate that money so that if there came a time companies pulled out without remediating, there would be some kind of funding to respond to some environmental emergencies that could occur. We did not want to have a zero fund balance on that; we needed money and the money we have in the bank for that might clean up one site or one-half site. We are a very healthy county, we have cut corners, we have saved and we also have benefited from a lot of activity in this county; but our budget will look very different in 2011.

Chairman Martin stated two things; the money collected for sales taxes is 100% committed we do not use for our general funds operations countywide. We are not like the cities; that goes to Human Services, Road and Bridge to the Sheriff, back to the municipalities. We are not counting on sales tax dollars to survive. One of Ken's arguments for the return of the money above and beyond what the 5.5% or the 6.0 is supposed to go back to the taxpayers. We are exempt from that; we have a letter from the Department of Revenue and the Department of Local Affairs. But 80% plus would return to the energy companies not to the local businesses, so when he threw out his proposal that we give every taxpayer, property owner a tax credit this year and consider it next year, as well as paying 100% of the senior exemptions; we are on the same tract. The dollars may not seem like a lot but when you are on fixed incomes and try to give a tax credit that will apply to your tax on the county and by the way it is between 20 and 30%, it depends on the year is all that the county gets out of all the money collected. When you narrow it down, how much the county tax revenue rebate would be it would only deal with the portion of 13.65 mills. That is the only portion that they have any control of and that is where that money would come from, and that is the only eligible money to give back to the citizens. So the huge portion; 67 to 68% is right to the school district, which was his point of the last conversation. 68% of all taxes collected go to school districts. They have a different type of budgeting system; a different approach than Garfield County and that is why we, the county, and the administration and the Board said we need to survive the ebb and flow of these boom and bust cycles and we broke that in 2003; because we put this money away. We are ready for hard times. We have spent money like drunken sailors at times and we should not have. We should have more than \$100 million dollars in fund balances for a couple of reasons because we can invest in guaranteed funds, supplementing that. Giving a tax break to the people who are paying property taxes, we are trying to do that and that is returning back to the general fund, which builds it up so we don't have to collect again from the taxpayers in Garfield County. The other one was; re-investing into our communities and governments that way with a reinvestment through the local bank; Alpine Bank etc. We want people to use money locally because it is deposited here not out of state. We did get in trouble when the state said, give us your money we will invest and guarantee it. We got the money back; but still it is there, it is safe. The other is our bond rating and our ability to have that money available on a signature saying we have \$2.47 dollars for every dollar of indebtedness showing that is so unusual in government. Maybe that is the way government should act and respond to their citizens. I am still proposing a tax credit to the individual property tax owner and paying 100% of the senior exemptions in the 2010 budget. I have not received the second vote yet.

Commissioner Houpt said it is \$100.00.

Chairman Martin said look at the average tax the county collects from an individual; \$557.00 and \$100.00 of that is a huge percentage.

Commissioner Samson thinks it is a good idea; it needs to be refined.

Mark said he was not criticizing the existing reserves; he is suggesting that you will add to your reserves in 2010 in your budget and he is suggesting you consider not doing that. This county may be in great shape; but its citizens and business are not in great shape. The unemployment rate in the construction industry is 17.1%; that is nationwide. He can make an argument as to why it is more than 20; we need to remember you have done a great job of running this county and taking in money. You are suggesting taking in money, you do not necessarily need for 2010 and the citizens now need that money.

Ken Call said he fully understands the Board's view and it is different from his. He is basing his remarks on someone who has been there, and that is Larry McCown. He picked this up on public TV and in 2008 when he signed the budget; he said they gave him everything they wanted and we are going in the hole \$10 million dollars and he has one more budget request to sign and it is going to be different. The only thing different about the next budget he signed we went in the hole \$10 million dollars. He believes he is correct; we are going down the wrong road, especially in view of what Mark said. He does not see how we can be satisfied with a healthy county maintaining everyone's salary, giving everyone raises, not reducing the budgets but increasing them. Reading in the paper where the business people are in the tank. Just this morning we have more foreclosures than we had after the Exxon pullout. It is as if we are keeping two sets of books here, this budget just keeps moving. Your staff presented him with the 2008 copy of the capital improvements budget. There was an entry in there for capital improvements and it had revenue of \$17 million dollars into capital improvements. When you look over into your abstract the mill levy that was supposed to be reduced, it was like \$8 million that must have been the \$10 million dollars that Commissioner McCown was referring. Where did the \$10 million come from reserves? It makes the budget look insignificant. He stated he is not an accountant; but he knows when you put entries into the capital improvement; you are paying the treasurer something close to \$250,000.00 to pay her for collecting the sales tax or property tax that is not a capital improvement entry that is something that should come out of the general funds. It is just kind of a shell game. Maybe you should present them both; you are abusing that. You could make a case that you are in violation of your certification. When you certify to the State, you are saying in a legal notice they are restricting you to the general fund and anything over that you are using for capital improvements. Everything in that \$17 million dollars you spend in that capital improvements, and that is just '08, he can guarantee that it is not all capital improvements so you are in violation. Anything that goes back to the general fund, you are circumventing the law and there is no one unfortunately that audits that. He called it to the attention of the public affairs over there that certifies but all they say is if they say capital improvements, now you found the loophole and you are driving right through it. He thinks the first certification that they made on the change of administration he was in contact with local affairs and they said oh yes Garfield County has to refund back \$9 million dollars. Two weeks later, he checked back and it was okay; all they did was showing them where to put the money in the right slots. You are not following the intent of the law.

Chairman Martin explained that is what they did; they got hold of the division of local affairs and the department of revenue in reference to the letter, in reference to the excess revenue, again it goes back to the election that took place and it exempts us from following that particular rule. You are correct we do not follow that. We put it in capital improvement funds and we have done that for years, and you have been here for years. Every time we have any kind of revenue above and beyond the TABOR amendment it goes to cap funds period. It cannot be transferred to any other fund and it has to meet the requirement. Yes, we have transferred money from fund balances to the general fund; the only one we have is the general fund balance, we cannot take out of road and bridge, we cannot take out of capital, retirement funds, Human Services funds, all that has to be held separate. He thinks they are doing a good job.

Ken Call asked how Chairman Martin can explain if this money is going to pay Georgia's collection fee, remodeling tile, an entry that should be repair and maintenance that is not capital improvements. You fund the motor vehicle department out of there; you cannot tell me that when you spend \$17 million dollars in one year that those are all legitimate expense capital improvement expenses. He does not know what Chairman Martin's interpretation of his staff is or what your auditor does, looks at your books, and says everything is okay.

Chairman Martin said that is why they have two auditors. He still feels that everything is looked at with more than one set of eyes. He told Ken he appreciates him.

Ken Call said he thought Mark Gould pointed it out; it is not just this one year. You have done this for the last 5 - 10 years and counties have proved it on either side of us that they can live under TABOR on a 5% or 6 % increase over the previous year. However, we always say we are different; we have to have more; but 25 -30% more every year is unreasonable. This year with this increase, you are getting; Ken believes it is unconscionable that you could impose a tax on your constituents. He believes Chairman Martin has hit a wall this year on taxation where previously you hold humility. In Pitkin County, they announced all taxing districts would meet; you mentioned it would not be a significant effect. They are lowering mills that are only 1 – 2 mills; every mill counts. If you lowered it but you did not lower it, the other districts over the past years or either under TABOR they were lowering it. The school district, he already checked, this is not going to change under the new state law. Previously their mill levies went down, the colleges went down, now you are looking at a straight through. He computed his taxes and it is going to go up the same valuation, the same percentage tax increase as his valuation went up. Previously they used to say the valuation will go up and the mill levy will go down. He is astounded there are not more people here today. When they get their tax notices, they will understand. TABOR was born out of excessive taxes and if you can sit there and tell him that 25% to 30% tax increase, year after year is not excessive, then he did not know. Chairman Martin said he thinks it is and that is why he said instead of going through the election for the mill levies, use the tax credits to lower the overall payment and keep the levies in affect. Which is legal and which you can do. That is why he suggested it. If you look at the percentage and your overall 13.655 mills and the amount that you pay; and the amount he was suggesting comes down and you tell me what the percentage is in reference to the reduction in County mill levy tax is and tell me we are not talking the same issue.

Ken said you are not.

Chairman Martin explained that he could not adjust any school mill levy, special districts, municipalities, fire districts; he does not have any control to reduce those.

Ken stated he knew that.

Chairman Martin said only 13.65 mills and if you have an average of \$557.00 on your tax bill, you need to look at that. Am I close?

Ken stated not on his.

Chairman Martin said it is on his and numerous other people; its higher on his than his neighbor. Anyway, reduce that by 20% or 25% that is a reduction in county tax. He is trying to give money back.

Ken asked if they were going to make any announcements, before people get their taxes, as to what you will do with the mill levy. Are you going to keep all the excess funds and not return any of it to the taxpayers through a lower mill levy? All the other counties have.

Commissioner Houpt explained, if they make a decision to do that, we need to agenda that issue and need more information brought to us. Another thing that is important to recognize; every county is different.

Ken said yeah we hear you thank you very much.

Commissioner Houpt explained that most of revenue comes from energy development and when it dries up or slows down then we need to be prepared for that. It does not mean we are not listening to you Ken and it sounds like we will have that discussion anyway.

Executive Session:

Don stated there were items not listed; he announced before publically, all other items remain for discussion.

Commissioner Houpt asked if they could do "E" first.

Chairman Martin – Do we have a motion to go into executive session.

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

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

Action taken:

DIRECTION ON SUN MEADOWS DEFAULT

Minutes were submitted from the October 5 BOCC meeting.

Tim Thulson was present.

Deb stated that currently the only security bond hold are the two lots held in escrow, At the last meeting the BOCC required a new letter of credit good for 6 months in the amount of \$445,297.00. Deb has worked with Tim to agree with the terms and conditions and his client, his bank or both were unable to accept the terms.

Tim stated they have a letter sent to Mr. Jarman, from Alpine Bank; it is not a binding letter of credit. They have approved \$445,000.00 of what the engineers estimate. There the two issues and we need to do a closing.

Fred stated escrow lots are 9 & 10.

Tim said once they post the letter of credit to be able to issue a certificate of occupancy so long as they are in compliance with the subdivision improvements agreement it's self, and the escrow agreement, the restriction on the lower lots needs to go away. It has been a battle trying to get this worked out with the Department of Transportation and the bank especially. He stated they are close from what he can tell and perceive. The notice to proceed has been processed with the Colorado Department of Transportation and he believes their cost estimates are in the realm of reason. There may be some changes they may have to post additional credit if the costs go up. This could happen this week according to the bank. There was some confusion at the last hearing regarding a letter of credit was thought to be in place. It was said that the letter of credit expired, and there was mention a letter of credit was out there. It was just a commitment to work with Sun Meadows. We had a discussion that we needed to have a special meeting to authorize the Chairman to sign whatever is needed to foreclose on that letter of credit.

Commissioner Houpt asked, what you are saying in terms of guarantees you will be able to comply with the motion we had at last hearing; you are close to getting a letter of credit, what about the SIA.

Tim said the two issues they will have with the bank, now the SIA is not drafted to recognize the two considerations of staff. Number one unless we complete all improvements we cannot get the CO's issued. The county staff, county attorney explained they want all subdivision improvements completed before.

Commissioner Houpt stated that was no staff in the motion we agreed on; that was the Board.

Deb stated staff did not feel they were in a position to change the Board's approval from the last hearing, which is why they brought it back. She has a position on his request. If they can get the letter of credit for the full amount of \$445,297.60 with an additional commitment in the SIA, once the notice to proceed has been issued that we have a revised actual engineering cost, rather than an estimate. Then at that point, she did not think they would have problem having those escrow lots released because the purpose of those was to add additional security once we knew what the cost was going to be. We still do not know what the cost will be. Until that happens staff will recommend we do not release those two escrow lots. However, with respect to the prohibitions on the other improvements, sale of lots, building permits, in other subdivision once we have full security for the improvements we do allow sales to occur. Again, once we have the full security she would not have a problem with the second request. It would eliminate the prohibition on sales and issuance of building permits.

Commissioner Houpt asked, do you think the bank will have any concern?

Tim stated this came up quick on notice and that seems to be a reasonable request from the Board. He needs to clarify with the bank and any more you do not know who you are talking to; it is not local. They have to the notice to proceed by December; there was a two-month limitation on that. He just does not have any answer.

Commissioner Houpt stated she is fine with lifting the prohibition of the letter of credit, which is what she thought she heard.

Deb said a letter of credit for the estimated amount, which is what is being proposed today.

Commissioner Houpt asked, but you want the actual engineering costs?

Deb said at least for the release of the extra escrow lots. She thinks staff would be okay with proceeding once they have the estimated costs and the two-escrow lots releasing the prohibition on all the lots. Deb said with between the estimated amount and the additional two lots in escrow she thinks they are adequately secured at that point.

Tim asked you would go along with the release of the other restricted lots.

Fred stated north and south of Antonelli Lane.

Deb said you would be in a position similar to what you are in most subdivision situations to have adequate security to insure that the remaining subdivision improvements will be completed.

Fred said with the estimates, he would guess the developers are close with CDOT, as you might know to make the design work the developer asked for a number of variances. They are running that through CDOT's process to grant those variances. The information they have is CDOT is looking at those; there has been no determination one-way or the other if CDOT is okay with that. Fred has not talked with Dan Roussin to get a feel for where they are; but that is one of the variables. Fred said he would recommend to Tim one more reason to hang on to the pledged lots 9 and 10; because of that buffer, you will need when we have an LOC. Back on a memo staff brought to the Board on October 5; 3 main alternatives, one within the terms of the SIA there was the ability to vacate all the lots that haven't been developed. In Exhibit F; it provided you with those; there were about 20 lots or so that fall into that category and all the lots south of Antonelli Road and a portion above. Second, to have the two lots 9 and 10 pulled out of escrow to the benefit of Tim and that he would be required to sell those lots, and required to use the money to put into the improvements remaining. You would be developing 6 & 24 and Miller Lane. The third was to renegotiate a second amendment SIA, a replacement LOC and we offered, and you agreed in your last motion to increase the prohibition to the lot south of the road, provides new timelines for the developer to perform which they have not been able to do.

Commissioner Houpt asked, what is the reality of being able to get actual engineering costs on this project?

Tim said Fred Cook has been discussing that with CDOT and he has looked at this latest draft and knows they have to get a notice of proceed issued by December 31. They are fine with meeting that condition and within the terms of the letter of credit, we have to have the improvement by the end of June or the first of June?

Deb explained they discussed at the last meeting by the end June 2010; but the draft subdivision improvement that Mr. Thulson gave her indicated within a year from the date of execution of that subdivision improvement agreement. Fred stated with the letter of credit living 6 months beyond that and Deb stated yes.

Tim said it works out they have to have it done by June. It has to be valid for 6 months after it is done.

Deb said she did not think staff had a problem with the improvements going out for a year as long as the letter of credit is good for 18 months.

Commissioner Houpt asked Tim if he was working on a 12-month or 18-month.

Tim said 1- month.

Deb said it would be a June completion date.

Commissioner Houpt said she understands Tim cannot speak for the bank today. She would like to follow the recommendation of staff. She wanted to ask if she was in line of what they were saying; it is keeping the initial motion of October 5 in place; but after receiving an actual engineering cost lifting the prohibition on all of the lots with the exception of lots 9 and 10.

Deb said actually staff went beyond that because of the lending climate these days to agree to the request to lift the prohibition on all except the two escrow lots. Even with the first estimated letter of credit, because between that first letter of credit of \$445,000.00 plus the two lots; you should have sufficient security, so there is no reason to have that prohibition. Once we get the letter of credit for the estimated amount, and once we get the actual cost then we can release the two-escrow lots as well.

Commissioner Houpt asked about timeframes on this.

Tim said they could come back next week.

Commissioner Houpt and Chairman Martin thought two weeks would be better.

Deb would like to see; should the applicant come back in two weeks, that there is a signed subdivision improvement agreement on the terms you may approve today; together with the actual letter of credit at that time

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – Aye

Executive Session:

Commissioner Houpt – I make a motion to go back into executive session.

Don stated they needed a complete discussion on the remaining items he has identified.

Ed Green said he needed an update on negotiations with Xcel regarding the power line.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – Aye
Motion to come out of executive session.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye
Don stated they would continue the next four items. He would like to set to next week on the county attorney’s time
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye

CONSIDERATION/APPROVAL OF AIRPORT: “LOOP” WATER SYSTEM IGA WITH THE CITY OF RIFLE

- 1) **Consideration/Approval of Airport: Runway Re-alignment IGA with the City of Rifle**
- 2) **Consideration/Approval of Sheriff’s Office Annex: Line Extension Agreement with the City of Rifle**
- 3) **Consideration/Approval of Department of Human Services Addition: Site Plan Improvements Agreement with the City of Rifle**
- 4) **Consideration/Approval of Resolution Appointing Special County Attorney**

Don would like the Chair authorized to sign a resolution appointing a special county attorney for a single child protection matter.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye

FINAL DETERMINATION ON THE APPOINTMENT OF MEMBERS TO THE PLANNING COMMISSION AND THE BOARD OF ADJUSTMENT – FRED JARMAN

On October 12, 2009, the Board of County Commissioners met with the candidates listed below to discuss their backgrounds and intent on serving on the Planning Commission. (Staff also discussed the possibility of alternates being moved up as regular members with the Planning commission; the alternates indicated they wanted to serve as regular members if promoted by the Board). As a result, existing vacant seats on the Planning Commission and the Board of Adjustment, the Board of County Commissioners is required to appoint Garfield county Citizens to these vacant seats on these boards. Staff requests the Board make these appointments.

- **Regular Membership**

Philip Vaughan (Rulison)	Term Expires 12/31/2010
Cheryl Chandler (Silt)	Term Expires 12/31/2010
Bob Fullerton (Carbondale)	Term Expires 12/31/2011
Jock Jacober (Glenwood Spgs)	Term Expires 12/31/2011
Sean Martin (Carbondale)	Term Expires 12/31/2011
Adolfo Gorra (Glenwood Spgs)	Term Expires 12/31/2011
- **Existing Vacant Seat**
Open
- **Associate Membership**

Greg McKennis (New Castle)	Term Expires 12/31/2010
John Kuersten (Rifle)	Term Expires 12/31/2011
Lauren Martindale (Carbondale)	Term Expires 12/31/2011

Staff advertised the vacancies in the Glenwood Post Independent, and the Rifle Citizen Telegram during the week of June 29 and July 3, and have received five (5) requests for appointment as follows:

- 1. John Mechling (Geotechnical Engineer in Glenwood Springs)
- 2. Leigh Letson (Architect in Glenwood Springs)
- 3. Michael Sullivan (Hotel Industry in Glenwood Springs)
- 4. Dave Argo (Architect in No Name)
- 5. Tom Jankovsky (Businessman/Sunlight Mountain Manager in Glenwood Springs)

Because the vacant seat is a regular member, the Board often has filled it with an existing associate member and then filled the associate seat with a new candidate.

Board of Adjustment – Current breakdown

- **Regular Membership**

Steve Boat (Glenwood Spgs)	Term Expires 12/31/2010
Brad Jordan (Glenwood Spgs)	Term Expires 12/31/2009
Tom Morton (Glenwood Spgs)	Term Expires 12/31/2010
Jock Jacober (Glenwood Spgs)	Term Expires 12/31/2010 (Requested re-appointment)
- **Existing Vacant Seat**
- **Associate Membership**

Thomas Barnabic (Silt)	Term Expires 12/31/2009
Dwight Juhl (Glenwood Spgs)	Term Expires 12/31/2010
Stephen Damm (Glenwood Spgs)	Term Expires 12/31/2011
- **Existing Vacant Seat**
- **Existing Vacant Seat**

Based on tenure, staff suggests the Board re-appoint Jock Jacober as a regular member (also representing the Planning commission) and appoint Thomas Barnabic as a regular member to the vacant seat.
Fred explained at the last meeting they met all the applicants; for the record, that was Michael Sullivan, Leigh Letson, Dave Argo and Tom Jankovsky. The associate’s members; there is Greg McKennis, John Kuersten and Lauren Martindale. He spoke to them about being appointed as regular members; which is the normal course of action. That is the Planning Commission and on the Board of Adjustment; we have Jock Jacober who was requesting to be reappointed to the same board; but you also have 3 vacant seats and there were no applications for those seats.
Commissioner Houpt asked Fred if they did need one of the associates moved up to regular and Fred stated yes, the Board of Adjustments.

Commissioner Houpt wanted to say she was impressed by people who came forward. One of the things they like to do as we appoint people on the planning commission, is create more diversity, experience, and she asked Fred if that has added to the discussion with people having different talents, background to the planning commission.

Fred stated sure you would like to have a good diversity. With the current planning commission, you have a professional diversity then you have a geographic diversity across the county. Those are the two main things you want to think about when you appoint a new membership to them.

Commissioner Houpt stated the easiest motion is to appoint Greg McKennis to the regular membership moving him up from the associate membership. He has the longest tenure, and if all three want to serve as members of the planning commission, it has been the practice we take the person at the top of the list and put them on the planning commission.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt thinks it is timely for so many people to come forward with interest in being involved on the planning commission because of the comprehensive plan we are starting. She is hoping those people who are not appointed this time will take the opportunity to be involved with that as it is a very important process. We certainly need people of not only this caliber professional; but people who have a great interest to be involved in the community; the comprehensive process. She has a name she would like to bring forward; she looked at everyone and looked at professional diversification, and people who showed interest over the years being involved, and came up with Michael Sullivan who has come forward several times. She thinks, as with everyone who brought their name forward, would put in the time, thoroughness, and thought that is what it takes to serve on the planning commission. I make a motion we appoint Michael Sullivan as an associate member to the planning commission.

Commissioner Samson asked if the guy from Silt is not going to be up.

Fred stated they all sit as existing alternates now; Tom has the longest tenure right now.

Commissioner Houpt – I make a motion we move Thomas Barnabic into a regular membership position for the Board of Adjustment.

Commissioner Samson – Second. In favor: Houpt – aye Samson – Aye Opposed Martin – aye

CONSIDER A REQUEST FOR AN EXTENSION FOR THE SUAREZ PRELIMINARY PLAN – APPLICANT; JUAN SUAREZ – FRED JARMAN

Kathy Suarez was present

On October 14, 2009 staff received a request form Sidney N. Fox (Fox & Company) requesting the Board grant a 1-year extension to file a final plat for the Suarez Subdivision.

Fred stated there was a preliminary plan this Board approved, resolution 2008-135. Their time line has come and gone and they are asking for a 1-year extension to file the final plat. They have submitted a letter.

Commissioner Samson – I move we grant the request for the Suarez preliminary plan as requested.

Commissioner Houpt stated for a one-year extension. Second. In favor: Houpt – aye Martin – aye Samson – aye

PRESENTATION BY COLORADO OIL AND GAS CONSERVATION COMMISSION REGARDING INJECTION WELLS – DENISE ONYSKIW, P.E. – UIC PROGRAM SUPERVISOR

Commissioner Houpt will sit in the audience.

UIC = Underground Injection Control

Fred stated as the county continues to look into the regulation of injection wells and we invited Denise and David Andrews with the COGCC in Rifle and Engineering Supervisor for Western Colorado. This is to get an education on the Federal Regulations.

Denise gave a presentation. The EPA and the UIC Program have six classes of wells which she explained Class 1 – 4 wells. Class 5 wells are the miscellaneous category, injection of non-hazardous fluid into an underground source of drinking water. They have proposed a class 6 and those are being regulated under Class 5. Talking about Class 2 wells now, those are the only ones delegated on the State level. State primacy refers to the EPA delegations of the regulations and some states delegate different. Colorado received its primacy in 1984 so you can see we have been doing this for 25 years. Colorado currently has over 800 Class II UIC wells and ¾ of these are enhanced recovery. Disposal wells are for the injection of water as a disposal mechanism. Enhanced recovery they inject the water for the purpose of forcing oil and gas up through the field and up another well. There is more of a demand for disposal wells right now because with the growth of the industry they have all this water and do not have anywhere to put it. There are more requirements on pits; we do not like them in pits evaporating. Other states are not willing to take water anymore. Rule 325 of the Colorado COGCC regulations addresses the underground disposal water. It also addresses all the things you need to include in an application. There are currently about 30 required items on a checklist they use. Rules require that you have written notice to surface owners and mineral owners within a quarter mile. All of the wells go to public notice and they have to run a notice in the closest newspaper announcing a 30-day comment period. The well board construction information; how deep the well is, what aquifers are injecting into, how far plugged back is mentioned in the notice. One thing they have to submit to us is a water sample from the disposal formation. This is important because if the total dissolved solvents are below 10 parts per million, the formation has a potential to be considered an aquifer. That is why we need to look at an aquifer exemption for this. For enhanced recovery operation, we look at the whole unit area. Rule 324B addresses the aquifer exemptions and here are some reasons that maybe used to show that the aquifer would never be used for drinking water. For example it may be hydrocarbon producing. The formation may be too deep so that it is not economically practical to pull that water up. The water may also be contaminated. We also require a newspaper publication for an aquifer exemption. It is different notice from the one previously stated. They will list the reasons this particular aquifer would not be used as drinking water. EPA also has an opportunity to comment on these. Some counties have regulations like you are planning; La Plata for example has chapter 90, Article II which is the Oil and Gas Land Use Regulation and they consider injection wells as major facilities; they have a table in there for everything that needs to be submitted to the county with their application. Their big issue is road use who is building the road, how much traffic, who is maintaining it, what will this mean to people and us who live nearby. Mostly the above ground stuff as opposed to the down hole things. Denise showed a picture of a typical injection well and explained how it functions. The application is submitted with three forms 31, 33, 26; 31 is for the injection formation its self and you could have multiple wells. Form 33 is for each well and Form 26 lists where the injected water comes from and we require samples. The Division of Water Resources is our expertise for evaluating that the well will not contaminate any aquifers or the drinking water wells in the area. Denise explained the surface casings; there is no scale on there, but water wells will not be deeper than the surface casing and aquifers usually are higher than that so they have an

extra layer of protection on the top. We require an extra quarter mile area review, this is what she does and she does it herself. They look at producing wells, water wells, plugged, abandoned wells, and dry hole wells within that quarter mile. They do not start the process until they know they have a surface owner agreement or if it is on BLM property, then the BLM does not do surface owner agreements. They do a form called the BLM Sundry and they have to have those if the surface owner is not on board, they do not get a permit. They take public hearings on injection wells; they do not grant everyone a public hearing automatically. Many protests they get are not what they regulate example traffic. We tell them they have to go to the county as they control traffic. They have standard conditions of approval for all injection wells and these come out of EPA's program. They have maximum allowable injection pressure; it is limited so they do not fracture the formation when they inject water for disposal. When they do a mechanical integrity test, they are required to test up to that pressure. If they do not test high enough then their maximum allowable injection pressure is only to the number they tested. Bonding - they have commercial bonds as well as non-commercial bonds. For commercial facilities who are taking injection water from other companies, they have to pay a much higher bond because they are usually much bigger facilities. Maximum allowable injection volume is based upon how much they calculate that the area of a quarter mile can hold with those injection formations. Enhanced recovery wells they don't have to do this because they are putting water in and oil and gas is coming out; you're not filling the formation. Enforcement; all inspectors go out every year and the wells are inspected; there is an injection pressure and the annulet pressure are checked. The mechanical integrity is tested every 5 years; if they fail the test, the well has to be shut and repaired. EPA requires them to witness 25% of the MIT's. If not witnessed they have to submit a pressure recorder which will record the pressure. They actually witness over 50% of their well tests. She went to another picture; this is a Class I well. The Class II wells are the same thing and she explained the picture. It is a good example of why Class IV wells are banned. She showed and explained a diagram to show what could go wrong. What can be injected into a class II well depends not on the fluids chemistry; allowable injection fluids, produced water, drilling fluids, spent well treatment, pigging wastes, gas plant wastes, amine and cooling tower blow down from gas plants. Non allowable fluids which are kind of generic that could come from any other type of industry; unused fracturing fluids or acids, painting wastes, refinery wastes, lubricating oils, sanitary wastes, and radioactive tracer wastes.

Kent Wanstahl, Colorado Oil and Gas Association– COGA. He wanted to add to the presentation and he wanted to stress that COGA considers this an important issue in front of you. He is not entirely familiar where you stand with the regulation. He understands the Board is considering wanting to regulate these types of facilities under the County's land use regulations. COGA understands that certainly you have a degree of authority with relation to the surface aspects of these facilities. They would have concerns should you seek to extend that regulation down hole into the types of issues that Denise has presented to the Board today. The policy dimension is one that you start to get good information from today from the Oil and Gas Commission and get more comfortable. Whether or not there is any value added to a local regulation given the depth and the extent of the States regulation under its delegating authority from EPA would be the policy dimension you would have to consider. Of course there is a legal dimension as to what your authority, if any, would be to regulate or engage looking at the down hole aspects of this, and COGA would ask the Board to take close looks at both of those. They think from a policy standpoint there really is not anything to be added in terms of value or regulation given the extent of the State administer program. Frankly they would love to see the Board look at surface aspects largely by virtue of LGD and the opportunities you have to use the new form 2A process that the Oil and Gas Commissioners put in place for oil and gas location assessments, and think you could accomplish all you need to do by using that process. They hope Garfield County can be the leader since you have full time oil and gas staff as LGD's and more activity and more experience; you maybe the best candidate along with LaPlata to use the process and show other counties how it can be used to its fullest extent. Once they move away from the surface aspect and get into the below ground aspects; they think there could be some legal issues and Garfield County would have to look very carefully, and these do not simply relate to the longstanding State verses local preemption fight they have had for years. They think there is a Federal pre-emption issue that is pretty straightforward and clear. The Federal Safe Drinking Water Act and its regulations occupy the field here to the exclusion of any State or local regulation except to the extent that the EPA has delegated their authority to the oil and gas commission. They believe Garfield County would be legally precluded from going into the down hole aspects. You will see more of these; these types of facilities will be more common and more important to the industry here. The new COGCC pit rules because of the detail and the process of getting these pits permitted the new construction requirements, and the closure requirements; he thinks we will see fewer water management pits being constructed and see a shift towards preference to UIC wells. When we had better drilling activity out here, you had more rigs running and more wells being drilled. You had more need for water for the drilling and fracturing of those wells; there was an opportunity to recycle and reuse the water in those drilling operations. As we see those drilling operations go down, the opportunities to recycle and reuse water are also declining. Companies need to find other disposal options. There may be a third aspect as we develop this produced water; he thinks it would be incumbent for companies to make it clear they are treating produced water as an E&P waste and disposing of it and not evoking issues of potential beneficial use that may drag them into the State water rights administration regime. For all those reasons, he thinks you will see the Class II wells becoming more common and more important so it will be very important for you to develop an efficient and appropriate process as we go forward.

Fred asked Denise to talk about the difference, if there is one, how you look at an individual disposal well verses a centralized disposal site. In the State's review, is there a difference? Do you have a sense of the number of individual's verses movement to drill more or use more centralized facilities than individuals?

Denise stated she thinks mostly they are individual wells. Many companies drill their own to get rid of the water or reconvert a producing well into a disposal well to convert water. She said they do have some commercial sites, what makes them different, the bonding is double, but they have a tendency to have more than one well in one area.

When she does the volume calculations; it comes down to geometry, she has to calculate what volume is already taken up by existing wells and subtract it out of the quarter mile circle, provided they are using the same formations. They usually are if in the same area. That is the biggest difference with multiple wells verses a single well. If it is a facility that has Class I wells in addition to Class II wells; that gets a little tricky; like Conquest oil. They have a huge disposal facility and they have both wells; what is tricky we do not permit the Class I wells. EPA permits those and we would have to communicate with them to see what they are giving for volume.

Fred stated on notice and some of the issues; if you notice mineral a owner that lives within the quarter mile and the data you would have to look at, what is the character of that data from old wells that may or may not be impacted by doing an injection well. Does the State feel they have good enough data set to say they know if an injection well is going in there; we know we have all the data points from all the old wells that may never have been regulated; we just do not know.

Denise said she has not encounter any situation of wells they do not know about. They are using the scout cards and its all on the computer, and she brings it up and draws a circle, and asks for the data within that quarter mile. It brings up all the wells that are dry and abandoned, plugged and abandoned, or active producers. There are some issues that come up with those. She talked about what will happen with dry and abandoned wells that are nearby and can potentially contaminate an aquifer. Also producing wells sometimes the mineral owners will protest. Because they are afraid that their minerals will be washed out. The producing wells also have to be appropriately cased. We have a very extensive database.

Commissioner Houpt thinks it is important not to confuse the function of 2A with local planning authority. There are times and will be times when injection wells have a larger surface impact because of new and added activity would be established at the State level. She does not think it is the States or the County's intent to switch that authority. Counties have the land use authority. She does not think they would waive their ability to regulate any type of surface type issues.

Denise said the biggest issue that comes up, surface wise, is roads and traffic, and that is a county jurisdiction. In the picture, you can see how small they are; injection wells. The injection wells are little, nothing to be seen of them. The big issue surface wise is the trucks.

Commissioner Houpt said they did have one concern in Garfield County; one had not been active for years and it can change the character of the neighborhood.

Denise said they do get some in the rural subdivisions; there are homes there and they have to notify all homeowners so they are okay with this.

Kent stated that all operators are required to carry liability insurance for third party property damage or injury. That insurance is rising to \$1 million. You have the bond for mechanical and surface issues, the insurance policy for third party issues and the final back-up, used to be called the environmental response fund is now rolled into the oil and gas conservation fund, which serves as an umbrella liability policy for the State. Most recently, the statute was raised to a \$4 million dollars unallocated balance. There really three levels of financial assurance, the bond, the liability policy and the umbrella policy.

Tom Veljic asked about the notice; when you say ¼ mile, is it around the pad or the around the ownership parcel which tends to be larger.

Denise said she looks around the pad; it is ¼ mile itself.

Tom stated it is just the surface owner who receives notice.

Denise stated no, the mineral owners also if within ¼ mile.

Commissioner Houpt said that is why there is that difference between surface and subsurface evaluation. When you are looking at the subsurface impact of an injection well, the COGCC is looking at how it could impact mineral owners. When we as a county are looking at what kind of surface impact there might be, from an injection well, we want to make sure that the people in the surrounding area, know on the surface they would be advised so they can weigh in on that.

Chairman Martin explained a different approach; we have several large property owners, 80,000 to 100,00 acres and they wish to do a three acre disturbance, and our rules and regulations say you must identify everyone around the perimeter around those 80,000 acres as well as any private owners within it . It is extremely expensive to use your own land within your own boundaries; he feels they have to weigh that.

Denise said they see that a lot in enhanced recovery projects. You are looking at a quarter of a mile around the whole unit or a quarter mile circle around each well. It only takes the corner of some ones property to be in that quarter mile; if they are in they are in it and they are notified. As far as the surface owner of the well, this is a disposal issue not a mineral rights issue, if the surface owner says no; they do not get a permit.

SPECIAL MEETINGS – FIRST TUESDAY EVERY MONTH:

Chairman Martin stated they needed clarification of special meetings; this is a notification requirement, should you Jean or Linda publish for the work sessions every first Tuesday at 2:00 p.m.

Jean said her office will post and let Linda do the newspaper.

NOVEMBER 23, 2009 MEETING – MAYORS – TRANSPORTATION:

Commissioner Samson wanted to report that he had the Garfield County forum meeting in Parachute; one major thing they talked about was transportation. He has asked that the Mayors meet with him on the 23rd at the airport to talk about the feasibility of beginning a new transportation district from New Castle to Battlement Mesa; see what the interest is. He has also asked Bruce Christenson to come to give his input, as he is the Chairman of RFTA and the purpose of that meeting if we are going to go forward with this, the ball has to get going, and we will have to put on the ballot for 2012.

Commissioner Houpt thought the agreement was that staff would put a paper together looking at all of the options. Not presenting a message that we are moving in a certain direction; but looking at all the various options and that is what she hopes the discussion is.

Commissioner Samson said that is the purpose of this to see if those people, if they cannot be there, to send an elected representative plus a staff member if they cannot come.

Commissioner Houpt's concern is that he couched it as a discussion about starting a new transportation system instead of couching it as to how are we going to serve our constituents well who need that transportation service.

Commissioner Samson said let me rephrase; his main purpose is to see how much interest there is from all of those people.

Commissioner Houpt said that is not fair; we have a white paper coming from staff that is working on this issue. Looking at the cost of joining with RFTA, the cost of contracting with RFTA, the cost of starting our own transportation system and she thinks there is one more and that clearly is not a single contract.

Commissioner Samson said he knows she does not want them to do that; he knows, he thinks that Bruce is very much in favor of that and he is the chairman of RFTA.

Commissioner Houpt said she has not made a decision; she was going to wait until they had all the information in front of them. She thinks it is very important to proceed on that basis of looking at all of the various alternatives available, and this is so huge, maybe this should be on the agenda.

Commissioner Samson said that was fine but he is having a meeting to get input.

Commissioner Houpt’s concern is that Commissioner Samson is representing that they are looking at one solution, which is starting at transportation.

Commissioner Samson said no, he is asking those mayors to come with staff members, and he is doing his own research to see if there is enough interest.

Commissioner Houpt asked; are you also having them look at what the pro’s and con’s of joining RFTA are, or contracting with RFTA instead of starting a total different transportation system. Because otherwise you would not have a very well thought out or balanced discussion about the various opportunities that are out there.

Commissioner Samson said that might be true; Bruce’s point is that the people of the lower valley have had several chances to vote to join and have declined. Something needs to be done and that option is not viable.

Commissioner Houpt said we do not know that yet.

Commissioner Samson said the people are saying they do not want to do that.

Commissioner Houpt is very concerned because we asked staff to do something to bring forward....

Commissioner Samson asked when they would have it ready and Commissioner Houpt said the first part of January.

Chairman Martin stated they had to have it before, because of our discussion on a contract with RFTA now.

Commissioner Houpt said we could not start a system overnight.

Chairman Martin said there has to be a ballot question.

Commissioner Houpt thinks this is a bigger conversation than you anticipated.

Commissioner Samson said he has a meeting for the 23rd and that is where they are going.

Commissioner Houpt hopes they talk about other options of transportation as well.

Commissioner Samson said he does not see why they would not, and he will ask Bruce if he will be willing to do that.

Commissioner Houpt said she thinks it is important because, that is the commitment they made to look at all of the various options.

Commissioner Samson that is fine and he is just reporting they have to get going.

Commissioner Houpt said the one thing you were going to talk to the Mayors about was what they wanted to contribute in 2010 to keep the Hogback going, which is a huge part of the discussion.

Commissioner Samson said tomorrow at 8:00 is the workshop on local preference. Thursday there is a meeting with Glenwood at 10:00 a.m. on South Bridge.

Commissioner Houpt said she would try to be there.

Commissioner Samson stated there is a 1:30 budget meeting.

Jean brought up the next meeting is November 10, 2009.

First Tuesday Meetings:
Linda Morcom came in and she will do the same as she does for regular meetings.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

NOVEMBER 5, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The SPECIAL MEETING began at 10:00 a.m. on Thursday, November 5, 2009 with Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Kent Long of Purchasing, Carolyn Dahlgren, Deb Quinn and Jean Alberico Clerk & Recorder. Chairman John Martin was absent attending another meeting.

Those present from the City of Glenwood Springs included: Mayor Bruce Christensen, Council members, Stephen Bershenyi, Dave Sturges, Russ Arensman, Matthew Steckler, Shelley Kaup, and Leo McKinney.

CALL TO ORDER

Commissioner Houpt called the meeting to order at 8.00 A.M.

Kent Long and Jamaica Watts presented.

Commissioner Houpt – We will not be making any decisions today. This is a Work Session.

Kent – Today, Kent presented three, one from September 21, 2009, the continued meeting of October 12, 2009 and today’s presentation dated November 3, 2009. He provided a Power Point Presentation to look at Design build and Design bid-build.

Vendor Preference

- Discussion items included:
- Why consider alternate forms of project delivery?
 - Spectrum of available delivery options defined;
 - Project characteristics that favor specific delivery option.

Local vendor and in literature, Ken said he looked at legal consideration for guidance. Don DeFord was asked to find case law. Case law was found in two laws.

Garfield County has a preference rule that is legal and satisfied by a court jurisdiction.

Traditional Design-Bid-Build only delivery approach formerly allowed for public utilities

- Where traditional approaches are not required by legislation, alternative delivery approaches are often used to deliver major new construction
- Alternate forms of project delivery commonly used for construction ranging from residential housing to industrial processing plants and power generating facilities

- Minnesota state statutes specifically allow alternate delivery approaches for wastewater collection and treatment facilities

Driver for Using Design-Build

- Schedule (by far the most common reason)
Regulatory Compliance
Population growth
Derailed or otherwise delayed project
- Need for innovative/potential cost savings
Industry input on treatment process/technical solutions
Challenging problems that invite competitive solutions
- Avoiding low bid quality
Bad experience with poor quality contractors
Looking for a procurement method to select contractors on qualifications
Can be done with Design-Bid-Build also, but more difficult to implement
- **Risk transfer, single point of responsibility**
Specify the results, but not the way to get there
Design-Build-Operate most comprehensive risk transfer approach

Definitions and Legal Considerations

Definitions: A “Vendor Preference” is a method of giving preferential treatment to a specific class of vendors.

The “Preferred” class of vendors is most often, a class of “local vendor’s preference” is derived.

Legal Considerations

Most vendor preferences are formally adopted as either a law of a state; or, an ordinance of a political subdivision of that state, e.g. a Board of County Commissioners.

A vendor preference may affect: the purchase of goods only, the purchase of services only, or the purchase of both.

Some governmental entities have reviewed vendor preference laws to determine if those laws violate the federal due process clause, equal protection clause, or interstate commerce clause.

Those governmental entities have concluded that their specific vendor preference laws do not violate the federal due process clause, equal protection clause, or interstate commerce clause.

Until ordered to the contrary, it may be rebuttable presumed that the current Garfield County vendor preference rule does not violate the federal or state due process clauses, the federal interstate commerce clause.

Argument for Local Preference

1. Commitment to the Community
The extra cost of the preference may be outweighed by the need to support local businesses, and that the jurisdiction’s commitment to the local business community will be repaid by the businesses commitment to the general community.
2. Benefits to the Local Tax Base
Spending money locally reaps benefits to the jurisdiction in tax-base maintenance or tax-receipt growth, because a portion of the dollars spent locally are recycled locally.
That is, a local business receiving a payment from a city, county, or school district will probably spend a portion of its profits with other local businesses; will pay its local employees who then shop in the local community, and so on.
Economists call this recycling of dollars the “multiplier effect”

Argument Against Local Vendor Preference

1. It hurts the competitive process.
Public procurement is premised on open competition. Therefore, vendor preference rules negatively impact this fundamental tenet of public procurement, i.e., that the procurement of goods and services in the public sector will utilize full and open competition for those goods or services.
Local preference hurt the competitive process by reducing the incentive for local businesses by reducing the incentive for local businesses to provide the best value for the dollar.
In addition, preferences reduce competition because other companies may decide not to bid when they know they do not have the same chance to compete.
Preference programs can also lead to more serious problems, providing an unintentional incentive for bid collusion or bid rigging. For example, if only two local companies are eligible to bid for a certain commodity, or have a bid advantage because of a local preference, they may be tempted to coordinate their bidding to share the jurisdiction’s business without any genuine competition.
Overall, studies have shown that a local preference directly results in jurisdictions paying more money for the goods and services that are subject to the preference. The decision to consider a local preference, therefore, becomes a judgment call as to whether the extra cost is worth it.

2. Geography and Management

The definition of “local” or “resident” is a significant problem in two ways: geography and ownership and can be very difficult to resolve.

Where is the line drawn? For example, if the jurisdiction is a city, is a business location just outside the city limits a local business?

Is a post office box a local business?

Should a local preference reach beyond the city limits to incorporate an urban growth area, or the entire county?

What about a business whose headquarters is in the city, but most of its business is actually conducted elsewhere?

Or vice-versa: is a business located in a neighboring town, but doing a substantial amount of business locally, a local business?

And should the number of employees who reside in the jurisdiction be a factor in whether or not the business is genuinely “local”?

Problems with Ownership and Management

Is the local branch of a national company a local business?

If a local business is owned by someone living out of state, so that all the profits go out of state, is it as eligible for a preference as a business whose owner lives next door?

And if a business is publicly held or has multiple owners, should a majority of the stockholders be required to live in the local area?

3. The Multiplier Effect is difficult to quantify and varies

Some businesses (primarily service businesses) must pay out most of their receipts to their employees; these dollars are recycled when the employees spend them locally.

Other businesses, however, are capital intensive, with relatively few employees and most of the receipts going into the cost of sales, distribution, or production of goods and products; those expenditures may or may not involve other local suppliers or manufacturers.

For example, when a commercial lawn mower is purchased from a local dealer, a small portion of the proceeds goes to the dealer’s employees or may be used to pay local taxes.

However, the majority of the funds go to the manufacturer, who is generally not a local firm.

As a consequence, where do the proceeds from the public procurement process actually go to be recycled?

Ideally, the goal to a preference program would be to create a structure that guarantees enough of an actual economic advantage to the jurisdiction to financially offset the direct cost of the preference in higher bid prices or reduced competition. This is a complex and ambiguous calculation.

Although dollars are always recycled, and the multiplier effect is a genuine economic factor, the net bottom line impact that a preference creates because of that effect is very difficult to measure.

4. Reciprocal Preferences

Other governmental jurisdictions do not like to see their local businesses placed at a financial disadvantage in competing with vendors in other localities. This reaction has led to the development of reciprocal preference.

This issue is not a problem for a firm that does not want to do work or sell products anywhere else, but it can hurt firms that are competing for broader markets.

For example, the State of Wyoming provides a 5% bid preference for Wyoming-base companies.

The State of Colorado has a reciprocal preference, so a Wyoming firm that is on a Colorado project is penalized by 5%, and must therefore be at least 5% cheaper than the lowest bid from any other company to have a chance to win.

Many bids are decided by a margin of 2%, 1%, or less; for many commodities, 5% may be more than the total profit margin—making it literally impossible for a non-local firm to have any chance of winning (and thereby automatically raising the cost of the taxpayers).

Both financial preference and reciprocal preference adds to the administrative cost of conducting bids and proposals.

Many factors must always be considered to meet basic purchasing laws and regulations; every additional requirement simply adds to the time required and possibility for human error in bid evaluation, calculation, and award – and therefore raises the ultimate costs to citizens of the jurisdiction.

In addition, some governmental jurisdictions simply prohibit local preferences from being applied to projects they are involved with.

The federal government prohibits the use of local preferences on any project for which it provides any part of the funding. This type of regulation further complicates the bid and award processes at a time when more and more projects require governments to work together and seek funding from multiple sources.

5. Does it really work?

A review of some studies indicates that a local vendor preference rule only changes the actual outcome of a solicitation for the procurement of goods or services in no more than 5.8% of all procurements.

Variation on a Theme

A “Vendor Preference” can take many different forms.

Reciprocal

The most common vendor preference is a “reciprocal” vendor preference. This type of preference give a “resident” vendor the same preference a non-resident vendor might be entitled to receive from the non-resident vendor’s home jurisdiction.

The definition of “resident” or “local” can and does vary from one jurisdiction to another.

A reciprocal vendor preference rule is considered “neutral” and is the most common type of rule adopted by jurisdictions.

Garfield County Reciprocal Vendor Preference Rule

Rule 5.7.A. of the Garfield County Procurement Code [“GCPC” defines a resident as a business or person that “maintains its principal and primary place of business in Garfield County, Colorado.” (Rule 5.7.C., GCPC)

The preference is not automatic, but must be requested at the time a vendor submits a bid or proposal in response to an invitation for bids or request for proposals (Rule 5.7.B., GCPC).

The Garfield County vendor preference rule may be suspended if it would result in the loss of either or both federal or state funds (Rule 5.7.D., GCPC).

Percentage

This type of preference rule affords a local vendor a “Preference” if that vendor’s price is within a certain percentage or dollar amount of a non-resident vendor who would otherwise be the winning offeror for a good or service.

The amount of the percentage or dollar amount can vary. Additionally, different percentage may be used for goods (e.g., 5%) and services (e.g. 2.5%).
Finally, some variations only allow a preference at certain dollar thresholds (e.g. above \$50,000.00) for the procurement of goods and services.

Disadvange of Percentage Method

A disadvantage of the percentage preference type of rule is that it can cost the governmental body additional money to acquire a good or service. Therefore, a necessary consequence of this rule is that a local vendor with a higher price could win a solicitation over a lower priced non-resident vendor.
For example, assume two bidders submitted bids. The first bid is for \$100,000.00 and is submitted by a “non-resident” bidder. The second bid is for \$104,000.00 and is submitted by a “resident” bidder.
If the jurisdiction has a 5% local vendor preference rule, then the resident bid of \$104,000.00 will win even though it will cost the local government \$4,000.00 more to obtain the good in question.

Variation of the Percentage Method – The Second Chance Rule

This rule allows a resident vendor who is within a certain percentage of a non-resident vendor’s low bid a “second chance” to meet or beat that low bid.
For the second chance rule to apply, the resident bidder must usually request its use and must submit a revised bid within a very short time period (e.g., 48 hours or two business days from the date of bid opening).

Is the Second Chance Rule Fair?

The second chance rule allows a resident bidder to “barter”, i.e., amend a bid to a lower price, to win the solicitation. Giving only certain vendors an opportunity to barter raises questions of fundamental fairness.
Discussions with jurisdictions using this rule indicate that those jurisdictions using this rule indicate that those jurisdictions have not received any due process or equal protection challenges to those rules.

Kent went on to discuss the **Limited Survey by Garfield County staff and the Vendor Preference Rule Decision Tree**

If the Board decides to amend, or repeal and reenact Rule 5.7 of the Garfield County Procurement Code, then the following “Decision Tree” provides guidance on some of the more important issues the Board must resolve.

Legislative Intent

It is the intent of the Board of County Commissioners of Garfield County, Colorado (“Board”) to use a “local business” whenever possible for the procurement of goods and services. However, the use of a local business over a non-local business must not result in a significant increase in costs to the County. As such, the Board intends to give local businesses an advantage in the (informal) (and/or) (formal) competitive solicitation process so that monies spent through that process shall be used by the employees of local businesses in the local economy.

Preference authorized

Whenever an award of a contract for goods or services is pending following a competitive solicitation process, a local business, as defined below, may be allowed a preference against a non-local business by the office of contract administrator or the BOCC.

Definition of Local Business

Any business, club, committee, corporation, group of associated individuals; individual, limited liability or union, whether profit or non-profit, which maintains its principal place of business in Garfield County (Eagle, Mesa, Pitkin or Rio Blanco) County, Colorado, and
Has at least seventy-five percent (75%) of its work force resides within the counties listed above. If subcontract work is involved, then at least seventy-five percent of its work is involved, then at least seventy-five percent (75%) of the aggregate contract amount must be completed by local businesses and subcontractors who meet the local business criteria of having at least seventy-five percent (75%) of its work force residing in the counties listed above; and,
Has at least seventy-five percent (75%) of its business vehicles or its subcontractor business vehicles registered in one or more of the above listed counties?

Designation as a Local Business

1. Prior to submitting a bid or proposal in response to a competitive solicitation, any business that desires to obtain a local business designation shall apply for that designation by submitting a written request for that designation to the office of contract administration. The written request shall be supported with sufficient documentation to allow the office of contract administration to review and either approve or deny that written request.
2. The office of contract administration may grant a local business designation to a business if that business has satisfied the criteria set forth herein.
3. If the office of contract administration refuses to grant a local business designation to a business, then that business may appeal that decision in writing to the County Manager within seven (7) calendar days of its receipt of that decision. The decision of the County Manager shall be final unless it is appealed to the Board within seven (7) calendar days of receipt of that decision. The decision of the Board on this issue is final.

General Requirements for use. The Office of Contract Administration shall consider all of the following factors to determine if a local preference may be granted:

- 1) The respective bid or proposal amounts, a preference may be given to a local business when there are not material differences between the fit, form, function, qualifications, or values of the goods to be purchased or the services to be provided by the respective bidder or offeror’s.
- 2) The magnitude of the price differences between the local and non-local business shall be considered.
- 3) When an evaluation of a particular competitive solicitation process results in a determination that the respective bids or proposals are essentially equal in value; then under no circumstances shall the local

business b granted a preference in situations where any of the following factors apply: (i) The quoted pricing offered by a local business is more than 5% above the quoted price of a non-local business; (ii) The quoted pricing from a local business exceed the quoted price from a non-local business by an amount greater than \$25,000; or (iii) The award of a contract to a local business at a higher price will result in the County exceeding its budgeted appropriation for that contract award.

Invitation for Bids

If a determination is made by the office of contract administration that a submitted bid is from a responsive and responsible bidder and, that the business submitting the bid meets all criteria for a local preference, then that business shall be given a chance to equal or beat the lowest responsible and responsive bidder who does not have a local business designation if the bid is within 5% of the price of that low bid and the business submits a bid or proposal that is equal to or lower than the low bid or proposal within 48 hours of the time of the bid opening or proposal. If the two (2) lowest responsible and responsive bidders both have local business designation, then the lowest responsible and responsive bidder shall be awarded the contract.

Request for Proposals

If a determination is made by the office of contract administration that a submitted proposal is from a responsive offeror and, that the offeror meets all other criteria for a local preference, then that offer or shall of shall be given a chance to equal or beat the lowest responsive designation if the proposal is within 5% of the price of that low proposal and the offeror submits a revised proposal that is equal to or lower than the low proposal within 48 hours of the time a notice of intent to award is issued. If the two (2) lowest responsible proposals are from offeror's who both have a local business designation, the offeror whose proposal is determined to be the most advantageous, i.e., best value, shall be awarded the contract.

No Preference Given in Certain Circumstances

If it is determined by the office of contract administration that awarding a contract or purchase order in compliance with the preference provisions of this rule: May cause a denial of federal or state money which would otherwise be available, may otherwise be in consistent with any application requirements(s) of federal or state law, or may cause delay(s) of federal or state law, or may cause delay(s) in a procurement action that would be perceived to compromise the public health, safety, or welfare, then the resident preference authorized by this rule shall be suspended.

Notice

Every (informal) (formal) invitation for bids ("IFB") or request for proposals ("RFP") shall contain a statement of this local business preference and the procedure that must be followed to timely receive a designation of local business. However, if an initiation for bids or request for proposals results in the rejection of all bidders or offeror's and, no local bids or proposals were received, then this local business preference shall not apply to any re-issued invitation for bids or request for proposals for the same goods or services.

Timing

In no event shall a business be qualified to have the local business designation applied to a competitive solicitation unless the local business designation has been given in writing prior to the award of that competitive solicitation. Additionally, except where expressly authorized by other provisions of this rule, a local business may not submit any type of revised bid or proposal in order to take advantage of any of the provisions in this rule.

Challenge

Any person who has been adversely affected in a competitive solicitation process by the designation of a business as a local business may file a written protest with the office of contract administration within 10 calendar days of the date that person knew or should have known of the adverse affect. The written protest must set forth with specificity, the response supporting the allegation that the business should not receive a local business designation. The office of contract administration shall investigate the allegations and may impose any or all of the remedies set forth herein.

Remedies

If the office of contract administration determines that a business preference been given a local business preference designation, then that business shall be penalized in the same monetary amount a local business preference advantage, which was applied to the bid or proposal from that business when it was awarded the contract. In addition, that business shall be suspended from bidding on other county procurement for a period of one (1) year from the date of determination.

Kent stated in looking a design bid-build or design-build, you need to look at what is the best vehicle to do that before putting out an RFP.

Discussion followed with the Commissioners asking questions regarding the power point.

This is a very complicated issue. From what I have seen in my brief tenure with this County you have done a good job. With design-build is much more effective when you are building buildings. A design-bid is better when specific details are necessary. In either scenario the subcontracting is going to be done by local subcontractors, the conceptual framework you use, the boots on the ground are going to be local people.

Public comment

Richard Keller Western Colorado Contractors stated he was impressed with Kent's presentation and has done an excellent job in indicating the differences between the two preferences. He likes to design-build process to develop the short list to evaluate. He also stated he likes to see who all are here today, which is a variety of construction, engineering and one supplier.

All of the advantages are there and most municipalities and other counties have gone to this method. It is a valid approach between the vertical and horizontal construction, absolutely spot on. Kent has nailed the one proponent is the human factor, which is just looked beyond the stuff on the paper and who is really going to be there at the end of the day. As far as the local design-build firms, I do a lot of design-build also and on electrical and mechanical not always do you have that capability in-house so you look to mechanical and electrical contractors to perform that so, sometimes and it is what we were talking about earlier, design-build may favor the larger more sophisticated companies that have experience in it and can meet the qualification that hey we have done 50 design-build projects in our history and that looks very good on paper. Mechanical and electrical contractors are the same say and sometimes the local contractors do not

have a design staff and they may not have the horsepower to do that so you have to look below the surface of the prime contractor as to how they are going to award their subcontracts as well. Is that a design-build or is that done by the design-build contractor and then bid out on a competitive basis?

Adopha Gora – Glenwood Structural – as engineers the old adage, the further away from the money, the less of it you get. Therefore, as engineers, we like the design traditional process of it but having seen it work in various areas, I would agree, depending upon the project, which is the best vehicle to use. With the right design-builder with an experienced general contractor project, you can work well with a design-build but people who are more aggressive on the bottom line the design-build gets to be a little more friction. Personally, I believe if a project is more toward the specialty such as design-build, let's say a sand storage shelter that lends itself to a design-build because a contractor has build several of those things and he knows exactly what is involved in that particular project and he can give you a good engineer and get it done quickly for you. When the project becomes a more high profile, something that has been done less that is more of a community feature then you might want to do more of a traditional one because it really is to your advantage to have the architect and engineer responding directly to you and not have the contractor involved in, because sometimes the engineer or the contractor can have the materials and influence more by the general contractor than the owner. He gave a specific example. Sometimes the County misses seeing that at your level of involvement, but we see the wrong material was used on the exterior of the building. All ways of doing it are good with the right people involved. Maybe a general contractor would not have made that call but those are some of the things that need to be kept in mind.

Mark Firmin- Mountain Air Mechanical – Just so you people would understand something from my perspective, is your sheriff's annex in Rifle. I was requested by at least 8 – 10 general contractors to bid that design-build and everyone single one had a different design so that is where you may be losing a little bit control in the building. I had everything down to the top units with the thermostat for each location down to one that had 20 AVD's in every room to control however you wanted it and what they went with was one of the cheaper systems but dealing with all these designs from Denver to Minneapolis is I do not know what is driving up what you are getting then. I know a bunch of your County buildings that you have different needs. You do lose a bit there on the mechanical side of it and I cannot speak as much to the negative side of it but we are requested to bid 100 different ways from the cheapest to cheap to highest of high. That is you guy's decision on how you use that information.

Richard Keller asked who was the low bidder on that contract as far as the general contractor from your perspective.

Mark Firmin– I never heard the numbers from the general contractors. CMC ended up with the award and they used a mid-line system where I had some GM's ask for the top line system and you do not know where that information is coming from in design-bid build I am given that information so I know exactly what you selected from the git-go. This is the comfort level we are trying to achieve, whereas in a design-build you are not given that information and you have try and figure it out. It does leave some of the smaller players out of it if they are trying to put a design figure together.

Kent in wrapping up, I agree with the comments said, the design-build is a little bit control over the degree of specificity the guys have in the design drive that is the entire reason they hire an engineer because you want this HAVC system and that's it. Part of the benefit of a design-build is that it allows the people submitting proposals to be creative in how they approach and conception of how that building is going to be built and what they are going to use and how they can build it within a certain price range. It is correct to say you do lose some level of specificity in a design-build but it allows the government agency the opportunity to evaluate the different designs on a building and consider different considerations to solving a problem that is the only qualification I would have on that subject.

Commissioner Houpt thanked everyone very much.

Jamaica Watts explained the charts.

Kent submitted graphs showing where Garfield County's money is going on 2008-2009 YTD supplies showing Garfield County has 40%; Western Slope 15%; Front Range 26%; and other states 19%.

On services and supplies in the same timeframe, services were at 82% - Garfield County and 18% were for supplies.

For Services – Garfield County – 22%; Western Slope 6%; Front Range – 61%; and other states – 22%.

Commissioners Houpt and Samson said they would think about this.

Ed commented that this is the first in a series of Work Sessions talked about in the Retreat. He asked if this is what the Board would like to see in the future.

This will be agended at later time and when the Board wants to pick a date, Ed will be notified.

ADJOURNMENT

Attest:

Chairman of the Board

**SPECIAL MEETING
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS
AND
GLENWOOD SPRINGS CITY COUNCIL
NOVEMBER 5, 2009
GARFIELD COUNTY ADMINISTRATION BUILDING
109 W. 8TH STREET
10:00 A.M.**

GARFIELD COUNTY COMMISSIONERS PRESENT: Chair John Martin, Traci Houpt and Mike Samson
CITY COUNCIL MEMBERS PRESENT: Mayor Bruce Christensen, Stephen Bershenyi, Matthew Steckler, Russ Arensman, Leo McKinney and Dave Sturges.
CITY COUNCIL MEMBERS ABSENT: Shelley Kaup

PRESENT: City Attorney Jan Shute; City Clerk Robin Unsworth; Acting City Manager Andrew McGregor; City Engineer Mike McDill; Garfield County Manager Ed Green; Garfield County Clerk and Recorder Jean Alberico; and Garfield County Deputy Clerk Marian Clayton.

Presentation - Summary of South Bridge Project Status. (Tom Newland, Newland Project Resources, Inc.)

Tom Newland stated that there have been three joint meetings on this issue. On July 16, the elected officials indicated they had chosen three alternatives to carry forward to the Environmental Assessment process. He presented handouts showing the alignments. They want the elected officials' recommendation on which alternatives to study in the Environmental Assessment, not necessarily the preferred alternative. Today's meeting is for additional public comment.

Public Comment.

Diane Steuben, 0102 County Road 156, stated alternative 5A is opposed by many people. She submitted her petition with 170 signatures plus her letter asking that Alternative 5 be removed from the Environmental Assessment process. She said it is a non-performing place to locate the South Bridge route, it puts a harmful burden on homeowners, is a waste of taxpayers' dollars and does not meet the purpose and needs of the project. She urged the elected representatives to go with the recommended Alternative 10 south of the airport. Wherever the bridge goes, it will hurt someone. The people are angered by the September decision to carry Alternative 5 forward. It also goes into the cemetery and will require the removal of graves. Please drop the old Cardiff route from further study.

Chris Steuben, 0102 County Road 156, said he was at the last meeting. He reminded each official of the alternative they supported. By continuing to support Alternative 5, they negatively impact several neighborhoods. He has 3 generations of family buried at Rosebud cemetery and can see no reason for disturbing graves. His parents dedicated land for the Cardiff Bridge and 156 Road. The Midland Grade Subdivision and Park West are two of the nicest neighborhoods in town. Why is it necessary to destroy these neighborhoods? This selection process is killing the sale of property and affects 80 or more homes. His property is part of this debacle. He had several interested buyers of his property but they could not perform on the contract. His land is best suited for a residential development, not the commercial development that a bridge route would bring. He asked to have Alternative 5 removed from consideration because it is damaging wasteful and ill conceived.

Tim Burns, 0162 County Road 156 said Alternative 5 has been nicknamed the graveyard option. The County Advisory Group and the Project Working Group, the professionals of this program, put a lot of time and effort into this project. It is clear that the City and County are not following the process they commissioned. The Project Working Group (PWG) was asked to make specific recommendations to the City and they chose the other alternatives. He distributed page 10 from the evaluation and screening packet. A primary objective is to minimize residential impact but Alternative 5 identifies 62 residents and businesses that will be impacted compared to six on the other alternatives. He presented a visual representation of all the houses along the old Cardiff route, Park West and Midland and South Grand Avenue. If you figure, there are 85 homes with approximately three individuals per household that equals 246 lives affected by Alternative 5. Another factor that has unintended consequences is that an Environmental Assessment could take up to 5 years and, every For Sale residence has to disclose that.

Commissioner Houpt reminded everyone that City Council and the County Commissioners are present to listen to their concerns, not to be criticized.

David Harris, 4829 County Road 154 said he owns property at 0998 Midland Avenue. Professionals were hired to decide if this alternative is good or bad. He just wants to follow the process identified. The premise is flawed because this is a by-pass and it is needed. The consultants did the job they were asked to do. Regardless of what happens, they should listen to the consultants or change their direction. It is a difficult question and the people impacted will be upset. Eminent domain is for the greater good and if the greater good locates a transportation corridor in someone's back yard, that is how it is. These are tough choices and difficult decisions.

Megan Backoffen, 1040 Park West, wished to address her concerns about government waste, or \$200,000 to investigate a route that is not a realistic option. The purpose of South Bridge is to make a southern access, improve traffic and a fire evacuation route. That will not happen with Option 5. Park West, the Sopris Elementary neighborhood and the Three and Four Mile residents would still have to travel north. This is a waste of money and time on a route that does not meet the project needs. Try to be as conservative as possible and make smart decisions. Unfortunately, someone will be impacted. She and her 65 neighbors have to disclose the possibility of a by-pass through the neighborhood if they try to sell their property. The other options are not a threat to as many people.

Jonathan Goddis, 1071 Park West Drive, said many people commute up valley and an exit from South Glenwood would save 10 minutes each way. Park West is a very walkable community and it would be great not to have to deal with the traffic. Consider the quality of life, the impacts to the trail system, and the difficulty getting to Sopris Elementary. Option 5 is politically motivated and he has not heard a reason why it was included.

Curt Backoffen, 1040 Park West, said he has lived here a short time but noticed the dysfunctional government waste. When you remove options, it is the same as enforcing the remaining options.

Ed Rosenberg, 176 County Road 156, praised the efforts of the two boards of all the time and energy expended on this and all issues. No matter what decisions they make or how much consideration is put into each decision someone will not like it, but the reality is the constituents have elected them do this. He believes both governments need to get past the fact that people will be upset and cease further discussion or consideration of Alternative 5. It is only on the table to satisfy a small group and the only real options are south of town. Evacuating people and traffic south of town is the original project's purpose. City Staff dismissed option 5 and it defies logic to turn evacuating traffic towards town and creates an intersection and bridge less than a mile from an existing intersection and bridge. It will create another intersection on Midland and will not accomplish the original mission to re-direct traffic and tie into Highway 82. It inflicts damage on and burdens the residents living in all neighborhoods along Option 5. This is a formal request to remove Alternative 5 from consideration and support the options near the airport, which creates an original by-pass.

Trent Blizzard, 0167 County Road 156, said there is a lot of community support to remove option 5. Alternative 5 may remove the federal funds from the table, impacts the graveyard, wastes petroleum because it extends the commute, and does not add to the quality of life within the South Glenwood neighborhoods. Property rights and eminent domain should be considered, business, residential and graveyard. Emergency fire egress should have input from the Fire Department. There is already a bridge to Highway 82, Wal-Mart and McDonalds. Please consider the far south end Alternatives 10A and 10b and 8b only.

Paul Echeverria, 0989 County Road 117 said the object is to get to Highway 82 quickly and simply so he would encourage consideration of the options further south. He loves the roundabout and thanked the City for it. Kirsten Landruff, 3413 S. Grand Avenue, said this has been an emotional rollercoaster and Alternative 5 is ridiculous. The cemetery is a place to bury the dead, but it is also like a park and should not have a road running through it. After hearing that the committee would not consider this an option, they finished remodeling their home and put it on the market. No one will buy their house if there is a bridge going through it or behind it. It impacts their lives and business. She has not seen any notices about meetings in the newspaper, just gets notes left on her door. The other alternatives are a better option.

Coach Miller, 0963 County Road 117, said he lives where Midland meets 156 Road and when he moved there, it was where Midland Avenue began. This is progress, but he got concerned when he found this would take his driveway and the south part of the cemetery where he just bought a plot. This is for emergency access. When they had to evacuate during the fire, they closed the 27th Street Bridge and had to go through Dry Park to Carbondale. Route 5 does not go south and the river is wider there than farther south. Prehm Ranch can no longer be used. Holy Cross is building where this bridge would go.

Roger Crabb, 0125 County Road 156, said Alternative 5 is part of a rockfall area. Why put a bridge in a danger area when you have an existing bridge nearby. If kids at Sopris Elementary have to evacuate by going north, there is already a bridge and if the fire comes over the ridge, where do they go? They go to Dry Park Road. Option 5 ruins their neighborhood and puts both exits next to each other. Build the bridge to protect residents and give them a way in and out. Look at options for the safety of the community.

Steve Smith, 63 Airport Road or County Road 116 said he is very concerned about construction impacts of a new highway and South Bridge on his neighborhood. It is time for this process to stop. The proposal is ill conceived, exaggerates its needs and the results are preconceived. After the Coal Seam fire, it was decided that a new bridge must cross the Roaring Fork River at the Airport/Buffalo Valley/Holy Cross location. The presumption was carried forward to federal legislation to fund this single option. Now the federal funding is driving conclusions that a South Bridge must be built. The study has provided information about the negative impacts of building a new bridge and confirms it is not necessary or affordable. None of these alternatives serves the community. They all intrude on, disrupt or destroy neighborhoods, valuable farmland, the airport or open landscape. Alternatives near or south of the airport increase traffic, dirt and hazards on Airport Road with an increase of 2800% or a car every 3 seconds. Study documents rated these alternatives good for ability to minimize neighborhood impacts. A new Cardiff bridge would increase traffic by 9,000 vehicles per day. Studies measured Midland Avenue traffic between 27th and Mount Sopris Drive and found traffic lower with a new southern bridge, but did not calculate regional traffic along a by-pass. There are few benefits. The distance from Sunlight to Valley View Hospital remains the same. What started as an emergency egress has become local access. Emergency routes already exist. Dry Park Road and Prehm Ranch can handle the rare major emergencies. This is about building a fully-fledged valley by-pass down Airport Road. The money for a new bridge, highway and maintenance can be better used for sustainable mobility and a livable community. Please stop this study and discard all the alternatives.

David Rippy, 0204 Alpine Court, up 4 mile Road, said he is not impacted other than he owns land at 3950 Midland Avenue that is under lease. He is probably the least biased person present but of the 40 or 50 people in the community that he has talked to, not one favors Alternative 5. It does not solve any traffic problems and will most likely exacerbate it. Spending any funds on an Environmental Assessment for 5 is too much since it is not an option that people want.

Dr. Bill Zilm, 4 Mile Road, suggested an alternative that would go just past the Bershyni ranch along the south edge of the irrigated field, across the river, come down between 2 small ranches and out to Highway 82. This would solve the problem of cars through Glenwood and would not infringe on the neighborhoods.

Dave Johnson, 3407 S. Grand Avenue said he has heard all the drawbacks about including Alternative 5 in the EA process. He would like to have heard any positives about including Alternative 5. He suggested both bodies should base their decision on minimizing impact, and Alternative 5 impacts the most while benefiting the least. It also does not meet the needs and purpose of the plan's scope. The Citizen's Advisory Group (CAG) recommended to the Project Working Group (PWG) and the whole recommendation then went to the City Council and County Commissioners. The PWG recommended not including Alternative 5 in the EA process. In these economic times, we do not have the luxury of spending a quarter million dollars on an EA, which has no merit. He asked the Commissioners and City Council to eliminate Alternative 5. He thanked them for having this additional meeting.

Discussion on Determining Alternatives for the Environmental Assessment of the South Bridge Project.

Commissioner Martin stated that, during the Coal Seam Fire, they realized there needed to be evacuation routes, but the scope of this study has exceeded the initial idea. They need to have an agreement and make improvements on Prehm Ranch Road, 125 and 108 Roads and the Town of Carbondale regarding evacuations. The process needs to be stopped and look at the scope again. When there is more congestion, houses and problems then the citizens will want to do something. During these economic times, neither the City nor the County has money to build a \$40 million bridge anywhere.

Commissioner Samson said this is secondary to him because he lives in Rifle. This is a by-pass but there is no money. The EA's on the different routes will cost \$30 million to do what needs to be done. Are citizens in that area willing to bond to pay the balance? Garfield County would pay some but he does not think the citizens of Glenwood are willing to do that. Alternative 5 is not right.

Commissioner Houpt said she lives in this area. At the last meeting, she advocated studying it because there was pressure to look at more than one route through the area. Since then she read through all the material and if emergency access and transportation efficiencies are the goal, Alternative 5 is not viable. She also does not want to disturb Rosebud Cemetery. She is disappointed that other alternatives, like the one Mr. Zilm spoke about were not considered. She does not agree with Commissioner Samson that they should close the books on it. The southern area, Four Mile and Three Mile Roads have seen development to a degree that Midland is no longer an adequate route for all the traffic. There are other very substantial developments coming on Four Mile and she cannot contemplate further development unless there is some solution to access. It is a by-pass not a local thoroughfare or an emergency exit. They need to be upfront that it is an alternative route. It would be irresponsible to drop this conversation. Because of the development approvals over the years, they have overbuilt the present infrastructure.

Mayor Christensen said the City had hoped to take action today on this issue. This bridge is not something they see as a City project. It is not a by-pass for the City of Glenwood Springs traffic; it is a by-pass for traffic coming from Four Mile and down-valley people wanting to get to Highway 82. It will not solve traffic problems within Glenwood Springs. He did not vote to move people out of the cemetery, but for a more valid EAS. If they go forward but do not include all the options, someone will say it was an incomplete study, that viable options were left out and the process should start again. If they take it out, there are other issues related to the other options that could be challenged. He personally agrees with Commissioners Martin and Samson. The City does not have the money to build and it is not a viable option in this lifetime. A more realistic use of resources could be improvement of Dry Park and maybe Dr. Zilm's suggestion. Let development pay for those and not the people of Glenwood Springs or Garfield County. There needs to be action from City Council and he sees two options, move forward with funding an EAS with or without Option 5, or consider tabling the entire thing.

Councilor Sturges moved, seconded by Councilor McKinney, to forward the two alternatives for further study but delete Alternative 5.

Councilor McKinney said the notes from the Citizens Advisory Group indicate there was no consensus. There was not one positive thing said about Alternative 5 so there is no reason to pay for it. Make the hard choices. The most they can do is minimize the impacts on any neighborhood and Alternative 5 impacts the most people. Future projections show 26,000 cars per day on Midland. They will need to build something whether it is Dry Park Road improvements or going through Prehm Ranch Road. The Cardiff Bridge option is cheapest in the short term but something would still need to be done for the long term. Take Option 5 off the table. Within those CAG notes, he sees no representation from anyone living near the Cardiff Bridge and it was noted at the second-to-last meeting that there was no one present.

Mayor Christensen asked Tom Newland if they were invited.

Mr. Newland stated that, at the beginning, they were not included but after Option 5 was included, an outreach effort was made.

Councilor Arensman summed up the comments as 'do not put this in my backyard'. No one wants 10,000 to 15,000 cars going past their house and there are significant impacts on all locations. There is either confusion or a deliberate effort to change the objectives from the originally stated purpose. The original congressional earmark stated that, first and foremost, the intent was to evaluate the viability of building an additional crossing over the Roaring Fork River that would improve emergency evacuation and access by emergency vehicles. After Coal Seam, only as a secondary objective, was local traffic added. He is concerned about the integrity of the process if those two priorities are reversed. Alternate 5 is not a good way to move traffic onto Highway 82, but it serves the original purpose and intent to get people out of the Four Mile Corridor and South Glenwood for about \$10 million less. He thinks more information and options including a no-action alternative will allow for the best decision.

Councilor Bershenyi said he is unwilling to support the present motion and suggested suspending this completely. Because part of \$5.2 million has been spent does not mean they are obligated to spend the rest. Should this become a by-pass, the section between 27th and Park West is an incredibly dangerous portion of Midland Avenue. The County should look at optimizing their options by using 125 Road and have an agreement with Prehm Ranch for evacuation. Glenwood Springs is completing a Corridor Optimization Study, which will show alternatives for improving traffic and whether there is an alternate route around town. He would like this process suspended and stop wasting money.

Councilor Sturges said he hates earmarks and wasting money, but he cannot change the earmark, the beginning of this study or the money already spent. The study will not deliver money to design and construct a bridge across the Roaring Fork River. The County and City owe it to their constituents to keep moving on this study but without Alternative 5. This is an opportunity for the City, County and CDOT to examine how to get people out of Four Mile and across the Roaring Fork River. This will have to be at the south end of town on county or private property. The problem cannot be solved by stopping this study. It is more important to continue looking for a way to reach Highway 82, not Grand Avenue. Stopping this study is not a good sign that the City, County and CDOT are prepared to find a solution. They need to demonstrate the willingness to look for long-term solutions in this area that considers safety, neighborhoods, and what goes up Four Mile and south of the airport and how to deal with the people who chose to live there. He wants to continue without Alternative 5.

Councilor Steckler said it was not his intent to include Alternative 5 other than to have a third party look at it and say it is not a viable opportunity. He apologized for the unforeseen impacts on property values, etc. No one commented on those concerns when the decision was made. He does not support Alternative 5 and does not think it serves any purpose. No one in Rosebud cemetery will be dug up and moved. He thinks a by-pass option south of the airport should be pursued based on foreseeable growth.

Councilor Sturges said including Alternative 5 looks like a prejudged decision and someone may be able to successfully argue that this was an inadequate option. Anyone can sue in federal court.

Mayor Christensen said he cannot support this motion and that is the main reason. The reality is that this bridge will not be built. It is not the responsibility of Glenwood Springs' residents to fund Four Mile development and this is a by-pass for Four Mile developments. If more public money is going to be spent, make sure there is a valid study that cannot be challenged in federal court. He advocated stopping everything. No one has the money. If they are truly looking at safety, then look at the things that can be done for less money. Dr. Zilm's alternative may be the best way. He cannot support the motion because he thinks it is likely to be challenged and won. If the County decides not to spend more money, will the City have to pay 100% of a study that will be challenged or not affordable and never built? There is a motion on the table to continue funding an EAS without Option 5.

A roll call vote was taken. The results were:

Ayes: Steckler, McKinney, Sturges

Nays: Bershenyi, Christensen, Arensman

The motion failed.

New Motion

Commissioner Martin moved, seconded by Commissioner Samson, to cease the study, re-establish the priorities, and work with the City to find alternatives other than federal option.

Commissioner Hout said if we stop now, we lose any opportunities for transportation money. By shelving this, we are putting ourselves in a position of not qualifying for transportation funds that may become available. She does not support the motion because it is irresponsible to spend money identifying potential options and then not follow

through. She does not care if the earmark is used, but they should be realistic about the transportation needs and they may find, after the EA process that these are not realistic alternatives. If it is shelved, a lot of money was wasted and there is no opportunity to bring in transportation money or to get private business involved. At the first meeting, it did not look like an emergency route but an alternative route. It is not just a Four Mile Road issue, but a Glenwood issue as well. The road from Park West to 27th is unsafe and where anything can happen. She would agree with a motion to continue with the EA process on two alternatives and continue to look at other options. Commissioner Martin said all those items are outside the scope of the earmark, which is too narrow and shallow. It has nothing to do with the safety of present roads or development. It deals with an emergency escape route. We have not lost time or wasted money. We have gained knowledge. We just do not qualify under this earmark and recognize it as a local issue involving a non-system, local bridge. Use this information to solve transportation within the city and county without involving the federal government. Return the \$3.5 million that is remaining in the earmark since we would not qualify for \$30 or \$40 million needed to build.
In favor: Martin – aye Samson – aye Opposed: Houpt - aye

Commissioner Martin said the County will recommend to the City that the study be stopped and that local alternatives be sought for regional transportation issues around and through the City and for emergency access/egress.

Mayor Christensen said the earmark is designated for the City of Glenwood Springs so it is up to the City to make the decision.

Commissioner Martin reiterated it was just a recommendation. It builds on the success of the intersection at 27th and Grand and the roundabout. The City and County can continue to work together to find solutions.

Mayor Christensen said there would be no further action on an Environmental Assessment Study to build a bridge. Councilor Arensman suggested considering an alternative motion. He agreed with Commissioner Houpt that it is wasteful and irresponsible to squander the \$1.7 million already spent without producing some result. Rather than returning the money, we should talk to our congressional representatives to redirect the remaining funds to study a real by-pass.

Mayor Christensen said we do not need to take formal action to meet with the congressional delegation to reshape this earmark into something that could actually occur and have benefit. At this point, we voted no on moving forward with an EAS. There was no formal action at the last combined meeting as it was a Work Session.

Commissioner Martin asked the City to consider the County’s recommendation because the County is doing their master plan. If we can get out of the federal earmark and look at the issues, we need to consider utilizing the information that the consultants have put together and then put money aside for the identified projects that is in harmony with the joint goals.

Mayor Christensen said he would like to retain the opportunity to see if the money can be used for a practical solution that can really be built.

Commissioner Martin said he has no objection to that, but thinks the way things are going, nothing positive will happen.

ADJOURNMENT

Attest:

Chairman of the Board

NOVEMBER 5, 2009 PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The BUDGET hearings with the Board of County Commissioners began at 1:30 P.M. on Thursday, November 5, 2009 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson were present. Also present were County Manager Ed Green, County Attorney Don DeFord and Jean Alberico Clerk & Recorder.

Lisa Dawson and Theresa Wageman presented a power point on the Garfield County Proposed Budget 2010. The Board reviewed the budget and complimented staff on the presentation.

Adjournment

Attest:

Chairman of the Board

NOVEMBER 9, 2009 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 9, 2009 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson were present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn 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

DISCUSSION REGARDING CONTRACT REVISIONS RELATED TO CARBONDALE ELEMENTARY SCHOOL DISTRICT AFFORDABLE HOUSING

Ed explained the Board passed on this a week or so ago and he had brought up the question on how they would deal with the float the next 3 or 4 years and that participated some other questions and concerns related to the

administration.. Don wants to clarify and Geneva and Shannon are here today to identify issues and schedule a work session in December.

Don said that he and Ed had a discussion after talking with Geneva last week. After the meeting and the Board directed we go forward with the affordable housing project. Don contacted Geneva and the County would need to contract through the Housing Authority because of State law. In the past, when we have done these agreements, there are certain provisions that apparently have issues. Ed had an issue concerning the timing of the payments to the Housing Authority. Don mentioned during the discussion, at least one experience where we would make payment of County funds on a per unit basis at the time of issuance of certificates of occupancy. Don thinks the school district heard that and understands that but he wanted to make sure that was also the position of the Board. Because we had another form of agreement when we called the RE2 School District in Rifle and others, funds were needed up front to pay for proposed infrastructure and they had to work out a different form of agreement in that event. He wanted to make sure they were all on the same page in terms of timing of paying. Don said he did not hear a discussion on whose benefit is the housing being developed. Who are the partners, who gets to use the facility, what are the limitations the contract will provide to the Housing Authority on who gets to either acquire, rent, or lease the housing once it is available. Who is going to administer the affordable housing program? Is it going to be the housing authority, as long-term administrator, or is it going to be someone else. It is not clear to Don who all the partners are on this. He knows there was some discussion of Carbondale, but there is also a private entity that he believes is involved in some sense. Don does not know what the role of that private entity will be and he does not know if there is anticipation for bonding. Those are some of the issues he posed to Geneva. The County's agreement with her has to address those. Even though he would anticipate a subsequent agreement between the housing authority and the school district that would reflect the County's requirements. He thinks everyone needs to know a little bit more about what shape you want this project to take.

Shannon said, today she wants to hear what the issues are so they can go back and talk to their staff about them. Some of them may require amendments to the PUD agreement they currently have with Carbondale, which they are in the process of amending anyway. That will start before the trustees, probably sometime in December, so the timing of this is good so they can get any other issues introduced. Probably the biggest issue is the priority ranking that has to be reflected in the PUD with Carbondale. That is her biggest concern in terms of making sure what that priority ranking is. Right now, if she recalls correctly, the way it is reflected in the agreement is Roaring Fork School District employees, town employees and then third any other Roaring Fork School District partners. That again is up for negotiation but she thinks the way Chuck, the developer, talked about it last Monday is because Garfield County is agreeing to put money into the project that there actually would be units reserved on a priority-ranking basis as opposed to just Roaring Fork School District employees. There would be based on the pro-rata contributions of each entity, units set aside that would be reserved for Garfield County employees first; but then you would also be in the priority ranking for all open units after that. Does that make sense?

Commissioner Houpt asked how we get to the point where we agree on the number of units.

Shannon said she does not think it will be hard basically, what they are saying is out of the subsidy, this is her understanding, it would be based, if the whole project requires an \$8 million dollar subsidy and that includes the land, the unit priority would be based on each entities pro-rata contribution to that subsidy.

Ed stated we get an 8th of 132 and Shannon stated 120.

Don asked would the affordable housing be available only for employees of partners.

Shannon said no; their concern about that was, they are building many units and they were concerned about the possibility that they might get all the way through the priority partners and not fill all the units. They did not want to have a stipulation that would only be available to the partners. The PUD amendment would require that they be made available to the partners for a certain period first, and then if they do not go to the district or any of the partners; then they would be made available to the public. The way the PUD amendment requires; once we go through that list of priorities, and they are made available to the public. The PUD agreement right now requires that those individuals would be required to meet the Carbondale affordable housing guidelines in terms of income levels. That would only be once they get through the priorities.

Don asked who is going to be the managing partners for the project. Who would the housing authority contract to make sure those stipulations are met?

Shannon thinks they need some clarification from their attorney. Initially she was thinking Roaring Fork School District would be obviously the one but they have talked about forming a non-profit corporation underneath the school district. It has something to do with the ability to finance and how that whole piece is going to work; the land may actually need to be transferred into almost a housing authority of the district. She said she could not answer that one yet.

Commissioner Houpt asked Shannon if she talked at all with Geneva.

Shannon said they have talked and she thinks they definitely want Garfield County Housing Authority to help with the administration with this whole project as far as the deed restrictions and all of that. Shannon thinks they need to get their attorney and Don in the room to figure out how that structure works for everyone. They are flexible on that.

Ed said that was sort of the conclusion they came to on Friday; we need to get together and then bring it to Shannon in December.

Geneva said she has many questions; but she suspects they can be answered as they go through this. One is; what affordable housing guidelines come into play. She does not think it will be the existing county's guidelines of record. She thinks the income levels are higher and the housing maybe outside of that. Those affordable housing guidelines that will be over this development will have to be written by someone and enforced by someone. Which deed restriction will be used? There are a couple different generations floating around out there. The housing authority wants to be a good steward of the money and so the decision of when the money is disbursed has to be very clear. She does not mind following guidelines as long as they are clear and she can say you cannot have it until this; the housing authority can do that. As far as a partnership with the housing authority, how involved we are, they have not had those conversations. She has met with Shannon and the team on several occasions and a lot of it is just preliminary. How do we get it off the ground, how do we get funding for it and those types of things. She stated she does have an answer for the float; the Garfield County Housing Authority has been able to acquire some land from a non-profit organization in the Town of Silt. It is six lots that they have been working on for about 5 years to obtain these. They have an application in front of the Town of Silt to see how many units they can build. They will

sell two of the lots to habitat of humanity; they will build four units on two lots. That gives them four lots and the Town of Silt is in negotiation now with them in their application to see if they can build 10 to 12 units. This is the first time the housing authority has thrown their hat in the arena of development. Their board members are doing in-kind donations to get it done. They hope to make the units very affordable. If the interest was drawn off the money, she could report to the BOCC how much that interest was what we would propose to do with it to use in that development and get your agreement on it. We could use it to help develop those if that is not satisfactory. She does not know how much money this will earn, or how many years. It is just another way to use one allocation of money to help a bigger development in the Carbondale area.

Don stated those are some of the issues posed; he did not know if the Board wanted to discuss today or wait until after the meeting Ed has discussed and reset.

Ed proposed they schedule this for the December 8 work session as one of the topics.

Chairman Martin said he did not know if anyone else received e-mails calls, or personal contact from the citizens, even teachers who are not in favor of this project going forward. Chairman Martin still feels it is wrong.

Commissioner Samson - Who are the partners Shannon refers to when you are saying partners?

Shannon said that at this point Garfield County is. They are trying to setup a meeting with Valley View Hospital. They have talked to RFTA; they have some property on Hwy. 133 in Carbondale they have considered building some housing on. It is possible they will work out a swap with them so they are putting housing more in this neighborhood area. Their property on 133 is in a light industrial area; but again discussions with them have been very preliminary, and they have not met with Valley View Hospital yet. Whether or not they will get on board financially is yet to be seen. Garfield County may end up being the only other partner. The Town of Carbondale, as they work through the PUD agreement, and the final zoning she does not know where they will end up on a number of issues also.

Don - If there was a private developer who is a partner.

Shannon said; Harry Rose is a non-profit developer and they are just the development company they hired to help them through the process.

Don asked would they have any type of ownership interest in the project.

Shannon stated no.

Commissioner Houpt thinks it makes sense to bring this back probably a special meeting so Don can be there.

Ed will find a date and get back to Shannon.

DISCUSSION OF COMMISSIONERS MEETING MOVING THROUGHOUT THE COUNTY – MIKE SAMSON

Commissioner Samson wanted to bring forward either a motion or an action on the Boards part as to what they are going to do; he does not want this to die. He has had many people wanting some meetings in the west and after exploring all the possibilities it appears that the Human Services building would be the best. Would it be best to have a third meeting since Human Services is big on the agenda.

Commissioner Houpt asked if they could do this on trial basis.

Commissioner Samson said that was what he was going to suggest; why not have the third meeting in January at the Human Services building; see how it goes; see if any snags. If a place can be found in Carbondale; we could test drive that; but let's start with Rifle and see what happens.

Jean said they could use the town hall in Carbondale; she thinks the only problem is they have court every other Monday and you would have to be out of there by 4:00 p.m.

Commissioner Samson said the one concern he has if we did have an issue that was bringing in quite a bit of public interest. How many people can sit in the room in Rifle?

Jean stated about 60 people, maybe 50.

Commissioner Samson asked if that required a resolution.

Don said before you go forward; no, he does not believe it does. We do have a resolution that sets meetings here on the first three Mondays and we would need to change. We will need to look at it when it comes up. He is a little concerned about the land use issues; he asked Fred if there was anything set in January.

Fred thinks they do have some things set and he will check.

Don explained that is one problem with having a flexible schedule. Fred's public hearings and some other public hearings are set sometimes a month or two out and set for a specific place.

Commissioner Samson said baring that; we can go forward.

Fred does not have anything set for January 3.

Commissioner Samson said for the future, keep that third Monday open.

Fred said they will do their best and he will amend the in house agenda.

Ed said they wanted to schedule the discussion items for December 8. Katherine provided a document, which identified your options on pay increases that may be provided to employees. He thought it would be a good time for her to walk the Board through that on the 8th. Fred had another item and Ed thought they could handle both on the 8th.

Fred said his is land use code related. He said instead of waiting until the afternoon maybe they could have in the a.m.

Commissioner Samson asked if they were planning to have meetings on the 7th, 14th and the 21st of December. Do we need a resolution for January meeting?

Chairman Martin said to go ahead and specify.

Don said to specify and if it does require a resolution, Don will get it to you.

HUMAN SERVICES COMMISSION REQUEST TO FUND MOUNTAIN VALLEY DEVELOPMENT FOR 2010 IN THE AMOUNT OF \$45,500.00

Ed said there was a special request for this; the Human Services Grant Committee met and approved a total of \$45,500.00 to be applied to Mountain Valley out of existing reserves. That was subsequently approached with the Human Service Commission and approved by them. Do you want to approve that?

Commissioner Samson asked Ed to restate.

Ed explained that Mountain Valley Development was unable to participate in the original cycle, which we awarded \$504,000.00, after the resolution of Amendment 54. They submitted a request for funding and the grant committee rules on that and recommended \$45,500.00 which was in direct proportion of what everyone else received. That

went to the commission and that amount was approved to be taken out of existing reserves; which are \$109,000.00. That would leave reserves in the amount of \$63,500.00 for any emergencies next year.
Commissioner Houpt – I make a motion we approve this grant to Mountain Valley Development.
Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

UPDATE ON 4-H YOUTH PROGRAMS – KIM SHRIVER

Kim passed out documentation. She is working with this in the Parachute schools. They had the mock bus accident, which was a huge success. They had national 4H week from the 4th to the 10th. To end the week they had a homecoming parade, for Rifle and Silt with a float. They tried to reach a different audience. They also did work on bi-fuels blast a program with the local schools to science and technology into the schools. Right now, they are working on science and technology in Parachute. They take a basic diaper, show kids they were in these at one time. The cool thing about this diaper is; there are little particles in the diaper; they absorb the waste in the diaper. When they shake them out, it looks like salt sugar crystals, which are made out of corn. This is made from an agricultural product; open bag and add water, wait 30 seconds. Another lesson is we add it to soil; it makes the soil expand and holds water in the soil. It is a good way for plant life to survive for a few more days. They incorporated that into their 4H lesson while talking about vegetable gardens and crops. It turns into a little gel and she showed all the Commissioners. She attached a newsletter for October and November for the Commissioners.

DALE HANCOCK – PLANNED PUBLIC COMMENT – HOTEL CO – QUACK

Dale stated this would be held November 20 from 10:00 a.m. to 12:00 p.m. This is regarding their discussion on a centralized call center as well as the discussion on the administration of the DHS program.

SUTEY LAND EXCHANGE – TRESI HOUP

Commissioner Houpt stated as they recall; they had a request from Pitkin County to meet with the Board when the whole process of discussion began. They met for a day with the commission and with various stakeholders to understand the proposal, which was a proposal Pitkin County ultimately did not support. They have come up with another proposal and she understands Pitkin County is meeting on this tomorrow but not in a public meeting. She would like the Board to send a letter, or an e-mail today, requesting Pitkin County postpone any decisions until Garfield County has an opportunity to meet again in a public meeting so we can hear the new proposal, discuss it behind the two commissions, and hear from other stakeholders and citizens. She wanted to bring to the board to see if they support the request.

Commissioner Samson asked, what is Pitkin's objection?

Commissioner Houpt said she has not heard yet. She knows that the open space commission recommended them not to support this. That is why she wants them all to have a discussion.

Chairman Martin said it is a philosophical difference; the land needs to remain as public lands, an exchange would make it private and the exchange of public lands would come to Garfield County. They are still working out the business plan.

Commissioner Houpt said in many of the land exchanges they have done in the past; Pitkin County has been the recipient of more acreage. She thinks it is fair to have this conversation. I make a motion that we email this letter to the Pitkin County Commissioners requesting a meeting with them prior to them taking a formal position on the most current land exchange proposal.

Commissioner Samson – Second.

Chairman Martin said to remember that Pitkin County doesn't control the issue; it is an issue that is between the federal government and deciding if they wish to work with a private land owner or not.

Commissioner Houpt said it certainly makes a difference when the counties are in support of this type of exchange.

Chairman Martin - Sometimes they listen to local government.

In favor: Houpt – aye Martin – aye Samson – aye

COUNTY SHERIFF UPDATE – LOU VALLARIO

Lou stated in regards to having your meetings in Rifle; if the Human Services building does not work out, they have a room that holds 100 people. It is not wired for TV.

Ed said that maybe we should consider wiring the new building now.

Lou explained that yesterday they had an event in the Jail, which started with some electrical issues; something went wrong with the heating and cooling system causing some outages and doors not to lock or unlock. They had to relocate some of their quests in the max units to the new transition unit. A couple of them were upset and decided to flush things down the toilet which created a flood; it has all been taken care of. They did identify who the person was and it will be handled appropriately. He talked about the shooting in Vail; they had simultaneous events going on in Eagle County. They had a barricaded suspect in Avon and Eagle County's swat team requested assistance of Garfield County's all hazards team; particularly the bearcat so they could get close enough to the home to provide communication equipment to talk and negotiate with him. In Avon they did managed to get the gentlemen out successfully. Wanted to remind everyone that the all hazard response team, although located in Garfield County, it is actually a regional resource, northwest region. Just one example of the uses that group has. In the budget meeting, he and Don are working on the issue of Search and Rescue. As he said, whatever occurred and however, it occurred is a good thing. It brought up some other issues that they noticed were not in place that probably should be and more toward the trend that other counties and sheriff's units are doing. They are in the process of working on agreement, or a contract, to make sure those folks get what they need and the county is covered and protected. It will probably take a week or two before he and Don have any movement on that. At this point things are status quo; no pending heated issues. Search and Rescue is responding to missions; fortunately they have had very few. Openings; they have six and they are hoping to fill by the end of the year. A couple of their deputies are in the academies now; they will graduate the end of November or early December.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don said in regard to the items listed for public discussion and action; 3A and B are personnel matters that you will receive information in executive session; items c, d, e, and f, he needs to provide an update on contract negotiations with the City of Rifle and there may be public action on those; discuss a code enforcement litigation with H Lazy F, K&L, Rocky Mountain Pot Shots; the River District has asked to present legal advice and an update on negotiations for remediation and agreements within the water board, they will be here about 9:45; updates on land acquisitions on County Road 306; briefly discuss Continental Rifle and Barrett Land.

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

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

Action Taken:

CONSIDERATION/APPROVAL OF 2010 CONTRACT FOR COUNTY ATTORNEY

Don stated that every year we have to consider contracts for the County Attorney and the County Manager. He has submitted a form of agreement to the Board and would like you to consider and approve.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION/APPROVAL OF 2010 CONTRACT FOR COUNTY MANAGER

Don stated this is the same thing and he has submitted a form of contract.

Commissioner Houpt – I make a motion we approve the contract with the County Manager with revisions discussed; she has those written down, it includes language within your contract which deletes one sentence and adds another.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION/APPROVAL OF AIRPORT: “LOOP” WATER SYSTEM IGA WITH THE CITY OF RIFLE

Don stated Carolyn is still in negotiation on the terms of the agreements. Carolyn would ask that these items be set for consideration for next week - continued.

CONSIDERATION/APPROVAL OF AIRPORT: RUNWAY RE-ALIGNMENT IGA WITH THE CITY OF RIFLE

Same as above - continued.

CONSIDERATION/APPROVAL OF SHERIFF’S OFFICE ANNEX: LINE EXTENSION AGREEMENT WITH THE CITY OF RIFLE

Don stated they have received a new form of agreement that Don is recommending your approval from Rifle. It does set a cap on the amount of fees that would be paid to retain expert assistance in the matter. It does remove some of the extensive review provisions in an acceptable manner. Concerning the form submitted by the Rifle City Attorney, the only change Don is recommending is that the actual easement width should be limited to 20 feet rather than 25 for that agreement. He would like that approved with that change.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION/APPROVAL OF DEPARTMENT OF HUMAN SERVICES ADDITION: SITE PLAN IMPROVEMENTS AGREEMENT WITH THE CITY OF RIFLE

Don stated he would like the Board to authorize the Chair to sign that agreement.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Safeway Store:

Don explained two items not on the agenda; late last week they received a proposed stipulation on a BAA case involving the Safeway store in Glenwood Springs; the assessor has agreed to reduce the valuation of that property by approximately \$250,000.00 of nearly \$4 million and Don needs to sign the agreement. He would like to do so with authorization from the Board acting as the Board of Equalization. Commissioner Houpt – So moved.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Code Enforcement – K&L:

Don stated they have a code enforcement case involving K&L, which is involved in mediation. Don would like Chris Chappelle, acting on behalf of the county to be authorized to engage in that matter within the limitations set forth in executive session. Those limitations must remain confidential as in settlement discussion.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Changes to Prior Warrant List
- d. Authorize the Chairman to Sign the Resolution of Approval for a Land Use Change Permit for a Professional Office for the Conduct of Business or Profession for OXY USA WTP LP – Fred Jarman
- e. Resolution Approving 2009 Policies and Procedures Manual per September 21, 2009 BOCC Motion – Carolyn Dahlgren
- f. IGA Between Board of County Commissioners and the Town of Carbondale for Improvements to the Town of Carbondale’s Third Street Center Presented for the Chair to Sign as Previously Authorized – Carolyn Dahlgren

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a – f; carried.

ABATEMENT FOR TOMI SUE AND ROBERT HIGGINS – ABATEMENT NO. 10-017, SCHEDULE NO. R006954 – LISA WARDER

Lisa explained that notice was achieved by mail to the petitioner.

Chairman Martin swore in the speakers.

Lisa explained this property was incorrectly valued in the 2007 reappraisal. During the review of the 2009 protest of the property by the petitioner, the commercial appraiser was supplied with both incoming sales information that was also applicable to the 2007 reappraisal. It was determined that abatement was due the petitioner for tax year 2007 and 2008 based on the information. For 2007, the abatement amount is \$3,700.60 and for 2008, the abatement amount is \$3,755.28

Commissioner Samson – I move we grant the abatement for Tomi Sue and Robert Higgins, abatement number 10-017, schedule number R006954 for the tax year 2007; \$3,700.60 and for the tax year of 2008; \$3,755.28.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

EXPLORING COLLABORATION IN THE MIDDLE COLORADO RIVER WATERSHED – CHRIS TREESE

Clark Anderson and Chris Treese were present.

Chris explained they wanted to update the Board on some activities that are occurring and have been occurring for a couple months now on the formation of Citizen's Watershed Group in Garfield County. It is focused principally on the mainstream of the Colorado River and its tributaries from Eagle County, Garfield County and Lyons west to the east end of DeBeque Canyon, pretty much the entire county and the watershed that is comprised of that area. They have just begun this process; it has been in formation and in discussion for a couple of years. This is an effort in recognition of the fact that we have watershed groups throughout the Colorado River district. When just about every river and stream; but not on this middle Colorado River and as you had discussions this morning, many times we in Garfield County and the watershed comprising this area is not the focus of intense activity and therefore is not the focus of discussion when the Colorado River is on the table. One way to address this; a citizens group to decide what its priorities are and we see its opportunities as being everything from an educational group, to an advocacy group, to an on the ground rehabilitation group, to perhaps a working group even for the Garfield County comprehensive plan. They have our public health officer and your long-range planner involved in our process and on our lists. They just wanted to let the Board know of their activities and see if you have any questions or concerns you would like them to consider as they begin this formative process.

Clark said that entering into this effort, they have had one meeting and he calls it a scoping meeting. The group that was there was as broad a group as they could pull together and say let's get some people from different agencies and different interests in the room, and start saying what would this be like, is there a need for this, is this an opportunity? If they were able to create a collaborative watershed organization group, partnership, whatever you would like to call it; what might the opportunities for collaboration be. They wanted to check in with the Board and let them know this is as far as it has come.

Chris said he had one clarification; he described the geography that does not include the Roar Fork Drainage. It has its own very active watershed group.

Commissioner Houpt said this was wonderful and she is very excited they are doing this.

Commissioner Samson asked what kind of interest they are getting.

Commissioner Houpt pointed out they were given a list.

Clark thinks from the first meeting they had some representation from the municipalities but a couple were missing. Not because they were not invited, scheduling conflicts. The same was to be said of the Resource Conversation district. The group identified, even though they tried to get everyone in the room, there is a longer list of you know who else you need to get. Now we are saying we recognize that and for the time being they want to make sure those people are aware of what's going on; but also not to make them feel like they need to drag them through the early phases. They want to make sure people are aware of what is happening without making them feel they have to attend meetings.

Chairman Martin asked when the next meeting was and Chris stated this Friday the 13th in Rifle, School Administration building

Clark said they could pass along an agenda.

SPECIAL EVENTS LIQUOR PERMIT FOR WINDWALKERS EQUINE ASSISTED LEARNING AND THERAPY CENTER FOR THEIR 5TH ANNUAL FUNDRAISING EVENT TO BE HELD NOVEMBER 28TH – APPLICANT; MOLLY ROBISON – JEAN ALBERICO

Jean stated we posted on County Road 103, which is where they will hold the event. Molly did offer to do the posting but we took care of it. The only posting requirement is that we post prior to the hearing.

Chairman Martin asked if any challenges and swore in the speakers.

Jean stated she received a complete application, it was posted, and this is the 5th year the event has been held. Last year it was in Carbondale.

Molly explained this was their annual fund raising event held. It is in the arena at Cedar Ridge Ranch. They will have cocktails, appetizers, silent auction, dinner and entertainment.

Commissioner Houpt – I move we close public hearing. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt – I make a motion we approve the application for a special events permit for WindWalkers Equine Assisted Learning and Therapy Center for the event that will take place Saturday, November 28.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

DISCUSSION AND DECISION REGARDING THE FRAC ACT RESOLUTION – MIKE SAMSON

Commissioner Houpt asked if Commissioner Samson had a copy of the resolution; she received the Club 20 resolution.

Commissioner Samson wanted to say this is probably the contested article of the day and he has received many phone calls, emails, and there are very emotional arguments. For the record, once again it appears we have a split county. The vast majority of the people in the Glenwood Carbondale area that contacted him were urging support for the FRAC Act; and the vast majority of the people in the western part of the county were against the FRAC Act. There were obviously many people that did not conform to that but he thought it was safe to say that is how it went. He has thought about this and thinks the best for our county and his feelings on this, and that does not mean that Chairman Martin and Commissioner Houpt will agree and perhaps you will not. He used as his model the Club 20 resolution and he would like to read his resolution at this time, and make changes on what would be appropriate for them to pass. This is entitled hydraulic fracturing supporting exemption from the Safe Drinking Water Act. Whereas, the practice of hydraulic fracturing is an important technology for the efficient development of natural gas reserves in much of western Colorado tight sands and southern Colorado's cold bed geology and is necessary to make unconventional wells economically viable, and whereas thirteen (13) of the twenty-two (22) counties in Club 20 have natural gas production and the combined production of those thirteen (13) counties accounted for 75% of Colorado's natural gas production in 2008, producing enough natural gas to heat 12 million homes, and whereas it is important to appropriately regulate the practice of hydraulic fracturing so as to ensure protection of groundwater supplies and whereas Congress has assigned to the individual states the responsibility for regulating the practice of hydraulic fracturing, and the states have subsequently adopted comprehensive laws and regulations to protect the nations drinking water sources, and whereas the State of Colorado effectively regulates oil and gas exploration and production through the Colorado Oil and Gas Conservation Commission (COGCC). He stated this is where he will have to make a change because he thinks it would be hypocritical for him to leave the word effectively in there after what he said last week of his criticisms as well as grave concerns of the COGCC not effectively regulating. The COGCC recently approved stricter oil and gas regulations, which include regulations that require natural gas

operators to disclose the chemicals used during the drilling, completion and hydraulic fracturing processes, and whereas the Safe Drinking Water Act (SDWA) was never intended to grant the Federal Government authority to regulate oil and gas drilling and production operations and therefore Congress specifically exempted the practice of hydraulic fracturing from the scope of the SDWA, and whereas hydraulic fracturing has been used more than 1 million times over the last 60 years without a single documented case of drinking water contamination. He thinks they will strike the entire next paragraph. (WHEREAS the U.S. EPA, under both the Clinton and Bush Administrations, has determined that hydraulic fracturing does not pose a threat to groundwater, and the current Energy Czar and past EPA Administrator stated in 1995 “There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or endangerment of underground sources of drinking water (USDW). Repeated testing, conducted between May 1989 and March 1993 ... failed to show any chemicals that would indicate the presence of fracturing fluids) Continuing on: Whereas proposals to remove the current exemption for hydraulic fracturing from the Safe Water Drinking Act will result in one additional Federal oversight, which will, in turn, result in increased cost to the industry (which will be passed along to the consumers in the form of increased cost of energy), and two, reduced competitiveness of the domestic natural gas industry, which will encourage an increasing reliance on foreign energy supplies. Therefore be it resolved that, he substituted Garfield County Board of County Commissioners’ supports maintaining the ability of individual states to regulate the practice of hydraulic fracturing for the development of oil and gas resources and similarly supports the current exemption for hydraulic fracturing under the Safe Drinking Water Act. This was adopted by Club 20 on September 11, 2009 and ours would be today if passed. He wanted to make a couple of comments; he knows there are many people in the audience that think the Federal Government needs to be involved. His experience has been, and he has some sore concerns with the present Federal Administration, getting more and more involved in our lives. He dislikes very much, as a side note to give you an example; the health care issue now he thinks is a disaster for our nation. We will have unprecedented consequences of a negative impact upon our nation for decades to come if it continues to process its way through Congress and he hopes it does not. Number two; he believes the COGCC has been very lax in taking care of this problem and that here again; as he has said, we as a county do not issue the permits, we do not make the rules, regulations, guidelines, laws, and we do not have the power to enforce those. He knows there are certain things they we will be able to do at Battlement Mesa because of the special use permit. When that comes up we will answer and we will address those concerns. He wishes that the COGCC and Colorado State Government would do what is necessary and continue to do what is necessary; because he thinks they have put a step forward to do what is necessary. He hopes this Board could unanimously pass this resolution and send a clear signal to our State Government to take care of business.

Commissioner Houpt asked if they were going to hear from the audience before they wanted her to speak. She is going to speak to every single paragraph in the resolution.

Chairman Martin stated Commissioner Samson has offered a resolution to this Board to consider; if this Board feels they need more information, if not we can have a motion; either passes or defeated...

Commissioner Samson did not think it would be judicious for us to deny people have their say.

Commissioner Houpt said since Commissioner Samson just had a very long talk; she wanted to give her comments and then the audience can speak and then we can wrap up. She asked everyone to bear with her; this will take a while because she is going to respond to every single one of these paragraphs. She would first like to talk a little about the history of this conversation in Garfield County. It was before Commissioner Samson was elected so it is just for some background information. Immediately after she was elected, people from western Garfield County because that is where the activity was at the time approached her about their concerns of what chemicals were being used in the fracing process. They asked her to take a resolution to NAPA to urge Congress to disallow toxic chemical use in the fracing process. The seated County Commissioners at that time disagreed with that resolution and would not allow her to use County money to attend the annual meeting to present this resolution for folks in Garfield County; so, she paid her own way...

Chairman Martin stated that is a matter of interpretation.

Commissioner Houpt continued, she paid her way to the annual meeting and presented the resolution on behalf of the people of Garfield County who are living in the middle of a great deal of energy development in Garfield County. These were not people from Glenwood Springs, Carbondale; these were people from Rifle, Silt, Parachute, and Battlement Mesa. When she decided to run for County Commissioner, because there was not a great deal of development going on, she was just learning about it. Everyone who approached her, and there were hundreds of people and they were from Commissioner Samson’s district. She heard from county administration this morning that they received 1,000’s of calls from people who support the FRAC Act. These are people from across the county; they are not people who are just from Glenwood and Carbondale. Staff is reporting they are people from Garfield County from Parachute to Carbondale who are concerned about the exemption to the Safe Drinking Water Act. She went through the resolution. In the first paragraph where you talk about hydraulic fracturing is an important technology for the efficient development of gas reserves; she agrees with. It is the efficient way of extracting this resource. This is a very important resource; natural gas is 23% less carbon dioxide per unit of energy than oil. She does not think anyone in this room is arguing that it is a very important natural resource. The next paragraph is factual that there are 13 of the 22, counties of the Club 20 region, who are not saying natural production accounted for approximately 75% of production in 2008. The next paragraph is where it is important to regulate the practices of hydraulic fracturing to insure the protection of ground water supplies. Her question here is; if this is a true statement, and she is assuming the industry helped draft this because it is Club 20, if this is a true statement and if it is important, and that fracing offers no concerns of contamination, what is the concern of being regulated under the Safe Drinking Water Act. She has never received a response to that question. She is not sure she understands why; 30 years after the Safe Drinking Water Act was passed an exemption was created. She does not understand why that happened.

Chairman Martin stated the Federal Government takes away the State’s ability to regulate oil and gas based upon the water and the consumption etc. That is why the State of Colorado agreed with the EPA to take on that responsibility to create local rules and regulations and the enforcement thereof removing the federal government from coming in and doing that they offered that to the State as a resolution to all 50 states. Colorado took it.

Commissioner Houpt thinks that Chairman Martin is confusing regulations. She jumped down to the sixth paragraph; it says, whereas the Safe Drinking Water Act was never intended to grant to the Federal Government authority to regulate oil and gas drilling and production operations, and therefore Congress specifically exempting

practice of hydraulic fracturing from the scope of the Safe Drinking Water Act. It is totally off point; it is true that the Safe Drinking Water Act was created to regulate activities that impact water. They do not regulate the individual industries, so of course they do not regulate oil and gas development. They do not regulate the other industries that impact, or potentially impact water quality. What they do, they impact the activities that can contribute to the concerns about keeping drinking water safe. Those really are two different discussions about regulating. The Safe Drinking Water Act where it says was never intended to grant authority on this; it is true it is not what we channel regulations for oil and gas through. It is not true that the oil and gas industry was not pulled into the regulations that protect drinking water at the federal level until 30 years later in 2005 when the exemption was created.

Chairman Martin said it goes hand and hand with other proposed legislation; changing the definition of waters of the US, which also as it gets the 1799 first resolution that was passed giving the States the authority to regulate water within their own states. It also ties in if you take all water period, under the federal jurisdiction with the definitional change and the water that comes under the clean water act; which is also regulating oil and gas production and discharge produced water, the federal government has total control of all of the regulations that deal with water. That is why you have to say, State's rights need to be supreme in this area for local jurisdictions to take on the environmental concerns locally and not through federal enforcement of regulations.

Commissioner Houpt said this is the only industry this happens. She said she really did not want to debate the Clean Water Act because there is so much in this Safe Drinking Water Act discussion today; maybe we should save that for another day.

Chairman Martin said the other issue is under the Fracing Act, changes no regulations whatsoever. All it does is removing it from the State of Colorado to the federal government and there are no other changes.

Commissioner Houpt said it does not remove authority; what it does is it requires another level of disclosure and if they already have that information anyway, she cannot understand why this is going to cost the industry more money. In fact you are right, the State agencies have the ability to accept the responsibility of acting on behalf of the Federal Government anyway. She wanted to get back to where she was; the paragraph she skipped was that congress is assigned to the individual states, the responsibility for regulating the hydraulic fracturing and the states have subsequently adopted comprehensive laws and regulations to protect the nations drinking water sources, this is correct. However, this should not be confused with the exemption from fracing under the Safe Drinking Water Act, in which such regulations really regulate water quality. Sometimes we do have a complex structure of laws in this country; but this particular resolution, in her mind, is confusing one set of regulations with another. The next paragraph whereas, the State of Colorado effectively regulates oil and gas exploration and production through the Colorado Oil and Gas Commission. The COGCC recently approved stricter oil and gas regulations; regulations which include regulations that require natural gas operators to disclose chemicals used during the drilling completion in hydraulic fracturing process. That is true we do, and what confuses her is she is hearing from the industry now that it makes more sense for their regulations to appear at the state level, and that the COGCC just approve these regulations that really discount the need now for the Frac Act. There are regulations in place now that will cover all of the concerns and yet COGA is suing the COGCC over these new rules. While they are saying that states should regulate at the same time they are trying to challenge the rules that regulate them. Are we in a situation where the industry really doesn't want to be regulated, if they are successful with doing away with the chemical disclosure rule at the State level and generate enough support not to support the Frac Act, then they aren't regulated anymore. The Prather's' will not have any rules that will help them out; the City of Rifle will not with their public water source. She does not know where they are going on this.

Commissioner Samson said we both agree and many of the people here are saying there is no regulation on this and that there is no disclosure. The new rules do specifically state that the COGCC recently approved stricter oil and gas regulations, which included regulations requiring natural gas operators to disclose the chemicals used in the drilling completion and hydraulic fracturing processes.

Commissioner Houpt stated right and that is what they have to do now.

Commissioner Samson said that is why many people are confused; they do not think that is what is being done. That is State law and it is being challenged; he understands that. He does not say he agrees with that challenge and he cannot control COGA; but it is being done and he thinks that is the point that needs to be made. It is being done on a State level; which it should be done at. He does not know how much COGA is focusing on just that regulation as to others; but he knows that is the law and those chemicals have to be disclosed.

Chairman Martin said it does not change any of the requirements under the EPA, the agreement with the EPA and the State of Colorado to enforce those. The new rules and regulations say they will be somewhat more forthwith in reference to disclosing elements of the fracing fluid; it still has to be approved by the Department of Health and also issue a permit by the Oil and Gas Conversation folks and inject it properly, and subject to enforcement and regulations. Actually, the State of Colorado has a more disclosing rule and regulation and that is why we think that the Colorado version needs to stay intact instead of giving it back to Congress. How is it that you can change a rule locally if you have to go to Congress to make that rule change?

Commissioner Houpt said it would stay intact under the COGCC rules and then separate from that would be the Safe Drinking Water Act regulations; she does not see a conflict in them. She sees more stability for the folks out here who want to see rules in place on the long term. One of the biggest political debates this year will be these oil and gas rules and they already have a candidate for the Governor's office who is saying he will do away with them if he is elected. What does this do for people who are very concerned about having their drinking water not contaminated is what concerns her. If you can change the mind of some of these folks and get COGA to withdraw their lawsuit and let the COGCC do their business instead of having all of these distractions perhaps the State rules would be more adequate. At some point, she would love to know why in 2005, this was slipped into the Energy Bill.

Chairman Martin thinks because of all the perfection of fracing and the approach that was there and used worldwide. It became more of an issue than it was prior to that because development of tight sands gasses is almost impossible to do. This allowed that to happen but it opened up tremendous fields. Yes, it was introduced, but it was also given to the states to make sure that those rules and regulations, minimum standards of EPA and Clean Water Act were strictly enforced through their process. That is the only reason it came down to the State.

Commissioner Houpt said there has been a lot of advancement and technology; she does not think she would ever argue with that. This county has seen a lot of contamination from human error with compromised drilling processes, with spills, accidents while transporting, and it seems only fair to her that they have a handle on what chemicals are

being used. No one is saying stop fracing, no one is saying you have to change your recipe or even disclose your recipe. People are just saying they support the notions of having all chemicals disclosed and fortunately, in Colorado we have that rule in place right now. However, we could have a change in administration and that could go away, so there are no guarantees there.

Chairman Martin said even on the national level; that is the same risk.

Commissioner Houpt said we have been trying to get rid of this exemption for a long time and you can see how hard that is.

Chairman Martin said if you take one law off this year; it may come back two, three years, there is no guarantee it won't ever be visited again or revised one way or the other. What it amounts to; if you wish to have the federal government come in and tell you what is going to happen period, or you wish to have the local people affected have a stronger voice, and a direct voice, instead of having to go through the Federal bureaucracy to get a rule changed. Commissioner Houpt thinks it boils down do you want to have as many resources available to respond to local catastrophes or do you want to leave the local government on their own trying to figure out how in the world they will identify the problem, respond to the problem and be able to afford to clean up the problem.

Chairman Martin said if the local government takes rules and regulations and has enforcement powers, the responsibility is on them, and that is where it lies right now.

Commissioner Houpt we do not have resources.

Chairman Martin – Or, do not pass the rules and regulations. The State of Colorado has a responsibility; they need to live up to it, and if they do not we need to change how we approach it.

Commissioner Houpt said the State does; but we can share resources with the Federal Government. Some of these are very complex contaminated areas. She thinks they owe it to the people to ensure that they have every resource available to clean up any problems that occur. The next paragraph, hydraulic fracturing has been used more than one million times over the last 60 years without a single documented case of drinking water contamination. This simply is debatable, how can we be certain that there has not been an impact when people do not know what chemicals have been used. The EPA has said disclosure of fluids would allow regulators the ability to investigate faster, more thoroughly and in a more cost effective manner right now it is hit and miss. They have to try to figure out without the information what the contamination is. You need to know what to test for; the scientists need the tools to measure and control fracing impacts on the environment. She would think the industry, actually, would be in favor so they are not blamed for everything that happens.

Chairman Martin said those chemicals, performance, are all on the record with the Health Department, the State already has rules and regulations. Responsibility, accountability is on the head of the Oil and Gas Conservation as well as their enforcement people and investigators. They have everything within their means to protect all citizens.

Commissioner Houpt said the process for adopting new rules is an overwhelming process and the rule is in place and she is assuming that every company out there has complied with the new rule. She would have to check if they actually have since they are suing us.

Commissioner Samson said that is one of his points. If they have not, why doesn't the State of Colorado make sure they do?

Commissioner Houpt asked why as local leaders do we not want to make sure that the State can look to other resources to help accomplish that. We have the EPA in Wyoming doing a comprehensive study on fracing and yet you are saying you do not want them to be involved because it should be the states responsibility and too bad if the state cannot do it on their own.

Chairman Martin said the EPA sets the standard. The Fracing Act does not change any rule regulations of the state; all it does is take the authority away from the state and gives it to the EPA and the bureaucracy of the Federal Government. We are better off served and accountable to local people through local regulations. The State of Colorado is still the ultimate power, the Board of Oil and Gas Conservation folks have every means to protect them. Commissioner Houpt said she is sure not saying that should be otherwise. We have many public lands in this state and the Federal Government regulates on public lands. We have a memorandum of agreement that is being expanded so we have an understanding of what the State regulates and what the Federal Government regulates; but there is no clear line there.

Chairman Martin said at the end of day the Federal Government has the say because it supersedes the authority of the plans that are controlled by the Federal Government.

Commissioner Houpt said the next paragraph says; proposals to remove the current exemption for hydraulic fracturing from the Safe Water Drinking Act will result in additional Federal oversight, which will in turn result in increased costs to the industry, which would be passed along to consumers in the form of increased costs of energy. Her question is; how will this increase the cost to industry. Especially in Colorado, the COGCC will be incorporating the language into current rules. It will only enhance the effectiveness of actually regulating for water quality. She is not sure why this is a burden and if it is a burden; where do we say okay we have an industry that impacts the subsurface in Colorado. We have water resources with people who are living in various areas; how do you balance health, safety and welfare of people and protection of the environment with expanding the bottom line for an industry. She thinks they have to be careful how they balance that, and look at that precious baby in the backroom and she does not want to do anything that she believes would compromise the safety and health of the people that she represents. Why are we talking about costs, why are not we talking about safety and health and welfare? She asked Mike to explain to her what is the cost going to be; where does that cost come in.

Commissioner Samson said he could answer that simply that every time he sees the federal government, you said additional federal oversight.

Commissioner Houpt said yes; per the Safe Drinking Water Act, how is that going.

Commissioner Samson said because you will have much more federal oversight involved in our state government and every time the federal government gets involved, the cost goes up. He knows of nothing that the federal government does for us that does not cost money.

Commissioner Houpt asked Commissioner Samson; would you want to exempt all industries from the Safe Drinking Water Act or just one industry.

Commissioner Samson said he does not know the rational of why that was done. He would have to research that and see. His point is the issue is the oil and gas industry and he believes the oil and gas industry should be and could be regulated on a state level. The local control with the disclosing of the chemicals, taking care of the drilling,

the completion and the fracturing process should be taken care of on a state level. They are the ones that are empowered to do that, so get it done.

Commissioner Houpt said she does not know why Commissioner Samson criticizes the COGCC so much. This Board used to love the COGCC because it never listened to these people. We put rules in place and suddenly we cannot keep up with them.

Commissioner Samson asked if he had criticized that rule.

Commissioner Houpt said he has criticized the COGCC quite a bit.

Commissioner Samson said yes he has and he hopes she understands it is not a personal attack on her; it is an attack on the state government and the administrative. In saying that if he has his facts correct didn't Governor Ritter himself say he was against this and didn't Harris Sherman say he was against this?

Commissioner Houpt said no, neither one of them said they were against it; what they said was, let's study the issue more and figure out whether they are approaching it properly. She said she does not always agree with the Governor and she is not speaking for the oil and gas commission when she is speaking here. She is speaking for her constituents in Garfield County. Reduce competitiveness of the domestic natural gas industry, which will encourage an increasing reliance on foreign energy supplies. Again, she thinks it is very selfish of this industry to threaten to leave this country and not develop domestically because we now want to see more comprehensive environmental health and safety rules put in place. She thinks it is a form of blackmail and is unfortunate.

Chairman Martin said it also deals with foreign trade with the trade agreements with China, Cambodia, Russia and all of those people are importing natural gas to the United States as we speak. That is one of the reasons we have to worry about the fracking end. It is all entangled; we need to stop outsourcing and importing all of our energy.

Canada is one of the biggest exporters to the United States in the world. We need to get along with Alaska; they have more than Canada does. The Fracing Act is in front of us.

Commissioner Houpt said the paragraph saying that we support the ability of individual states to regulate the practice of hydraulic fracturing for the development of oil and gas resources; she agrees with that statement. We do have that authority and we are not going to lose that authority. We are talking about safe drinking water laws. We are not talking about oil and gas regulations. She supports the current exemption for hydraulic fracturing under the Safe Drinking Water Act. She does not care whether it is the oil and gas industry or some other heavy impact industry; she would not support an exemption for any industry that has the potential of contaminating water, under the Safe Drinking Water Act. She stated she absolutely could not support Commissioner Samson's resolution. She wanted to thank Congresswomen DeGette and now newly Congressman Polis for continuing to speak on this issue. She thinks it is very important and she wants to say that Colorado's rules are in place and it is a big step for Colorado. We do require chemical disclosure, which has not been the case in the past and she thinks they have a great deal of hope of getting a handle on this issue.

Chairman Martin said the endorsement of Congressman Salazar says no do not pass this. This is the wrong way to go, work within the State of Colorado and do not give the authority to the federal government.

Commissioner Houpt said he did not say it that way; that is not why he says no. He said no he would still like to look at it on the national level; he wants to see some different language in there.

Leslie Robinson – Grand Valley Citizens Alliance. She has a sample of fracking fluid from the west end with her today and showed the Commissioners. She stated she just could not see how they can support injecting those chemicals into our watershed. She regrets that Commissioners Samson and Martin have made this into a partisan discussion when we should just be solely talking about people's health and welfare. The exemption from the 2005, from the Federal Energy Policy Act, is often called the Hallow Burton Exemption; because of the influence from former Vice President Dick Chaney who once lead Hallow Burton. She thinks it is important that the Federal Clean Water Act be involved with this because the Colorado River that flows through Garfield County also provides water for 18 states and 30 million people. This is not just about the State of Colorado; this is about 18 other states and if we were drinking someone else's fracking fluid; we would have a different opinion about this. Leslie is disappointed that Commissioner Samson's resolution does not recognize the people that have been affected by chemicals used during drilling. It does not recognize that fracking fluid spills have contaminated top soil and secondary water tributaries. Plainly, people are getting sick around drilling activities. We want them to be assured they will continue to have clean water and clean air. If this is so contentious if the county is divided as Commissioner Samson has pointed out, she thinks perhaps there should not be any resolution coming out of the Board of County Commissioners regarding the Frac Act until the EPA and more study is done. This is actually the opinion of the Governor of the State as well.

Paul Light – President, Grand Valley Citizens Alliance. He stated that Chairman Martin made a comment about John Salazar; he said let me tell you where his voters are. Eight out of ten favor strengthening property owners and others from the effects from oil and gas drilling. This was a poll done in Montana and the voters very clearly indicated that they felt the Frac Act should be passed. His problem here is when he listens to you talk about this the war seems to be between the state and the federal government. There is only one person in the conversation who said what the real battle is. That is between the industry and the people who drink the water. He said to Commissioner Martin you never mentioned that kind of battle at all. Commissioner Samson; you only mentioned it when you said you are in favor of health and welfare. Your main argument is it is a state argument against the Federal Government. He is not too keen on either the state government or the federal government; but he is keen on finding a way of mitigating the effects of fracking on people who are drinking the water. The statement in the resolution that says there has never been any documented case that anyone has been contaminated by drinking the water from fracking; it is just obviously false. He does not see the battle as you see it; he does not see it between state and federal government. He does not care who solves the problems as long as the problems is solved. Everyone is saying obviously the problems are not being solved so why not have another resource in there. He does not see that Colorado is going to lose a war because the EPA is involved in looking at fracking. He does not see that anyone loses if the Frac Act is re-established to cover drilling. He just does not understand what the argument is.

Chairman Martin said the argument is the standards need to be addressed and this is not addressing any of the standards. The quality of the water is addressed in the standards; EPA set the standards. If there is a threat to drinking water then those standards need to be addressed not the authority of who is enforcing Because again; when you shift authority without changing the standards, nothing gets done.

Paul does not see this as shifting the authority or the standards. The standard is quite clear that we want to keep drinking water from being contaminated so that it is safe. Now, who does that if 10 people want to do that instead of one, he is in favor of that.

Chairman Martin said one; that happens to be under the Clean Water Act, which are the EPA and the Health Department to say to Colorado. These levels are not safe and they need to be addressed. That is where the real issue is; it is not in the federal authority coming in an enforcing what rules are in place right now.

Paul said the issue is our water is being contaminated. We know the answer is yes; why do we refuse to take one more step to get that covered. Why do we say no, we do not want the federal government to be involved in this because they do things we do not like? He referred to Commissioner Samson; they do things Paul does not like either; but he would like to see someone take care of the problem of the chemicals in the drinking water.

James Golden – Rifle. He hopes and prays he never has to speak at these things. He has heard discussion on the Safe Drinking Water Act and he does not believe he heard anything in the discussion. The significant part is how that was originated and he wonders if anyone in the whole room knows the origin. Without getting into a whole lot of detail, the people who lived in New York and New Jersey had a river that went between them and they woke up one morning and discovered the river was on fire. They decided this is not a good thing. That is the origin of the Safe Drinking Water Act. They realized that if you have water in a close proximity to populations that burns and it takes more than seven days to put out you have a problem. That is what this Safe Drinking Water Act is about. Everything else that was talked about today is a matter of diversionary tactics. When you have a whole room full of moths, give them a light and they will follow it. That is the distraction of what is going on with the Safe Drinking Water Act. The heart of the issue is; keep the water safe so that the people are safe and it ensures our health and safety. That is what is at issue here. We get into the State is perfectly fine in taking care of it with the COGCC. Nothing against the COGCC, you know the history of it. In the beginning of the COGCC, it was all operated by oil and gas interests. Ritter decided a couple of years back that it needed to be more balanced and it is a little more balanced. The bottom line the majority of it is still controlled by oil and gas interests. To say the state does an adequate job of it; let them handle it, do not let the federal people get involved in it, is saying let the COGCC handle it, which is still the majority of oil and gas concerns. This is a popular and easy way to go because what this does, it protects the profit of these oil and gas companies; which make record profits, and meanwhile the distraction of the light that all the moths are following, the people who are suffering is people like his family, the Amos and Lisa Brackens family. You know them all; you have heard them, they talked to you. He is so tired of hearing the rhetoric of it is anecdotal because it is not anecdotal. This is nowhere near anecdotal. He really did not want to talk today because this is an emotional subject. He sent the Commissioners a letter, he wrote the newspaper a letter, and one thing he would like to see is to see his local government officials stand up united and speak forward and move forward in the interest of health and safety of the people who live in Garfield County. He does not see it. He sees profit protection and he does not want to see that anymore. When we have profit protection of these companies, what you are asking the people of Garfield County to do is to shoulder the burden of the consequences of what happens to them while the oil companies make their money. When it is all sucked up, gone and dried up they will leave and we will be stuck with the problems left behind. He stated he likes doing some quotes; when it comes to this and the DeGette's Act, something that comes to mind is a statement, "you may never know what results come of your actions; but if you do nothing there will be no results, it will continue to go on like this". Gandhi spoke that and he is smarter than everyone in this room included myself. He stated he has mentioned before, that it is horrifying that we have to fight our own government to save the environment. He will go one-step further; it is absolutely horrible to have to fight your own local government to stand up for your health and safety. He believes people, when they take offices have to go through an oath to protect and serve the public. He asked if the Commissioners had to do that.

Commissioner Houpt said they do.

James said he would like to know how it is protecting and serving your public to let the current status quo go operating the way it is now. Actually all this debate, we have no effect over any of it at all. He would just like to hear the three Commissioners be in favor of it, even if you are not in favor of it. This is so ridiculous on this whole point; it makes no difference if the COGCC regulates this, if the federal regulates it, if the COGCC regulates it, the State does not have the money to send people out there to investigate, to view this, to test this, and to give out fines or whatever is out there. It doesn't matter who you have in place to enforce this it's not going to get enforced, and the industry is going to keep doing what they are doing now. What is the difference; support it, make your constituents happy, make them feel warm and fuzzy that their health and safety has been protected and spoken for by our public officials.

Dave DeVanney – Battlement Mesa. He does not have any great revelations to add. He does not think he will change anyone's opinion but he wants to offer his. He is here to support the resolution presented by the GVCA, which would support the Federal Frac Act. He hoped that the commission would exercise common sense today rather than political sense for this issue. It is incredible to him to realize that our federal government has put our national water supply at risk. He thinks this is an opportunity for Garfield County to show that the protection of its citizens is its number one priority. Please be aware that the nation and the rest of the state, the energy industry and your constituents will take note of what action you take today if indeed you do take an action. Secondly he is somewhat disappointed to see the way the business is done here with the Garfield County Commissioners. When a Commissioner makes a presentation with a point of view that the Chairman supports he was very polite. When another Commissioner presented a position he did not agree with he interrupted, spoke over and was discourteous. Dave found that very disappointing as a citizen in Garfield County.

Chairman Martin stated so noted.

Commissioner Samson – I move we pass the resolution as he presented. Chairman Martin – Second for discussion. Commissioner Houpt stated she would like to remind this Commission that not only do we have people who took time to be here and to share their concerns with us but County Administration received 1,000's of calls urging us to support the Frac Act. She received hundreds of calls, she received emails and she did not receive any comments from people who do not otherwise. With that kind of outpouring from people, not just from Glenwood Springs and Carbondale but also from the entire County, she thinks it is important for us as representatives of this County to understand the concern that people have. She would support the Grand Valley Citizens Alliance resolution; but she would also support the notion that perhaps this is not an issue that we should take a position. She thinks there are too many people who will not be represented if they do.

Chairman Martin stated he did receive many phone calls but they were about 50/50. There were more in not supporting the Frac resolution. People really did not understand the actual legislation that was presented. The comment was use common sense and the common sense tells them he does not want more federal government in his life. That is a guiding principal he has they are already there. He said to trust in your local government more than the federal government. Again, the request, if there are needs for changes and standards, the State of Colorado, Health Department needs to do those.

Paul Light said he must object to something Chairman Martin said that the Grand Valley Citizen Alliance was involved in a telephone tree telling people what to do; that is not true.

Chairman Martin said he should talk to the people that called him because that is what they gave him.

Paul asked if Chairman Martin could give them their names.

Chairman Martin said he could today and the emails.

Commissioner Samson said the last thing he would say; this is an emotional issue and many people are going to leave here mad. The following gas producing counties have passed resolutions opposing the Frac Act including Weld, Mesa, Rio Blanco, Delta, Moffat, Morgan, Washington and Yuma County. In addition to those counties, the following municipalities have passed resolutions opposing the Frac Act, the City of Grand Junction, Delta, Greely, Rangley, Meeker, Fruita, Grand Junction Chamber of Commerce and he named them all. It is a very divisive issue and they need to move on. Either pass the resolution or not and let the powers that be as James Golden said; they are the ones that are going to decide if this happens or not. It will not be what we do here today; it will be the state and federal government fighting it out and he hopes the state government wins and he hopes they regulate it the way they should – I call for the question.

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

Power Line Park:

Don stated he had one item that was just brought to his attention. There is a litigation matter that is a matter of record. Cassie was informed that the BOCC was dismissed as a party in the Power Line Park. We have been dismissed as a party and awarded costs in that matter.

CONSIDER A REQUEST FOR A LIMITED IMPACT REVIEW TO ALLOW A PUMP STATION AND APPURTENANT PIPELINE ON A 7-ACRE PARCEL LOCATED WEST OF THE TOWN OF NEW CASTLE ON COUNTY ROAD 335 IN THE RURAL ZONE DISTRICT – APPLICANT; JACE, LLC – KATHY EASTLEY

Chairman Martin stated that would require a re-notice.

Kathy stated that is correct and the applicant is requesting postponement of the public hearing date until January 2010. They have some ownership issues.

CONSIDER A REQUEST FOR A LIMITED IMPACT REVIEW TO ALLOW A WATER IMPOUNDMENT AND APPURTENANT PIPELINE ON A 2130-ACRE PARCEL LOCATED WEST OF THE TOWN OF NEW CASTLE SOUTH OF COUNTY ROAD 335 AND WEST OF COUNTY ROAD 312 IN THE RURAL ZONE DISTRICT – APPLICANT; RICHARD AND MARY JOLLEY FAMILY LLLP – KATHY EASTLEY

Kathy stated these two applications are interrelated. The applicant is requesting a postponement of the public hearing until January 2010.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

**NOVEMBER 16, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO**

The regular meeting began at 8:00 a.m. on November 16, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM INDIVIDUALS NOT ON THE AGENDA

Eric McCafferty regarding George Strong and the Final Plat for the Strong Subdivision

This is in regard to the Strong Subdivision – As you may know we are currently working on the final plat application for the subdivision and submitted it to the Planning Office about one month ago and received a letter back stating that we should contact the engineering department regarding information that was generated for the CR 300 Hwy 6 Intersection. Eric stated he tried contacting Jeff Nelson in the Engineering Department, he replied to me that information is proprietary and should not be released for private use without the Board’s consent. I am absolutely certain that the traffic study for the Strong Subdivision was used in preparation of this information for which Mr. Strong was not compensated for. We just request that this information be released to us so we can use some of the information in our application.

Chairman Martin asked Don DeFord if he had received any of the information that we are talking about.

Don responded no.

Chairman Martin stated we would have to make our inquiry to the administrator and get back to Eric.

Commissioner Samson – If I understand you correctly, Mr. Strong paid for this in the first place.

Eric – No, it was just his traffic study for the subdivision and some of that information was utilized in compiling this work. Time is of the essence.

Access Roaring Fork After School Programs

Steve Kaufman, Executive Director provided the Board with a Power Point Presentation

Commissioner Houpt asked Steve to stop by. What stuck Steve was this political icon and somewhat relevant to what we are trying to do here. In watching the news today, it was about education and the most important thing was how what we are talking about doing in this community is particularly all over to the point what it is now in Meet

the Press. The entire clip was 24-minutes so to be brief, Newt Gingrich and Al Sharpton on Meet the Press; they were both asked by President Obama to go around and do an assessment in the schools from the different political sides of the spectrum to work with the Secretary of Education who is doing some very dramatic things with the school systems. We have 1.2 million dropouts in this country. How can we sustain that today? We need to increase the graduation rate, we need to make many more of our high school graduates are prepared to be successful in college and in the world of work. States, districts, schools, universities, parents, community leaders and teachers were we all come together to say we want something dramatically different and we are willing to behave in different ways and move outside our comfort zone. We want to put lots of money behind those places that will literally lead the country in where we want to go. Newt Gingrich, concerned Republican and Former House Speaker said first of all education is the number one factor in America's future prosperity, it is the number one factor in national security and it is the number one factor in these young people are going to be our future. I agree with Al Sharpton that this is the number one civil right of the 21st Century. If the President has shown real leadership, which he has, this is the one place that we fight.

Steve said they are talking about \$4.3 billion dollars that is outside the regular department of education that Secretary Arne Duncan has at his disposal that he has to start beginning dispensing to states for them to disperse to programs within their states to go to schools, non-profits that are dealing in the realm of trying to close this gap. There was a conference call that Steve also recorded between police chiefs from around the country. A district attorney from New York talked about his district and how he was coming before a council to ask for more money for jails they would be no question that he would be provided the funding. However, coming for money for After School Programs, there is simply a lack of engagement and this is what the juvenile justice people and law enforcement people around the country are trying to raise awareness on these issues; it is a national movement. What was interesting for me to see was the two sides to the political spectrum coming together around this issue agreeing that the situation that exists is intolerable. Steve has been saying it is a safety issue; Newt Gingrich said is a national security issue. A recap view of 2010 at some point I will be coming back to request funding. The program we put together is actually fiscally conservative. We are budgeting \$247,000 for the Garfield County Middle Schools from sources other than Garfield County, which is 73% of the funding. Our program is 3-days a week, 2-hours per day, it is for middle schools only and it is designed not to be a needs based dependency creating service but rather an asset base service to create interdependency and fostering the community. It is regionally, Eagle, Pitkin, Garfield County, Basalt, Carbondale, Glenwood Sprigs and soon New Castle, Rifle and Parachute. It is based on the Arne Duncan National Model. There are similar programs in Denver and the Vail valley and since the announcement of the Garfield County grant, Steve has raised about \$125,000 toward 2010 from government sources and from private individuals. It is diverse consisting of Red Cross, Junior Achievement, 4-H, Valley View Hospital, Glenwood Springs Arts Council, Riley Arts Center, Aspen Music Festival, Jazz Aspen, Aspen Art Museum, Anderson Ranch, CCAH, RE1, 2 and 16 superintendent, school boards, parent groups, churches, businesses and service organizations planning an active and contributor role. They are not just lending their voices but lending their time and money. It is broad, the three-legged stool are child safety and development which we hope will result in fewer juvenile crimes, workforce development which is real working with CMC, business and the construction area with the construction industry the first priority. All are coming to the table; we are developing a curriculum for a child to be able to start in middle school and work their way through various programs through high school and become apprentices; leave at that point, go to CMC and come out into the work world prepared as well as education enhancement and support for the schools. One of the things Steve wanted to stress to the Board is that as we go out there and he submitted a copy of the Investment of Rural After School Programs Act before the House and Senate at a cost of \$25 million dollars a year to \$50 million by 2011. It is going to pass and it will be made available to organizations and communities. It is for rural communities that boot strap. More than money, I need your involvement. I need a Mayor and a Commissioner somewhere between Aspen and Parachute to take this issue to heart, to do the necessary research so they can get out there and support it publically. It would be best to have a liberal and a conservative at the table so when we go to the state for that money and the federal dollars I think they will listen harder.

Steve responded to the question posed by Commissioner Samson of his contract with CMC that is was Rick and Barbara Johnson at CMC and just met with the consultant to the new president, Ronald Limoges. We had our 5th meeting last Thursday in Carbondale the next there we will have 2 or 3 construction companies who are coming to the table and help create the courses that CMC needs to create at their level so we can effectively lateral what we have started in Basalt. Ladder programs through freshman and senior years with a green development consultant. CMC has already said they would work with us to get us a membership in the Homebuilders Association and sponsor it, hold meetings there and this is something they want. It seems to be a new day at CMC, and this is a direction in workforce development that they want to head. Steve has met with every superintendent in the districts and they are on board. The RE-2 funding which they have is running out this year. They have set up something great but during that time, they really did not make it sustainable after that funding ended.

Chairman Martin – This is where my conflict comes in, it has to be an educational funding mechanism. It cannot come from the general government itself because the education is already 67 to 70% of all taxes collected and they need to be able to fund your programs. Otherwise, you need to be a non-profit and have to have all the other folks contribute to it. You have two options, one you have come to us and we have given you a seed grant to get started and the other one is to go to the Human Services in reference to the sales tax collected throughout the County and those Human Services and the Board then distribute the funds in the way that they see. We cannot have it all ways. I am very supportive of the project, program and the apprenticeship needs to be fostered and brought forward, but the responsibility and the dollars need to come from the educational side and not trying to run from the general government itself. That is my conflict.

Steve – Are you open to discussion about this? In part, you are right, this is the education component and the schools need to do more. The after school program is in question and talking about the time of day when the bell rings, and the schools are not funded for the kids.

Chairman Martin – I understand that but why should you the general government itself then fund the school programs after school using the school functions, etc. It needs to come from those that use it as well as those that are going to benefit it from it, and that is your non-profits, etc. Again, it is gray area for me in taking educational dollars from the general fund and giving it to the programs. It is government Human Services side and the education side. I think it needs to be a community issue and not a federal government issue if we are truly interested in taking

care of our population within our borders then we need to do locally and have the involvement of everyone but there are certain mechanisms that need to be in place. Human Services funding needs to be used because that is what it is for, these kinds of programs. That is why the voters passed the sales tax. That discussion is between all non-profits, the Human Service Commission is there and they divide that money.

Steve – What we are looking at is a gap between where you and I want to be. This is not time for a political discussion but one of the best things that could happen is the Department of Education going away. What we are faced with is a gap in where we want to be and where we are and it is going to take some thinking outside the box with everyone getting out of their comfort zone and contributing to that endeavor. Government has a place in closing that gap and getting in the business with the toe so we can get out. I absolutely agree that government should not be there but the question is “how do we get there.” We cannot get there from where we are now. The school are moving in that direction and if they do not move in this direction, not only will they not get any of this money from Arne Duncan, they will be closed “No Child Left Behind” gets authority to close on their performing school, the gun it to their head. As far as Carbondale Middle School is concerned if that gap is not changed and with the resources they have right now without outside help with more time on task where the community is going to come in, and help do that, volunteerism is huge. One of the reasons when we start looking at this budget you will see that Garfield County is in here for 27%. That still may be outside your comfort zone.

Chairman Martin – What it does to me is it gives the excuse to the educational side not to be engaged because you can find the money elsewhere and it just prolongs the issue and it keeps the cycle going and you ask for more money and more taxes on properties to run our educational system. We need to contribute besides that to the after school programs and it becomes a cycle.

Commissioner Houpt – Disagrees because historically schools have not had the funding or resources to look beyond the school day. There has never been an expectation that schools fund after school programs.

Steve – Charter schools are doing this, if you look at the program it starts at 7 am and runs until 6 pm and they have Saturday school. When they say goodbye to their kids as summer approaches, they say I will see you in two weeks and the kids come back for three weeks and then they get their month and one-half off. They are ways that they get those efficiencies because those teachers are paid for those extra hours. How did the traditional, non-charter schools that are tied in to all kinds of contracts that they cannot get out of, how do they begin to move away from that model. It is a model that is failing for too many kids.

Commissioner Houpt came in late and asked if Steve had presented a budget.

Steve - You have my 2010 budget. If Newt Gingrich can get up there, sit next to Al Sharpton, and say I think we can work together on this and figure out a way to do 70 or 60%, then everybody can. There is a way forward and a good way model and on these education issues; this administration is not behaving in the typical kind of throw the money at the problem away. If these programs do not show that they are willing to meet these needs that it is results oriented, then they are not getting any of that money. On the other end, the point of the spear is there has been \$3 trillion dollars over 40-years wasted by this kind of shot-gun spending and not targeting and it just goes out there to close each evening gap – it has not happened. This is a first attempt to seriously engage this issue.

Commissioner Houpt – We still live in a very fortunate country that educates all kids and it is not an easy task and because we educate all kids the outcomes do not always look superb but I think every system can benefit by improvement. Educators across this country have done a superb job or working with kids trying to meet their needs.

Chairman Martin – We have your presentation and we have your request and it will be part of the budget discussion and we will go from there.

COUNTY MANAGER UPDATE – ED GREEN

APPOINTMENT OF FAIR BOARD MEMBERS – JIMMY SMITH

Ed presented the discussion of appointment of the Fairboard members. Mike, Jimmy Smith, Dale and I had a very productive meeting regarding the Fair and one outcome of that was to settle on the members for 2010.

Jimmy Smith is the acting president for the Garfield County Fairboard for 2009 – 2010. We have attempted to provide seats for at least seven and possibly now eight candidates for your approval for this year’s Fairboard. Those would include myself, Jim Sheets -Vice President, Andrea Johnson - Secretary, Mike Sakahi, Luke Cody, Kip Constanzo and Rebecca Beavers and would also ask that you pre-approve effective January 1, 2010

Linda Morcom who is going to be retiring from Garfield County and as asked to serve on the board. This is the slate of Board members and Jimmy requested this Board approve the officers.

Commissioner Samson said thank you to Jimmy for the past work that you and the past board did, the Fair and the activities associated with it came off pretty well. Not everything was perfect but it never will be. I received a letter from an individual that is looking forward to working with you and saying your first meeting was great and she very optimistic that things are going to be great in the future.

Commissioner Samson made a motion that approve Jimmy Smith, Jim Sheets, Andrea Johnson, Mike Sakahi, Luke Cody, Kip Constanzo and Rebecca Beavers appointed immediately as the new Fairboard with Jimmy Smith, President, Jim Sheets -Vice President, Andrea Johnson - Secretary and that we would also make it active come January1,-2010 that Linda Morcom also be put on the Fairboard.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin – aye

Carolyn reminded the Board of some updates to the By-Laws considered earlier in the year. She informed Jimmy that those were never brought back before the BOCC for approval.

Jimmy will put this on the agenda for the December 8, 2009 meeting.

Jimmy announced that on January 23, 2010, we are going to have the Garfield County Fair and Rodeo Hall of Fame Banquet and we have three inductees that will be coming into the Hall of Fame. Meet and greet at 6:00 p.m. and dinner at 7:00 pm held at the Rifle Golf Course.

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/APPROVAL OF AIRPORT: “LOOP” WATER SYSTEM IGA WITH CITY OF RIFLE

Carolyn asked for the approval of the Loop Water system IGA with City of Rifle and the changes in the public utilities that go along with the changes in the runway and CR 319, 346 and Baron Lane. Mr. Green, Brian Condie, Randy Withee have met with ALP representative Bob Howard and there are some issues that probably belong in contract negotiations but the bottom line we are not ready to ask for signature today. Brian, Ed or Randy can tell you about the changes the staff wants to make now to the loop water system. We had a design approval based on Nolty’s consultation and we have approved plans by the City of Rifle. Randy, Jeff and Brian are considering taking that

waterline up runway road instead of making the loop system go through Bob Howard's property. That changes things radically and it means we will probably not need an easement from Bob Howard.

Ed – No last minute updates but I do not think the City of Rifle would have a problem with this change, it simply changes the route of the loop system and makes it all on our property and it goes along the boundary road on the south side of our property. Ed feels confident we can obtain the approval but we will be back in December.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE –

Don explained what would occur in Executive Session: a brief conversation on the loop system at the airport with Ed present; contract negotiations in a 3-party for redevelopment of the County Road 100 – Snowmass Drive intersection in Carbondale providing the Board an update and receive direction on how to proceed; CR 306 - there are two discreet projects involved and we are in negotiations with the Dutton/Dixon family and need direction on one specific issue in that contract negotiation and also direction at the other end of the road on the Bosley/Grand River property acquisitions; Carolyn - update on Continental Rifle and one DHS issue. Don also needs very brief direction on Prather Springs Resolution and the Fracing resolution; finally, contract negotiations I need direction on the RFTA contract we are involved in negotiations on that as well. All may involve some public direction and public action.

Commissioner Samson made a motion that we go into an Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson made a motion that we come out of Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

ACTION TAKEN

CR 100 – Snowmass Drive Intersection

Don stated he has two public actions, the first for the Board to consider authorizing obtaining a title commitment and opinion on the status of title concerning CR 100 and Snowmass Drive Intersections for proceeding with reconstruction at that intersection.

Commissioner Houpt so moved. Commissioner Samson – Second.

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

Dutton/Dixon CR 306

We are considering a project at the southern extremity of CR 306 in conjunction with the Dutton/Dixon family; we are at the stage where we need to obtain a title commitment, title work to confirm officially the status of title on that roadway and would like the Board to authorize the County Attorney's office to obtain it.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

CONSENT AGENDA:

- a. Approve Bills
- b. Inter-Fund Transfers
- c. Changes to Prior Warrant List
- d. Authorize the Chairman to sign the Resolution concerned with the approval of an extension to file a final plat request for the Suarez Subdivision to November 2, 2010. Applicant is KJS Revocable Living Trust – Fred Jarman
- e. Authorize the Chairman to sign the Final Plat and Subdivision Improvements Agreement for the Mahan Subdivision. Applicants are Mahan Properties – Fred Jarman

Item e – Debbie informed Don that this item should also include authority to sign the proposed deed for County Road 126 with regard to the Mahan Subdivision.

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda items a – e. Motion carried

COMMISSIONER REPORT

Chairman Martin – We attended a couple of meetings and the dedication of Veterans Memorial in Rifle; also went to the 4H Annual Awards program; also to Mesa Vista for their 10th anniversary and would like to have Judy Martin get in touch with the director down there in reference to combining resources for nutrition and transportation and establish their own transportation bus for those folks and see how it is working and the transportation requirements. Additionally, they have their commercial kitchen available and I would also like to be able to tie in the nutrition program.

Commissioner Houpt – We also met with the Planning Commission last Tuesday and put together the Comprehensive Plan Advisory Board members and that is moving forward; it is going to be a very exciting process. There will be focus groups that people are invited to become involved in and the Comprehensive Plan is going to be a process that we hope many across the County will become engaged in and would like to publically think our planning staff for the wonderful job they are doing in moving this forward.

Chairman Martin – The first meeting will be in Silt at 6 pm on Wednesday at the Fire Station; Thursday in Battlement Mesa at the Activity Center; and Saturday November 21 in Carbondale at their Town Hall. The grand opening and open house at BLM's new office in Silt from 3 pm to 7 pm on Wednesday.

Commissioner Samson – Winston Comprehensive Plan meeting on Thursday, November 19 from 12 noon to 2 pm on the 4th Floor in the Courthouse.

Chairman Martin – We also have a conservation with the local impacts and the changes or reorganization of the Department of Health and Human Services at Hotel Colorado on Friday and that will be from 10 am until 2 pm. That will have potential impacts on the way that we do business in Garfield County.

Commissioner Houpt – My understanding is that action is being postponed but it really will be an important discussion to continue.

HUMAN SERVICES COMMISSION:

MINORITY SERVICES

Cindy Fleming working with Alpine Legal Services, Kay Vasilakis represent Grand Valley grant allocation committee; Heidi Pankow with the Girl Schools of Colorado and Jonathan Shamis Executive Director of Alpine Legal Services.

Cindy gave a perspective of what is going on with minority services population. For the most part we are speaking about the Hispanic population because we have 25% of our population are Hispanic and Spanish speaking. On the Commission, there is a vast array of services that serve this population from Legal Services to the Safehouse, Julie

Olson and Catholic Charities; and every one of the 34 members on the Human Services Commission serves the population in some respect. The important thing we talked about is getting the word out on the organizations that can help, and how to reach the population in an effective way. One of the highlights of that has been in the last five years the Community Integration Initiative that put together a Guidebook in English and Spanish for living in the valley and has been instrumental in letting people know what is out there and how they can reach it. It was only a 5-year project but we have talked about continuing with the momentum they started and how we keep up with outreach and letting people know what is out there. Compared to 15 years ago, the percentage of Hispanic Spanish speaking people here has increased dramatically and so has staff members in our organization who speak Spanish. We talked about the change in demographics but people had thought with the economic downturn that there would be an exodus of Hispanic or Spanish speaking population and we have not seen that at all. Most of the organizations have seen an increase over the past several years.

Jonathan Shamis – We have about 2,000 clients a year, which is close to double what we have over the last 5-years. Our way of dealing with our clients is to try to empower them so they can become their own advocates and be able to access the legal system. Our mechanism for engaging with the Spanish speaking community is one that the further marginalized they are, the more it harms the rest of the community so we take a self-interest perspective to be sure their needs are being met. For example, although they are not a legal issue, if they are not getting their vaccinations then they are carrying the same virus that we can be exposed. If they are not getting paid for services, they are rendering because they are not legally able to work, we do not certainly condone any illegal activity. On the other hand, that disadvantages someone who is playing by the rules, paying someone and if we are not able to hold the person not playing by the rules accountable, whether it be the undocumented person or the person who is taking advantage of that individual, the rest of the community suffers as well. If there are issues of violence where they is somebody who is afraid to come forward because they are afraid of what will happen to them, you will be reported if you come forward and report the fact that you have been assaulted, sexually molested or anything then all of the community suffers. What we try to do is make a safe place where those individuals can have access; but at the same time in those situations where there is someone who does not have a legal right to get support from our services we also have mechanisms where they can be required to pay for certain services. That way any service to someone who is not legally in the country can get help but not on the taxpayers dime. To be able to come up with creative solutions to that is integral. Another thing that we are trying to do to address the problem is also create clinics and we are working with Colorado Mountain College starting next year for the entire community to create clinics on issues such as false claim actions, landlord/tenant, allocation of parental responsibilities and all things, which will help solve problems before they become more exasperated. Similarly, we are also working with CMC now to work on a *Living in America* program, which will help give tools to people who are here legally and illegally here and understanding what the rules are in being in this community. We hope to produce problem situations and hope to create mechanisms where they will learn they should not be in this community or learn way they can legally become members of this community and then become participating and constructive members of our society.

Commissioner Houpt – Do you find this type of resource is expanding? People who move here from other countries whether it is Mexico or some other country in the world, if people are not familiar with our rules, laws and traditions then they can be looked at poorly if they do not follow them. So if we educate people are there other resources in this County that are working on this issue.

Jonathan – Yes, there are many other agencies who are trying to address this, like I mentioned with CMC there are a number of organizations from this valley that are trying to figure out what tools and information are necessary; the challenge is so that any individual does not become a burden on the community.

Chairman Martin – This was the old program we had under Judge Pete Craven *Living in America* but it was only if you got arrested and you had to go to these classes, etc. You have stepped away from just in the judicial system but branched out to everyone.

Jonathan – The population we have identified are ones who because of their criminal conduct have but just as important, people who are victims of either a family situation or other times to make them feel as if this community will hold anyone who breaks the law accountable for their misdeeds as well as families where there are children who are legally in this country to try and make sure they understand what support their children are legally entitled to receive so they then do not become a burden on the rest of the system.

Kay Vasilakis – Human Services Commission has a subcommittee that is the grant allocation committee, which is made up of several people that do not receive any of the funding from the County plus Commissioner Houpt and several county employees. The Human Services agencies ask the grant allocation committee to represent them to the Board of County Commissioners for permission to disburse 2010 Human Services grants reserve funds because the agencies are feeling immediate emergency needs in the financial climate and increasing volume of the client needs.

Commissioner Houpt – It is also because when we allocated funds for this grant cycle the monies we gave were well below the needs of the organizations. We had a smaller amount of money from the sales tax that covers this program than anticipated. Those people who put grant applications forward asked that we use that balance of those funds to divide among those grant holders and allow them to use those funds now. If we call it an emergency fund this is one of those times when we have an emergency in our County to meet the needs of folks who are working with people.

Chairman Martin – So that is the existing 2009 reserve fund balance that you wish to spend or distribute that in 2010. Then you will have a zero balance and any kind of emergency that would come up during the year; that is the risk that you run.

Kay – Yes, the agencies of the Commission feel that this is an emergency, we had a balance of approximately \$63,000, and there is confusion whether the \$7500 that we recommended for Access Roaring Fork is going to be coming back to that fund.

Commissioner Houpt – We do not know that because Access Roaring Fork has not come back to us for 2010 budget purposes.

Chairman Martin – That is a business transaction that the Board is capable of making, the recommendation is to go ahead and zero that out of their fund balance knowing that the risk is if there is an emergency coming up, it cannot be funded in 2010.

Kay – Yes, we understand.

Don – Just so I understand in case it becomes part of the contract provision is to release the monies in 2010 that is a part of the budget proposal?

Ed - Yes. We have already released \$45,000 of it to go to Mountain Valley.

Commissioner Houpt – It is under the Human Services grant line item; it is the rest of money that has not been allocated yet.

Ed – It is the Human Services contingency in the Commissioner’s budget.

Don asked if the 2010 budget propose to do away with that reserve.

Ed – Currently there is \$109,050 that had been programmed in the 2010 budget, \$45,000 of that is going to Mountain Valley so that leaves the \$63,000.

Chairman Martin – And that point we will need an expenditure that goes back out so it can be distributed and not being held.

Don – Why is this a separate motion from the budget itself?

Chairman Martin – Because it has not been programmed and it is to be considered so that we can incorporate that into the budget to disperse that money instead of holding onto it. What we did was accept the recommendations based on the projection on sales tax, distribute it to the Human Services in 2010 and they are holding in reserve \$63,000 they wish to include in that disbursement and we have not put tha in the budget to disburse.

Don – What is required is the finance director to change the budget for 2010.

Commissioner Houpt – Historically as I understand it, there has been an emergency pot that has been set aside. This year when the grant committee met, we cut the requests dramatically because we did not have a sufficient amount to fill the requests or begin to meet the needs. As a result, the Human Services Commission had several conversations about funding these and decided amongst themselves that instead of carrying that balance forward and tapping into it later in 2010 that they wanted to just disperse the entire thing now.

Don – That is not consistent with what you said before.

Commissioner Houpt – They want to allocate it now. All of the monies for the 2010 grants have been allocated and will be disbursed at the very beginning of the year. They want with the letters that will go out from Linda; they want the \$63,000 added to those amounts.

Don – So will there be a new set of recommendations then from the Human Services Commission or how to utilize the additional \$63,000 in funds for 2010.

Kay – We will have to meet again and we are not asking for additional grant requests but we will disburse to the organizations we recommended for funding.

Chairman Martin – It would probably be better to recommend for the fund balance so present that so we can include that in the 2010 budget.

Ed – Do we want to do it in direct proportion to the amount receive already?

Commissioner Houpt – I heard at the Human Services Commission equally so do we know if we are doing it proportionally or equally across the Board. There needs to be a meeting.

Commissioner Houpt – We will hold a meeting with the grant committee and then put this on the agenda.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR OCTOBER 2009

Lynn Renick presented the disbursement for allocated programs, client benefits and EFT/EBT disbursements for October in the amount for \$723,009.20. She requested the Board approval.

Commissioner Houpt so moved. Commissioner Samson – Second.

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

CONSIDERATION AND SIGNATURE APPROVAL ON THE SFY 10 NOTICE OF GRANT AWARD (AMENDED) FROM THE AREA AGENCY ON AGING FOR CONGREGATE NUTRITION SERVICES

Judy Martin and Lynn Renick presented. Lynn requested the Board’s signature on the amended NOGA from the not-to-exceed amount of \$140,070 to a total of \$135,768.

A motion was made by Commissioner Houpt to approve the amended notice of grant award of area agency in the amount of \$135,768. Commissioner Samson - Second

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

SIGNATURE APPROVAL ON AGREEMENT TO PURCHASE OUT-OF-HOME PLACEMENT SERVICES.

Lynn requested the Board’s approval on an Agreement to Purchase Out of home placement with The Brown Center. The agreement does not specify a not to exceed however it is under \$50,000 so it does not require Board signature.

We can place children at this facility. Continue to do this.

Asked for direction.

The Board discussed the not to exceed umbrella contact and if Lynn could sign up to \$50,000 contracts.

Don – Commissioner Houpt raised one of the concerns I have is at end of the day, this really sets terms and conditions for a series of individual agreements and those individual agreements can but not necessarily but have potential in aggregate to exceed the \$50,000 limit. It dependents upon what services are being provided. Unless it is particularly onerous, it would seem better for Lynn to bring these in front of the Board. This type of contract is not dealt with in the Procurement Code and it is not one of the things discussed with Kent and his staff but that is the plan for 2010. Therefore, for the time it might be better to have Lynn being umbrella contracts come back before the board.

Lynn reiterated that she was requested approval for the Brown Center contract.

Commissioner Houpt so moved. Commissioner Samson – Second.

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

BRIEF DISCUSSION ON THE CHILD WELFARE ACTION COMMITTEE COMMUNITY FORUM NOVEMBER 20 IN GLENWOOD SPRINGS

Lynn stated the Colorado Department of Human Services is hosting four community forums across the state to solicit input regarding the recommendations by the Governor’s Child Welfare Action Committee. The forum on the Western Slope would be held at the Hotel Colorado Glenwood Springs on November 20 from 10 am to 2 pm, CCI is distributing information and the County Commissioners as well as attorney staff and community stakeholders from the region are invited to attend and provide comment. Lynn made the Board aware of the other locations where these meetings would be held. Centralized call center for referrals back to the local area is continuing- state takes over management of social Services.

The Board agreed they would all attend this very important meeting.

PROGRAM UPDATES

Lynn submitted the reports for the Board’s review.

HONORARY PROCLAMATION HOMELESS AND RUNAWAY YOUTH AWARENESS MONTH

Lynn requested the Board approve a proclamation receiving grants for this. Lynn read into the record the Proclamation. She requested that all three Commissioners sign the document.

Commissioner Houpt – So moved. Commissioner Samson – Second

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

BOARD OF HEALTH:

HCPF EPSDT CONTRACT AMENDMENT

Mary Meisner submitted the revised Contract for EPSDT Contract Amendment Number 4 and requested Board's signature. Not a dollar amount, only a change in the language. It is HCPF-EPSDT contract amendment 221-90-28, Amendment No. 4.

Commissioner Samson so moved. Commissioner Houpt – Second.

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

DENTAL PROGRAM

Carrie presented the School Based Screening Program providing details of the program formed in 2008 with the goal of building a comprehensive system that provides preventative dental health education and treatment services for the indigent and underinsured living in the Aspen to Parachute region.

The Caring for Colorado Grant overseen by the Western Colorado Area Health Education Center and administered by the Garfield County Public Health received \$112,000 from November 2008 through October 2009 for four counties – Delta, Garfield, Hinsdale and Montrose. The funding was for equipment, supplies, and salaries for registered dental hygienists and assistants to work in the schools providing, oral health education for children and their parents/guardians, free dental screenings, free fluoride varnishes and free sealants for students with permanent teeth. This was for K-2nd grade with a permission slip from the parents, done during the school day in RE 2 and RE 16. 505 children were seen and there has been an additional 105 more in November equaling 610 total. The program is looking to add another 3 schools and 250 plus kids in School District RE1. Data collected showed 97 kids or 19% were identified as needing immediate dental assistance, 171 kids or 34% have decay and need to see a dentist soon. Outcome: There is a need for a sustainable, school-based preventative dental program in Garfield County.

There is another route of funding for 2009 to continue the program. Two dentists out of Rifle have volunteered to help and seeing kids and provide dental care. This is a wonderful resource for parents to access. We will be seeking more to assist to accommodate the number of kids that need this assistance. Once the equipment is purchased, it is a cost effective program. 90% of cavities are preventable by brushing teeth and good health nutrition. This is a popular program for the kids. Schools assist in sending out follow-up letters. They do have funding that will go through 2010. A Powerpoint Presentation was given.

2008 DIVIDE CREEK FOLLOW UP AS PER DR. THYNE'S REVIEW – LISA BRACKEN

Lisa Bracken provided a handout and a letter to the Board of County Commissioners.

On September 14, 2009, I came before both of you at a Board of County Commissioners' meeting and asked how Garfield County intended to follow-up on Dr. Thyne's review of the Divide Creek seep, which emerged in the summer of 2008.

It was my understanding that Garfield County commissioned the data review to determine whether a seep emerged in West Divide Creek in the summer of 2008.

You may recall I noted, for the record on September 14, 2009, that Dr. Thyne found my visual observations to be coincident with the presence of a methane seep in areas of West Divide Creek where no seep had previously existed. I asked you, on September 14, to engage the Colorado Oil and Gas Conservation Commission to pursue thorough water monitoring as well as an engineering review relative to this issue. I further asked you to encourage the Colorado Oil and Gas Conservation Commission to provide water monitoring data access to Dr. Thyne, so that he could further develop any conclusions he may reach in this matter.

Mr. Martin, you moved to address this matter at a later time though failed to provide a date to do so. You indicated you had not read the report but would do so and conduct a conversation with Dr. Thyne about said report.

I believed that Garfield County acted in good faith to retain Dr. Thyne. However, this process requires direction and a commitment. Dr. Thyne has made conservative, expert recommendations to Garfield County regarding this issue, which I hope you, as representatives of your constituency will pursue.

Perhaps you are counting on the COGCC's request that EnCana address the project of installing ground water monitors in the areas of the 2008 seep. Despite the COGCC's directive issued during the COGCC's "hearing" in July of 2009 in Glenwood Springs, EnCana's aggregate efforts to this end amount only to a single site visit to the area on August 13 – a month after the COGCC's hearing in July.

On September 15, 2009, I sent both of you an e-mail relative to Dr. Thyne's review of West Divide Creek including actual attachments of his review. I have included that e-mail herein below for your reference and resent both attachments separately (same file names). As I received no response from either of you regarding that e-mail, I have requested inclusion on the November 16, 2009 County Commissioner's agenda to address this issue.

I sincerely appreciate Garfield County's preliminary efforts to identify the source and scope of the seep discovered in 2008. The seep, however, remains active, but has been largely uninvestigated by the COGCC and further ignored by EnCana - the currently presumed source.

Given Garfield County's responsibility in lifting the moratorium in the area of the new seep, at the November 16th Board of County Commissioners' meeting I intend to ask whether and how Garfield County intends to pursue a resolution of this issue. The next steps have been clearly identified and recommended by your consultant.

Surely I need not remind you that it is improper and counter to the health, safety and interests of the citizens of Garfield County to defer this issue indefinitely, and I respectfully ask you to give it thoughtful and timely consideration prior to our meeting on November 16th.

Thank you for considering this very serious matter.

Lisa Bracken

Dear Mr. Martin and Mr. Samson,

Thank you for the opportunity to present my concerns yesterday relative to both hydraulic fracturing and the on-going West Divide Creek seep situation.

I certainly understand the difficulty in addressing a topic when many of its parameters are unknown, so I have attached a copy of Dr. Thyne's report for your review.

[File names: "GT_Final_Rpt7-09.doc" and "Appendix_1.xls"]. I was unable to locate these documents on the county website.

Thank you both for agreeing to view the film "Split Estate" prior to issuing a decision on any hydraulic fracturing resolution representing Garfield County. I have not yet seen the film but did participate in it. I feel confident that it will help portray some of the common, but seldom acknowledged impacts of drilling upon local landowners. Please also consider the underlying foundation of geology and hydrology, which play a major part in hydraulic fracturing activity. We would be remiss to consider the potential effects of fracing upon ground water resources, without considering the effect upon geology.

Immediately below, I have included my comments from yesterday for your convenience:

"Hydraulic fracturing causes seismic pulses to travel primarily along existing fault paths, extending the energy from that pulse into the formation in the way of new faults - small or otherwise. It also creates some new pathways. This seismic activity causes the underlying rock layers to slip and shift creating more faults - and possibly sealing others in a process that is often grossly underestimated. Introducing extreme hydraulic frac pressure, (enough to counter the weight of the compressed rock formation and existing pressures from gas and water) only intensifies this effect. These activities combined with the interception of pressurized gas pockets creates even more disturbance - much of which is unpredictable due to the irregularities and fluidity of tight sand formations as well as the inability to predict pressure. Now, couple all of this with depressurization that occurs as gas (and water by as much as 1-5 million gallons) is tapped off the formation and collected up the well bore. Much greater shifts and instability arise, compounded by subsequent frac jobs that can lead to greater formation failure. Big time pressure encounters (gas kicks and over pressurized water as they exit the wellbore) can really put the whammy on the formation. To summarize, both instant and continued degradation of the formation occurs over time affected by numerous primary factors. 1) the nature of the rock (faults, fissures, caverns, slip zones and other instability) 2) initial artificial seismic and hydraulic stimulation of the rock (fracing) 3) frac disruptions causing the formation to respond with its own seismic reactions leading to even more highly unpredictable instability in a round-robin cascade effect 4) encounters of pressurized and over-pressurized gas and/or water (gas kicks, light or heavy) 5) depressurization of the formation as gas and water are produced and, 6) artificial re-stimulation of the formation through repeated seismic and hydraulic stimulation of the rock (for each stimulation, factors 1, 3, 4 and 5 are compounded).

Now, introduce fresh water aquifers and underground springs into the equation and you have a recipe for environmental disaster.

To make things even worse, let's toss extreme down-hole density into the mix - and now you have this level of geologic degradation going on every ten acres underground.

Unfortunately, all of this underground interplay makes predictability a pipe dream and can produce effects that are made worse over time. Some adverse effects may show up relatively immediately, but some may not manifest until the well is long into its lifespan or perhaps after.

Also, here is a link to a collection of scientific data I've collected which support the comments above:

<http://journeyoftheforsaken.com/fracmodeling.htm>

The 2004 West Divide Creek Seep erupted in association with fracturing activities, and while re-cementing appeared to have aided in diminishing the release of gas, it has not fully corrected the problem, and natural gas along with other harmful constituents continue to leak into the aquifer of West Divide Creek. Since the seep did not exist prior to fracturing and it continues even after cementing, there are certainly questions as to what role fracturing may have played in contaminating the creek. A new seep in the creek, which appeared after tens of new wells were installed within a mile of the area, suggests that fracturing may once again have played a role, but the COGCC is uninterested in pursuing sampling of this event or a review of existing environmental and engineering data. The COGCC, however, assured Garfield County of appropriate oversight when Garfield County voted to support lifting the moratorium and allow renewed drilling.

During the COGCC hearing in July, the COGCC asked EnCana to address our sampling concerns. To date (nearly two months later) EnCana has visited the site, but after four weeks has failed to communicate the conclusions of their internal feasibility review. So, we are left, as winter approaches, still wondering what is in our drinking water. Unfortunately, the COGCC left little direction on this issue.

It is my hope that after reviewing Dr. Thyne's analysis, you will wish to pursue his recommendations, which generally pertain to the access to and review of relevant data in order to develop a conclusion.

Certainly, his recommendations seem prudent upon finding this process in mid-step due to a lack of data, which is available but currently inaccessible.

On a relative note: This is why we feel strongly that our property should be included in Phase III of Garfield County's Hydrogeologic Study. The efforts at data collection from EnCana have been inconsistent, and oversight from the Colorado Oil and Gas Conservation Commission has been largely absent. Again, data is available, merely inaccessible. Garfield County's independent analysis of the data and true circumstances surrounding the West Divide Creek seepage is appropriate and would be very greatly appreciated. We would be overjoyed to include the voluminous data in our possession into the County's database and/or analytical process should the commission find our inclusion appropriate.

Thank you for considering our position on this on-going issue. I hope to re-schedule this agenda item for the next regular Commissioner's meeting. Please let me know if that would be agreeable.

Please also contact me if I can offer additional perspective or be of any assistance.

Sincerely, Lisa Bracken

Commissioner Samson stated he read through everything and no problem with her recommendations; he thinks they are good ones.

- 1) Garfield County should ask the COGCC to supply all the data from the seep monitoring program associated and reports and post seek complaints and responses for the County to achieve for in future review analysis;
- 2) Garfield County should ask COGCC staff to prepare an evaluation of the continued seepage of that same thing and associated carbons to either estimate the likely duration or continued seepage if the source is the original discharge from the Swartz 2 -15b well or identify the additional sources of hydrocarbons and provide appropriate mediation;
- 3) Garfield County should ask impacted homeowners in the area to voluntarily provide data from their water wells that have been sampled by the state or gas producers to supplement the state data for future review and analysis.

I think it is great that those recommendations and giving the COGCC to get involved. I think this is where we need to go. With that in mind, do you feel if I make a motion that we do that, is that what you would like and we could save time and energy here.

Lisa Bracken – Absolutely and that is the emphasis. In the event the Board does endorse support of these recommendations would it be Dr. Thyne who continues to gather the information and review it.

Chairman Martin – We would continue his contract and what it would cost but I believe his contract goes to the end of 2009.

Judy confirmed it was the end of 2009.

Chairman Martin – That would be in connection with Dr. Thyne and his agreement; therefore we could not guarantee that he would provide this service. If this motion passes, we would ask for immediate disbursement of that to the Department of Natural Resources, Oil and Gas Conservations folks and hope they will be on that as soon as possible. The timeframe we would have to set up would be with the local folks on water samples, etc. and establish those protocols.

Lisa added that it was also important that an engineering review or engineering data of the surrounding wells that are implicated in this situation would be helpful and beneficial in light of looking at water sampling data. This would provide relevant context. In July of this year, the COGCC asked EnCana to address the sampling in the 2008 Divide Creek Seep area. A month after that hearing, EnCana came and visited our property and did a site visit and I had great hope of coming to some kind of beneficial. Unfortunately, since that time EnCana has said that, the process is under some type of internal review and Lisa stressed that weather will be a huge factor because of the remote location and access issues. Winter is not here and she has had very little correspondence, and she has no idea where the process is now. She was told that EnCana is working with COGCC Debbie Baldwin, in reviewing their 2010 sampling plan.

Commissioner Houpt explained to the audience that she is not engaged in this conversation because I have been at the state level.

Lisa stated that all her comments are directed to Commissioners Martin and Samson.

Commissioner Samson moved the three (3) recommendations as stated by Dr. Thyne. Chairman Martin seconded the motion. In favor: Samson – aye Martin – aye Houpt - recused

OIL SHALE IMPACT PRESENTATION, NATIONAL WILDLIFE FEDERATION – BILL DVORA

Bill Dvorak - Public Lands Organizer, Northrop, Colorado, presented a Powerpoint.

The Board expressed appreciation for the information and stated the process was moving slowly and no one wanted another Black Sunday to occur. He encouraged policy makers to evaluate the impacts, as they become known. Bill asked to adopt a “go slow” on this and thanked the effort on Thompson Divide Coalition.

Chairman Martin stated the technology is there. It is the same folks who helped design and packet directional drilling using the same type of technology, recapturing and producing water and not using water so we need to look all of the different approaches of oil shale. We have that in front of the Department of Interior and Mr. Ken Salazar asked for that information. He will be deliver that information however, he has to make a determination because of that lease that is under the development stage and allow it to go forward. There is backing to do, it is on federal land and it does not use the same technology. It is still being held up and cannot be proven until he makes that decision. There is good and there is bad, if we follow the same technology as 1986, you are correct and your scenarios are right on. But there are so many other technologies out there to extra carrageen from these without pollution.

Bill – To my knowledge none of those have proved viable to this point to be commercially productive so that is what we are looking for and the reason research and development leases that were just let, they were asking for that sort of data to come forward. If there is some sort of technology out there is viable then it can be utilized.

Chairman Martin – If you go downtown in 3rd Street in Rifle, 2nd floor to the American Oil Association, which is Amsco and you can see the technology and see that the tests spots that have taken place in Austria, China and other places using the technology that they are proposing works very well and they are producing already in reference to the carrageen and it is extremely valuable to the Air Force simply because of the jet fuel potential. It is a great tool and a great supply and you are not using diesel that we are currently.

Bill – All I am trying to say is the current technology we are aware of and the one you are speaking about has not come to the floor yet, I do not think there is a lot of information out there about it.

Chairman Martin – It has been around for about 10 or 12 years now that no one has looked at and everyone stays away from because they recapture all of the green house gases and actually resale those and they use directional drilling and a low volume of electricity allowed to crackle underground.

Commissioner Houpt thanked Bill for bring this forward. There is a lot of concern that we make sure the research and development stage is allowed to continue and be completed before any commercial activity moves forward.

IGA RENEWAL PROCESS WITH GNECI PARTNERS – KEITH LAMBRT, ALICE LAIRD, JIM RADA

The extension of GNECI IGA was submitted as well as updated materials with results and accomplishments to date. A request was made to the Board to extend the IGA. Alice stated this does need to be renewed before the end of 2009 before all the IGA's are scheduled. In December, we would like to come back to this Board and give a full presentation on all that has been accomplished in the last year.

A motion was made by Commissioner Houpt that we approve the 2010 IGA extension and amendment for the New Energies Communities Initiative as presented. Commissioner Samson – Second.

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

GNECI RECOMMENDATIONS: SELECTION OF ENERGY SERVICE COMPANY FOR PERFORMANCE CONTRACTING - KEITH LAMBRT, ALICE LAIRD, JIM RADA

Today, the GNECI partners asked the Board of County Commissioners to begin contract negotiations with Ennovate Corporation a medium-sized energy-engineering firm specializing in providing energy savings, which was prescreened and preselected by the Governor's Energy Office and Jeff Dickenson was present to represent that office. Jeff explained the process of evaluating for selecting the firm Ennovate for the project.

Alice stated they were here to get the blessing to go to the negotiation process.

Commissioner Houpt so moved. Commissioner Samson seconded.

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

GNECI RECOMMENDATIONS: CLEAN ENERGY FINANCE DISTRICT - KEITH LAMBRT, ALICE LAIRD, JIM RADA

Keith Lambert and the GNECI representatives requested:

1. Formation of the Local Improvement District by county resolution;
2. Request of those municipalities wishing to allow for their residents to opt-in, also pass local resolutions for inclusion in the LID;
3. County and GNECI identify initial funding sources to start a Phase one program.

Keith – The reason we are here is to ask the Commissioner to pass a Resolution to form the local improvement district and the reason is to create an organization that will allow for local homeowners, business owners throughout the County to acquire funding to do renewal types of energy fixes for their individual homes and/or businesses. This is something that was before this Board a number of months ago and at that time it was new enough that it was put on hold because there was not a lot of background knowledge about it and since then there has been an overwhelming success in Boulder County specifically that has already moved forward with this. The reason we are coming to you today is to form the district so that we can regionally work with our surrounding counties that have recently passes through their election process the formation of these districts and will have a regional authority that will have economies of scale and allow us to participate and help our local people. At this time, we are not specifically asking for funding, funding would be a component that would come at some later date but the formation of the district will allow us to put in place the organization at this time. Funding is a component that we should probably talk about briefly. There are different avenues that we may approach to acquire funding through create this district and allow these homeowners and business owners to acquire funds for their renovations, their new installations. If the County was pre-disposed to consider funding to a certain degree it is monies that would ultimately come back to the County and you would be in a position to set interest rates and as such as you have to invest your money somewhere why not invest it with our local community.

Chairman Martin – And be the bank.

Commissioner Houpt – The district would be the bank, because counties cannot lend money.

Keith – It would come through the local district but the primary reason we are here is to ask this Board to consider forming the local improvement district though resolution and then each of the communities would be asked to do the same thing as well.

Chairman Martin – The other method is what you talked about and that is to put on a general ballot to go ahead and ask that district to be done by the described boundaries. I think the citizens needs to make that determination.

Commissioner Houpt – It is not just the ease it is the timing right now because of the activity that is going on with forming these other districts and it would be very timely for Garfield County to be a part of that as well.

Keith – The regional aspect of it is a consideration in us coming to you at this time because of the nature of them putting together their organization and if we want to be part of it as Garfield County as Commissioner Houpt just said, the timing of it is really a strong consideration.

Chairman Martin - It is but even if we did not at this present time we could still join at a later time in the organization.

Keith – I would gather that would be the case, I do not know that to be a fact.

Alice – Just to follow up on that, the local improvement district was created by resolution. What Eagle, Gunnison and Pitkin did was put the bonds on the ballot but the local improvement district is created through resolution and what we would need to do it we have sample resolutions. We would have to sit down with Carolyn Dahlgren and to work through the creation of the local improvement district. This is moving very rapidly around the country where it was a very new idea two year ago it is quickly taking off but the neighboring counties moving on this, the time is right for the economies of scale so that we join forces with Eagle, Gunnison, Pitkin and then they can create the administrative structure for processing.

Keith – One of our reasons for asking for this now is that GNECI acquired funding before the organization was fully formed and it was a challenge if you will to get the organization in place. This way we could put the organization in place and then go about the funding component afterwards.

Chairman Martin – There seems to be a huge movement throughout the nation to get everything done quickly and the answer is government does not move that way for a very specific reason. Government bodies make decisions; however, it is the citizens who get the bill. We can join these organizations, we can make them happen, but let's bring the people along with us. It needs to be a ballot issue instead of just a resolution.

Commissioner Houpt –I do not know why the formation of the local improvement district would need to be the question if it is not a Resolution that you have to take certain things to the voters. If we want to bond this program that will be a cost to voters who opt in. I know that Ms. Dahlgren has been waiting to say something, but it makes great sense to me that we move forward with forming this local improvement district.

Chairman Martin – First of all there are a couple of different kinds of special districts and there are statutory provisions to create those and there are some options in those but it comes back down still to a vote of the people. Ms. Dahlgren, which level of special district is NECI proposing we do through Resolution.

Carolyn – This is Local Improvement District (LID) unlike any you have ever seen before. I would like to read the section 30-20-603-11.5 a portion of that “any such district shall include only property for which the owner has executed a contract or agreement, consenting to the inclusion of such property within the district and such consent may occur subsequent to the adoption of the Resolution the Board forming the district.” This is how it is different than anything else you have ever done. I would suggest that the Board authorize the County Attorney's office or direct the County Attorney's office to look at the sample resolution to come back to you later, which you would have to have a hearing in order to do it and it sounds like there is a lot more discussion that needs to happen as well.

Commissioner Houpt – And I would like to see you work with very closely with GNEIC in creating that Resolution and bringing it back to us and if that has to be in the form of a motion, I will make that motion that staff work with GNECI on putting Resolution together to bring back to the Board.

Commissioner Samson – I do not think that is necessary for a motion is it.

Commissioner Houpt – Well, I would like it to be a motion.

Chairman Martin – There is no problem there.

Commissioner Samson – I will second it.

Chairman Martin – And the other one is the protocol in reference to the public hearing, etc. that needs to be discussed as well.

Carolyn – But this is very different than any other LID because it does not include the County Engineer; you are used to the County Engineer having to review plans and such. For this kind of a Renewal Energy and Energy Efficiency LID a lot of what you are used to seeing in an LID is statutorily exempted.

Commissioner Houpt – Well and this whole program is opt in program, so it is not a new burden on taxpayers or voters. It is completely a volunteer program.

Commissioner Samson – That is the point I wanted to make sure everyone to make sure they understand as we go through with this; anyone who wants to join will have to an effort to join and those who do not want to join do not have to.

Chairman Martin – There is one other element that you are leaving out and that happens to be the Assessor in reference to the property and using your property and also taking the bond out against your property and paying it through your property taxes.

Carolyn – We are not doing that.

Chairman Martin – If we do it what way such was suggested prior to that, then the Assessor creates how many, 37,000 different special districts that could opt in and how many did or not. That was one of the issues that say, wait a minute, step back from there and not create 37,000 special districts just in Garfield County and by the way that is how many parcels there are, and that is how many property owners are registered that could opt in. The records keeping alone would drive the Assessor's office crazy because who is in and who is not in and putting that detail together.

Commissioner Houpt – That is the lovely thing about where we are today after having Boulder County go through this process and the Governor's Energy Office is on board to help create structure for this process. It is not going to be the kind of nightmare that you have been describing.

Chairman Martin – Then you put the bonding issue out there and then it becomes a bonding issue and who is going to do it and the citizens would have to vote on that bonding issue. The bond has to be somehow and that is again who is opting in on those, etc.

Keith – That is why we are asking for the formation of the district so that we can work thru some of those issues and determine what best course of action would be when it comes to the funding component. There are questions that we have to figure out as well and certainly, your concerns are heard by us. We want the ability to work within the structure of the LID to work though the problems.

Chairman Martin – I understand that and the question still needs to be called in reference to the direction you gave to staff.

In favor: Houpt – aye Martin – aye Samson – aye

Chairman Martin – So you have the pitfalls and the quagmire is out there. I think somebody referred to it as a tar baby. Once you are attached to the tar baby, you are attached. Those bonds go with the people that go with the properties and all the other stuff, the replacement costs, on and on again the payback needs to be again discussed at length.

Keith – And you are very correct, it ultimately will come to the people and rightly so, so we agree with that aspect of it.

DISCUSSION OF THE 8TH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 8TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Theresa Wageman submitted the Resolution and requested Board approval.

Chairman Martin swore in the speakers.

The public notice was reviewed and Board was advised that it was timely and they were entitled to proceed.

Theresa submitted Exhibit A with the changes to the budget. It was published in the November 12 Citizens Telegram.

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

A motion was made by Commissioner Houpt to approve the 8th Supplemental to the 2009 approved budget and the 8th amended appropriation of fund and authorize the Chair to sign.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin – aye

TO RECEIVE PUBLIC COMMENT ON THE 2010 PROPOSED BUDGET PRIOR TO ITS CONSIDERATION FOR ADOPTION – THERESA WAGENMAN

Theresa Wagenman stated this was published in both papers; in addition, it was noticed for the last meeting. The notice was determined to be adequate and the Board was entitled to continue.

Sandy Gold – With your budget you intending to keep the mill levy the same as last year, even though the assessed value went up 25% in two years. So that to every property owner it went up 25-30% for you are going to impose a 25 or 30% tax increase on me and my neighbors and everybody else and that is how that works. It does not make a difference. Just so that my house and your house are relatively valued, the same the assessed valuation is to make taxes fair. The mill levy is where the hit come, you people have to know that so if the assessed valuation goes up for whatever reason, we are in a boom, we have natural gas, whatever, and it goes up 20% and the mill levy goes down 20% we are even. There is no tax increase at all. That is what your responsibility is and I guess I make this comment, I've heard that RE1 and CMC are going through the same thought process and they are not dropping their mill levy either and they are the big hit on property tax.

Chairman Martin – That is also by executive order of the governor to freeze those mill levies.

Sandy – In this economic time, to increase for entities in general to increase my property tax by 20 to 30% is totally irresponsible and leaves me flabbergasted that this is what you people are doing. I think everybody is DeBruced.

Chairman Martin – We are but not the school district.

Sandy – Well, I think everyone is going to get re-Bruced when the impact of what you are doing hits in a 20/30% increase in one year on my property tax. It is flabbergasted.

Commissioner Houpt – So what happens when the value of our homes go down?

Sandy – You raise the mill levy.

Chairman Martin – That is a vote of the people.

Commissioner Houpt – You can only go to the people for a vote for that.

Commissioner Samson – That is the problem that we have; if we were to lower the mill levy, and you have to realize the total mill levy is different on where you live in the County, but it 87 to 75 mills. First of all, 65 mills, we only control 13.65. That is pretty small. If we, the County, were to lower that how much would it actually help you as a taxpayer, not very much. Even if we were to do that, which we have power to do, it would not help you very much as a property taxpayer. On top of that, in light of the economic situation if we were to lower that mill levy it has to go to a vote of the people to increase it when times get rough and we need money as perhaps we will in years to come, do you think the people would support a mill levy increase on property tax. My answer to that would no way.

Sandy – Things are tough on this side, Garfield County happens to be.

Commissioner Samson – We are taxpayers too.

Sandy – You have hundreds of millions of dollars of added increased value in the County due to the natural gas.

Commissioner Houpt – There has to be the recognition as well that in 2011 this budget will take a huge hit and because of that, we have done many things this year to curb spending. We have no even decided whether we are giving increases in raises or not. We have frozen job positions. We have a very large County and a very large budget that we need to be accountable for and Lisa in 2011 what is going to happen to this budget.

Lisa Dawson – There is going to be a definite decrease in revenues.

Theresa Wagenman – The budget presentation in October we were looking at expenditures to exceed revenues by approximately 12 million, 7 million in 2012, and 3 million in 2013.

Sandy – I am telling you, you have people that you represent. Everybody on the street here is making less money and houses are not worth as much as they were but that is just how that system works. You are less wealthy and you people are taking more money. It is not right.

Chairman Martin – Not yet, it has not been approved. On every one of our public hearing in reference to the budget, I proposed two different items in reference to the very issue you raised on 13.65 mills. One is that you give a tax credit to every parcel holder in Garfield County under the 13.65 mills. My figure was \$100 based on what your analysis was in the 20 – 23% increase and the overall average of the people paying that 13.65 mills on their parcel would be about \$500 but you would reduce it down with tax credit. Again, dealing with not lowering or raising the mill levy, but giving you a one-time tax credit that you would not have the revenue. That alone would be around \$4 million dollars to Garfield County income in revenue, a decrease. We have that in reference to other monies that we have put aside that we could do a backfill. We would not take it away from school districts, special districts, etc. that is totally an issue with them. I am dealing with just the County portion. Then there was one other program that I suggested we did which would be about \$380,000 and that is to give every senior an exemption, the State of Colorado said no there is not money, nothing. The seniors deserve this, the legislation passed it, and that was there. Garfield County needs to step up, go ahead, and say, because you are on fixed income and because of the increase in valuation based on oil and gas revenues and production, etc. We need to go ahead and honor that exemption within Garfield County again and give them the tax credit over at the office that will not cost anything to the program. Those who would be eligible would receive that credit. The same would be with all of the parcel holders and give them a tax credit, which means you would have a reduction automatically in your payment only under the Garfield County portion of your property tax.

Commissioner Houpt – You have to ask yourself, is it worth that amount of money to then put the County services at more of a risk level for being funded in the future. If that is okay with you with the maintenance, snow plowing, social services, public health, the sheriff's department and all of the other departments that we have and you recognize that because you may get a small break on your tax bill this year, not ever again, but this year, that there may be some.

Sandy – I would hope next year as well because it is for two years. Yes, I am standing here on principle.

You have to stop somewhere. You are talking about another district here.

Commissioner Houpt – We are not raising taxes.

Sandy – Well you make another district ad then they get taxing authority and they pay just a little bit more and I think to take the leadership role in equalizing the County's property tax by a tax credit would be a tremendous effort. It would be a leadership role; I think the schools ought to do the same thing.

Chairman Martin – The other one is my reasonable nexus of putting together the amount of money I did in reference to revenue and backfilling it through the energy mitigation fund is the oil and gas revenue and the increase of production raised everyone evaluations. That is what happened. Therefore the reasonable nexus to is take out of that fund, which is a little over \$20 million and reduce that by the \$4 million dollars and then make whole the departments using the funds we set aside to mitigate the impact in the proper manner reducing the taxes in hard times using that money again out of a special fund that cannot be moved back and forth wily nily but has to have a reasonable nexus within the perimeters set up. Use that money properly, it is hard times, we reduce your tax a little bit by doing a credit, we keep our department whole and I think that is the right thing to do right now.

Sandy – I am talking principle, we have to stop raising taxes.

Commissioner Houpt – We are not raising taxes; we have not raised taxes in a special district we just talked about, it is an opt in district and it is not another taxing entity.

Sandy – If I pay more in taxes next year to the County than I did this last year that is a raise in taxes.

Commissioner Houpt – To follow the value of your property, you are not complaining when your property was not valued at the level you could have sold it at.

Sandy – I was not complaining.

Chairman Martin – You are technically correct. This Board will raise taxes in reference to keeping the mill levy the same and applying it against the assessed evaluation and you will pay more overall in taxes. Technically, yes, we raise taxes and that is why I go back to the tax credit by reducing it but not reducing the mill levy. This way we would not have to go to an election the following year to raise it up because valuations will come down and revenue will come down but do it proportionally.

Commissioner Houpt – But then we raise and lower taxes all the time if you calling that raising taxes.

Sandy – You are confusing raising and lowering taxes with raising and lowering the mill levy. Raising and lowering the mill levy has absolutely nothing to do, it is only half the formula for raising or lowering taxes. The assessed valuation is the other part. You have to have something to multiply it by.

Commissioner Houpt – You cannot leave that out of the discussion.

Sandy – You have to look at the entire thing, the taxes are what I pay out of my pocket. It is not what the mill levy is and not what the assessed valuation is. Thank you.

Chairman Martin – I have to have clarification, I did not ask you to come and do that so I could throw my spill out.

Sandy – No, I am not your straight man.

Chairman Martin – I would just like Lisa Dawson to follow up with my figures with senior exemptions with the Treasurer and Assessor to make sure that I am within the ballpark of \$380,000 for the total senior exemptions in Garfield County.

Commissioner Samson – Also, Lisa is John's figure correct of about \$4 million.

Chairman Martin – Actually, \$3,700,000 is what it would be.

Don pointed out there is still an opportunity to comment at the final budget. On December 14, you will have final consideration for the budget and that is still part of the hearing process.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Treasurer Tax lien sale is this Thursday per Georgia Chamberlain; handouts were presented. The Colorado statutes provide for full collection of taxes though the annual tax lien sale. Anything that is delinquent at the time of the sale can be offered to sell, investors participate, and it is like a short-term loan to the delinquent taxpayers that the investor will pay their taxes and then they have an opportunity of up to three years to pay back. Last year's tax sale statistics were passed out to the Board, which was held on November 18, and there were 154 real estate properties nine mobile home properties that went to sale. We had 27 successful bidder, the taxes were \$364,000 that was purchased at the sale with premium bids of \$19,000. The premium bids are anything bid above what is actually owed so the base amount is your taxes, advertising, your delinquent interest and any fees that have accrued. We hold it as a regular auction; we have Doug Britten as the auctioneer. This year Doug has requested help so Bill Hoskins will be helping him with the sale. Registration is at 8:30 am, the auction begins at 9:30 am, and this year as of last Friday, we have 429 properties that have still not been paid so that is a 280% increase from last year. 31 mobile homes and then the amount to be sold as of last Friday if \$1,353,930 so that is over 370% increase and last year the interest rate the investors earned was 11% this year it is 10% and that is 9.5 basis points over the discount rate as of September 1. It is the same across the state. Our concern this year is the majority of treasurer's have already had their tax lien sales and they have not been going as they have in the past. Not all of the properties are being sold at the tax sale and the treasurer's are having to keep the tax sale open to make sure all the properties are sold and also the premium bidding is not how it has been in the past. Whether that happens here on Thursday or not, I do not know. Georgia invited the Board but you will not be able to participate. You cannot have an agent participate. We have reserved the room and it will be in the Commissioners meeting room.

Chairman Martin – Historical trivia, this same issue dealt in 1932 in reference to the collapse of the Colorado Midland Railroad and all properties associated with it, was a dramatic issue on sales; the County picked up many things from rights of way to signals, etc. to locomotives on through as well as the location of the school over here. We could be seeing that again. The County will again be owners of items that need to stay open for tax sales, etc.

Georgia – Well if we do not have a purchaser, it eliminated off the roles to the County. The difference in a purchaser purchasing it at the tax lien sale, they have 15-years in which the tax lien is good, so that they can wait to apply for the treasurer's deed and do it within 15-years. Whereas the County has 30-years, where their tax lien is good and can apply for it.

Commissioner Samson appreciated the information and learned some things today.

Georgia said she would return and give the Board an update on the tax lien sale.

James Edward Golden, a resident of Garfield County 648 Village Drive in Rifle. I am here today out of respect for your office and I am here today out of respect for the people that reside in Garfield County. I feel it is my duty and somebody has to ask this question, the question I am here to pose to you today is to ask for the resignation of John Martin as Chairman and Mr. Mike Samson also a member of the Garfield County Commissioners. I ask this on the grounds of failure to protect the health and safety of the people of Garfield County. I have said it and it is out there.

CONSIDER AN AMENDED SUBDIVISION IMPROVEMENTS AGREEMENT INCLUDING A REVISED ENGINEER'S COST ESTIMATE AND LETTER OF CREDIT IN ORDER TO COMPLETE THE IMPROVEMENTS REQUIRED FOR THE SUN MEADOWS ESTATES SUBDIVISION. APPLICANT IS SUN MEADOWS ESTATES, LLC (FRED COOKE) – FRED JARMAN

Tim Thulson and Manager of Sun Meadows Estates, LLC - Fred Cooke were present.

Fred requested direction from the Board on the following:

The BOCC agreed to allow the Developer Fred Cooke to present a SIA by November 16 for BOCC review as well as present a revised (estimated) Letter of Credit to cover the remaining improvements with the following caveats:

- a. The BOCC would release the "no built/no sale" restrictions on all lots (except Lots 9 and 10) if the Developer provides an estimated LOC;
- b. Once a "Notice to Proceed" is issued by CDOT with actual costs for improvements, the BOCC would release Lots 9 and 10 (currently held in Escrow) back to the developer. A new revised LOC will need to be provided to cover the actual costs of the improvements prior to the release of the lots; and
- c. The LOC shall be required to be valid for 6 months beyond the SIA.

Fred said this was the direction. To date the revised SIA and amended, Deb Quinn worked with Tim Thulson and an email from Tim and he explained.

Tim – Deb and he have an agreement with one change, we are to have the improvements done by June 1 2010 and right now under the draft that you have, the notice to proceed to February 28, 2010 versus December 31, 2009 to have some more flexibility with regard to getting that permit out of CDOT. One hitch we have had is with the letter of credit but the bank was requiring a closing of Lot 6 that has not been done but it is scheduled this week. What we would like to do is have the Chairman authorized to sign the SIA and deposit that with the Clerk and Recorder where we can record it on the date that the lot closes.

Commissioner Houpt – Deb and you have worked out the concerns voiced in your email about escrow.

Tim – The bank is okay with where we will leave the lots in escrow until we get the notice to proceed and our cost are finalized with the state. SIA addresses it if it is above or below. If the cost is above, we will come back with

additional security or if it is below we will be able to draw down on the letter of credit with what those actual costs are and I think the letter of credit is in place. We have the form exhibits and the notices and need to talk to Deb whether those forms are changed; they are standard forms with the SIA.

Deb – The Board will need to authorize the release of Lot 6 from the no bill to no sale restricting, it can happen as this currently exists, that was one of the conditions we had a couple of meetings ago. The deadline that is currently in the SIA for completion of improvements in June 30, 2010. If you finish by June 1 we will all be happy. However, we will leave it at June 30, 2010 and change that one date to February 28, 2010 on page 5 of SIA the end of the first major paragraph has the June 30, 2010 completion date underlined and then subparagraph i has a December 30, 2009 approved plans and that is the one to be changed to February 28, 2010.

Chairman Martin – This one will require two votes. The first one is go ahead and release Lot 6 and then action accepting the SIA and those changes in date.

Deb said the prohibitions would continue until we get the SIA fully signed.

Andy – The building permit was released. Deb – Yes.

Commissioner Houpt so moved. Commissioner Samson – Second.

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

Motion to approval the SIA and the changes in dates.

Commissioner Houpt made a motion that we approve the Sun Meadows Estates Subdivision Improvement Agreement (SIA) approved as amended as presented. Commissioner Samson – second.

Deb – To make sure the record is clear, the prohibition on sales of lots and issuances of building permits and CO's will continue until we receive that new letter of credit and the current SIA.

Commissioner Houpt added, with the exception of Lot 6.

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

CONSIDER A REQUEST TO EXTEND THE PRELIMINARY PLAN APPROVAL FOR LEXIE MEADOWS SUBDIVISION. PRELIMINARY PLAN APPROVAL WAS GRANTED BY THE BOARD OF COUNTY COMMISSIONERS ON DECEMBER 10, 2007 AND A ONE-YEAR EXTENSION WAS GRANTED SETTING EXPIRATION AS DECEMBER 10, 2009. JIM BOB VENTURES, LLC REQUESTS AN ADDITIONAL ONE-YEAR EXTENSION TO FILE THE FINAL PLAT UNTIL DECEMBER 10, 2010 – KATHY EASTLEY

Kathy submitted a letter from Davis Farrar requesting a one-year extension from the current December 10, 2009 deadline on Lexie Meadows Subdivision.

Kathy submitted a letter dated November 9, 2009 requesting an additional one-year extension to file the final plat for Lexie Meadows until December 10, 2010. This would be the second extension.

Deb stated for clarification, the extension last year was under the old code. I think the practice of this Board under the old code was to grant more than one extension. This language is not applicable to any further extensions so you could interpret it to say you are extending an existing approval and this is the one-time under this code because you have not yet applied this code to this subdivision.

David Farrar representing Lexie Meadows from Western Slope Consulting Board, obviously economic conditions remain slow and quiet especially when it comes to the development arena and we would request the generous consideration of the Board of County Commissioners for one more extension for a year. We do not want to find ourselves in the position of proceeding forward with the subdivision and struggling in default and all these other things. That is the simple and basic request in front of you.

Commissioner Houpt – The only concern I have about this type of request is one that you understand and that is making sure we do not keep extending it to the point where we have an obsolete application and it does not fit the County anymore. I appreciate the fact that you recognize this is the last extension.

Davis – We do recognize that and in fact I appreciate the attorney's comments because we were thinking we were asking for something beyond what is there, however her clarification makes us understand the terms and conditions and we are prepared to deal with that.

Chairman Martin – These are the conditions of the bad economic times we all face.

Commissioner Houpt made a motion that we approve the extension as requested by Lexie Meadows Subdivision for a one-year period until December 10, 2010. Commissioner Samson - Second

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

LIRA 5970 CHEVRON USA/HINER GATE OFFICE EXPANSION REQUEST FOR PROFESSIONAL OFFICE FOR THE CONDUCT OF BUSINESS OR PROFESSION FOR AN EXISTING TEMPORARY OFFICE FACILITY CHANGED TO A PERMANENT OFFICE USE AND EXPAND THE OFFICE FACILITY WITH ADDITIONAL OFFICE SPACE ON APPROXIMATELY 4.75 ACRES OF AN 11.36 ACRE SITE – TOM VELJIC

Deb Quinn, Tom Veljic and Julie Justice for Chevron were present.

Deb Quinn reviewed the notice and publications and determined they were timely and accurate. She advised the Board they were entitled to proceed. October 15 in Citizens and posted at Hiner Gate on October 5, CR 211.

Chairman Martin – swore in the speakers.

Tom submitted the following exhibits:

Exhibit A – Proof of Publication, mail receipts and public sign notification; Exhibit B – Garfield County Unified Land Use Resolution of 2008 as amended; exhibit C – Garfield County Comprehensive Plan of 200; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – Staff Power Point; Exhibit G – Resolution No. 2007-84 approving the Chevron Hiner Gate Temporary Offices; Exhibit H – Copy of Letter from Colorado Division of Water Resources dated 10-14-2009; Exhibit I – Letter from Garfield County Road and Bridge dated 10-16-2009; Exhibit K – Letter from Down Valley Septic dated 10-20-2009; Exhibit L – Memo from Steve Anthony, Garfield County Weed Management, dated 11-2-2009; Exhibit M – Letter from Garfield County Oil and Gas Department dated 11-2-2009; Exhibit N – Email from Dan Roussin, CDOT, dated 11-3-2009; and Exhibit O – Letter from Colorado Division of Water Resources dated 11-5-2009.

Chairman Martin submitted Exhibits A – O into the record.

Tom stated the applicant, Chevron USA, proposes to change the existing and approved temporary office facilities to a permanent, Professional Office for conduct of business or professional with phased expansion of the additional office uses. The application was received on June 29, 2009. Planning staff determined that the timely Limited Impact Review application was sufficient and for a time extension on the temporary office use was not required.

The existing office site is located at the entrance to the applicant's property on Clear Creek Road at the terminal end of CR 211; it is zoned Resource Lands-Gentle Slopes.

Staff Recommendation:

Staff recommends approval of the request for a Land Use Change Permit through the LIR review process for a Professional Office for the conduct of business or profession for Chevron USA, Inc. 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. Vibration generated: The facility 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 facility, diesel generator, related driveway and parking area shall be operated to comply with all Federal, State and County air quality laws, regulations and standards, including CDPHE APCC Regulation 1 for dust.
6. Emission of heat, glare, radiation and fumes: the facility, diesel generator, related roadway and parking area and shall 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.
7. All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors to reduce glare and mitigate any visual impacts.
8. Volume of sound generated shall comply with the standards set forth in the COGCC Series 800 Rules and Regulations.
9. Lighting shall be pointed downward and inward to the property.
10. To ensure safety to wildlife and domestic animals:
 - Division of Wildlife 'wildlife friendly' fencing shall serve as the guide for any fencing erected on the site;
 - A bear-proof dumpster or waste container shall be provided on the site; and
 - No domestic animals, such as dogs, shall accompany employees or subcontractors to the site.
11. The following recommendations and requests of the County Vegetation Management Department shall become conditions of approval:
 - Weeds identified in the Weed Management Plan shall be treated by June 15, 2010 with notification of treatment to the Garfield County Vegetation Management Department.
 - The Applicant has quantified the surface area to be disturbed as 5 acres on private land. A short-term re-vegetation security in the amount of \$12,500 (\$2,500 per disturbed acre) or another security acceptable to the BOCC to be held by the County. This re-vegetation 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 security release consideration. The Reclamation Standards at the date of permit issuance are cited in Section 4.06, 4.07, and 4.08 of the Garfield County Weed Management Plan (Resolution No. 2002-94).
 - Straw and hay bales-All bales used shall be certified as weed free.
12. The following recommendations and requests of the Garfield County Road and Bridge Department shall become conditions of approval:
 - All vehicles hauling equipment and materials for this application shall abide by Garfield County's oversize/overweight Vehicles permit system.
 - All vehicles requiring oversize/overweight permits shall apply for them at the Garfield County Road & Bridge Department.
 - All vehicles requesting oversize/overweight permits shall have on file with Garfield County Road and Bridge Department a letter or e-mail from Chevron USA stating said vehicles could obtain permits under their road bond on file with Garfield County.
 - All vehicles using CR 204 shall abide by all construction signage. This could include reduced speed limits, lane changes, and traffic stops. This construction could last until 2010.
13. Prior to the issuance of a Land Use Change Permit, the Applicant shall be required to drill a water well and install a water treatment system meeting the standards pursuant to Section 7-104(B) of the Unified Land Use Resolution of 2008, as amended and in conformance to the requirements of the Colorado Department of Public Health and Environment.
14. The Office facility shall contain no more than 70 employees.
15. Prior to the issuance of the Land Use Change Permit, the Applicant shall provide the County with a letter from Debeque Fire Department stating that the office meets the requirements of the Fire District for fire protection.
16. No Land Use Change Permit shall be issued until permitted water well, a permitted ISDS have been installed, and proper building permits for new trailers have been issued. The applicant shall install both systems within one year of the signing of the resolution authorizing the Land Use Change Permit.
17. The Applicant may replace on-site office/trailers with a stick-built structure at any time in the future as long as the proper building permits have been obtained.
18. A copy of the final court decree for Water Court Case No. 08CW058) shall be submitted to the Planning Department.

Tom will refer back to the OXY recently approved. Water well and ISDS, the applicant would like to keep it like the vault and haul with OXY and the discussion about temporary and permanent. A good part of the discussion with OXY looked at how long should they go on with vault and haul services. In your discussion, you gave Oxy until

July 2010 to complete their well, do their installation and ISDS, and meet all the requirements that you considered permanent when they installed permanent facilities. In this case, Chevron would like to stay with vault and haul until sometime in the future when drilling operations resume. There are some minor differences in this application from the OXY application. That is a question for the Board to discuss and whether they want to consider permanent versus temporary, how long they continue the current operation and whether you want to put a timeline on the installation of those required facilities. The Board also had a big discussion about reclamation and revegetation and one was a revegetation bond. Steve Anthony made a recommendation based on 5-acres or their application 4.7 acres but we rounded it out to 5 acres and \$2,500 per acre and included that condition for Steve Anthony for a site revegetation after construction of a bond for \$12,500. The other item is reclamation. There was an extension discussion, I referenced, and some estimates by Chevron on approximately \$150,000 for complete site reclamation when operation ceases at the Hiner Gate facility. There is no bond and no security of any type and it is something the BOCC may want to discuss. My understanding is the County does not make a policy for reclamation of these types of sites because the goal is that in our lifetimes be somewhat permanent. Verbiage in the conditions, I used many of the original Oxy conditions in this proposal. There have been discussions in depth with Ms. Quinn and some revisions. Discussions about the water well; in my staff report it talked about the expired permit, there are two conflicted exhibits, Exhibit H talks about the approved substitute water supply plan and then Exhibit O says the wells expired and they need to do a number of other things. I called them this morning and they want to retract the letter Exhibit O because the author of the letter did not realize the plan had been approved. Ms. Justice may have some additional documentation showing they did complete their well requirements for the state so they have approved wells. Staff recommended approval, a number of things that need to be done before. First of all the BOCC needs to talk about timing, are you going to give them an exclusive time extension on the temporary use or will you make them install within a certain length of time. The staff report talks about one year, which is common for the current zoning code that talks about the use as being temporary for up to a year.

Conditions and modifications.

Condition 3 – Delete the portion that refers to the Colorado Oil and Gas Commission and so it would be “of” and delete “the Colorado Oil and Gas Conservation Commission COGCC and;” then it would go on “International Fire Code as it pertains to the operation of this facility. This also relates to a condition we had they meet the requirements of the DeBeque Fire District and that is Condition No. 15.

Condition 14 – The application is confusing and there are many different numbers that are in the application anywhere from 20 to 120 people. The way the application works and in discussions with Julie Justice with Chevron, 20 is the initial amount that is there now and they expect to stay there until drilling resumes. The water engineering report talks about 40 individuals, so there is a disconnect between the number of individuals that are planned for the water and then the exhibit from Jim Rada which talks about the flows. We have no idea what the flows are not do they show the septic system and engineering drawings but they have not given us any calculations. I used the calculations from the State ICS rules and those numbers I gave you are from those calculations. We do not have hard numbers for that. Change Condition No. 14 to reflect what the water plan talks about, which would be 40-employees rather than 70 and again that is an item for discussion whether you allow them to continue, modify their documents to show the actual numbers for flows for both ICS and the water system and the actual numbers before you considering approving and that we would verify that prior to issuance of the land use change permit or any building permits from moving additional structures on the site. Some standard findings were prepared for the Board typical for other standards previously used.

Applicant:

Julie Justice – With respect to some of the confusion around the numbers, the water well itself is permitted for up to 120 people because at the time it was installed, the Hiner Gate location was being looked at as a larger man camp. Therefore there is some confusion on the naming of the wells, we had an office complex well down south that was called office complex and the Hiner Gate well is called the man camp well, but the well itself was permitted up to 120. Occupancy is 40 would be the maximum build out that I can see in there. The URS application is very ultra conservative, maximum of who may pass in and out of facility. There are many people, such as contractors that pass through there to get to their work permits signed; but they do not stay in the trailers using the facilities. They go onto other job sites. 40 would be a maximum and right now was have probably about 30 and that will go down after this month into the year to less than 20 and I cannot foresee those existing and the proposal full build out holding more than 40 people comfortably.

Commissioner Houpt – So you are comfortable with the rewrite of Condition 14.

Julie – As far as our water usage, I did provide actual water and sewage usage through letters from Down Valley Septic that services us now and they show our actually usages of about 3,000 gallons per week in water right now which about 30 people that is 14 gallons per person per day. Sewer is about 2500 gallons per week for 30 people is 12 gallons per person per day. We do not anticipate that to change the 12 gallons and 14 gallons per day will remain the same regardless of the system we have in place.

Tom stated that was Exhibit K.

Julie - With Respect to phasing in of this facility when we originally did this application it was prior to suspension of the drilling program and I did not have the luxury of time because our permit was expiring and I could not pull the original URS application, rewrite it to right size this project. We are looking to phase this in instead of doing a full build out now we only want one conference trailer now so we can give the guys some breathing room and have an area to sit down and have a discussion without people crawling on top of each other. The trailers are very small and there are up to four guys in each one of those little 8x12 office areas. We are looking for the additional on one trailer right now and after 2012 or 2013 we may reinstate the drilling program and at that time we will look at Hiner Gate to whether or not we will complete the full build out or whether or not we actually look into a permanent office. I do not consider this a permanent facility. No one does, these are rental trailers and as far as permanency goes, they could be there 5-years. However, probably not beyond that time so we just do not feel that it warrants installation of all the permanent water treatment plant. The whole footprint, the drilling, pipelining it from the well, the implementation of our augmentation on that site, very complex compliance regulations around that and we just do not feel the occupancy level of less than 20 people, that we are at that level where we would need that. I was hoping you could clarify something in the standards specifically sections 7-105 adequate water supply. This section applies to all development permits, which require water demand in the amount of at least eight single-family

equivalents. Even at full build out, we would not reach that level. If that is a requirement for permanent adequate water supply, we will never be to that level. I hope the Board can clarify the rule for adequate water supply.

Chairman Martin – It is based on average of gallonage that is used by engineering standards, you are way below that anyway. You are looking at 100 gallons per day per person.

Tom – Correct and our standard in the code is an average of 3.5 people per household so we have that standard of 350 gallons per day per person.

Chairman Martin – This is an average.

Julie – As far as the adequate water supply is applied here, it shall be required for any preliminary or final approval of an application for rezoning, PUD, limited impact or major review development or similar application or construction. I do not understand the logic for having a permanent water treatment plant for facility that is a well and will always be well below this 8 single-family equivalent.

Chairman Martin – That is true but what you have is a community water supply system so that you are using that by 30-employees and there is a threshold of how many people you have to have a community water supply treatment facility, etc.

Tom – I had discussions with Deb this morning and I have read through the water supply planning and engineering report and if they are correct, the criteria is 25 individuals and so you are planning for the long term, not the short term.

Commissioner Houpt – Anytime you talk about moving from temporary to permanent that creates a trigger where you are suddenly looking at a different type of water system and wastewater system. We have had this discussion on numerous occasions and I simply cannot see creating what is referred to as a permanent office facility without requiring the conditions that have been included in this application for completion of the water well and the ISDS system.

Julie – I understand that but we do not consider this a permanent facility.

Commissioner Houpt – But you are asking us.

Julie – I had no choice in that matter; we did not have an opportunity to renew our current application because there was not renewal allowed under that SUP. So in order to proceed and be able to continue occupancy of this facility we had to go with a permanent designation.

Chairman Martin – What you are really asking for is to continue the operation of the vault and haul system, the addition of one trailer and then consideration in the future, if you decide to do a stick built or a permanent facility that you have that ability to do such.

Commissioner Houpt – What are the provisions in our regulations for that?

Chairman Martin – There are not any. That is the problem and what we need to do is either to allow them to continue the operation under the temporary facility and then require them to come back with a design and the entire works of a permanent facility if they decide.

Commissioner Houpt – There are no good reasons. When you talk about land use and talk about permanent facilities, you are talking about on-going use for an indefinite amount of time. We have to protect the health, safety and welfare when talking about wastewater and drinking water supplies. I am really hesitant to set any type of precedent that would say yes we can have on ground a permanent facility that does not have permanent wastewater and water facilities. Once you attach the term permanent to that, it becomes a different function. Do we not have a temporary office facility regulation anymore?

Tom – We do not have that and I searched all the temporary discussion and many of the temporary discussions refer back to housing and on the pad and out in the field for supporting drilling operations and there are other temporary things but no discussion about a temporary use and how long. You have set that precedent with OXY in your discussions and if I remember correctly, they have 7 trailers and they plan to put a permanent facility, so the structure was not an issue, it was the facilities and installation of those facilities.

Commissioner Houpt – And we gave them until the summer months.

Tom - July 2010 for weather purposes and you are well within your authority to say up to one year. In Mr. Jarman's staff report, this Board discussed that a year seems a likely candidate until they get the completion of their facilities.

Chairman Martin – That would be all right but they may not want to go into that based on economics. One point that you would have is a review after one year to see if they are moving into a permanent facility with those rules and regulations in place. Again we have people that live all over the County with a vault and haul system as well as a cistern and they have been there for 20, 30, 40 years. It is a chance that you take. It is a test that you have; it is an employee issue and a health issue that you have to be responsible for.

Commissioner Houpt – But our regulations do not allow for that right now, I do believe we could allow for the year's period of time to accomplish that and perhaps during those months you will figure out what you want to do at that location.

Julie – Our current situation right now is we probably will not reinstate our drilling program until 2012 or early 2013 and at that time we will take a harder look at how we are going such as are prices stabilized, what the stock market is doing, etc. It is all dependent on having a crystal ball so I cannot tell you, however in a year; I do not anticipate that we will be any closer to knowing when this will actually be a permanent facility or whether we will build a permanent facility somewhere else.

Chairman Martin - And the other issue along with that line is the need to be there does not go away just because the drilling program is not going on. There are other issues and monitoring and they have to go 24 hours per day even until you reinstate your drilling process. That is what this facility allows.

Commissioner Houpt – Well, and what you just described is more of a permanent facility.

Fred Jarman – The concept of the one year certainly you plowed this ground recently with OXY as Tom described and we had that provision. You will also remember there was a lot of discussion about the one-year mark as far as temporary employee housing was two years. We went through that, what that one year meant and why that one year was important in terms of hauling sewage and potable water up and down the remote parts of the County including the inherent risks of that transportation. And then the basic nature of being sure that these folks at the facilities had as best as they could to access to true potable water and these were healthy systems and safe systems. Then you have the other issue, which is the sort of the 800-pound gorilla in the room. Anytime that someone comes in to plan for the ultimate use, which I think is what Chevron is doing, you want to plan on where you want to be in the future. Even though you might be doing phase I, phase II in six months or one year but the ultimate build out is what really is in front of you. That is the application as far as we have reviewed it. That still begs the State Health Department's

question on when you reach the 25 people as Chairman Martin noted. The 25 people and I think that is a real issue that Chevron obviously needs to look at as well as you because what is proposed to you as we just heard was a 40-person maximum scenario. So where is the trigger that you as the Board feel comfortable if you agree to a phased scenario or not. At the end of the day, you still have 40 people plus those that may go up there so who chases the tail to make sure they have an adequate water system that jives with State law. That is the main question in front of you. But the one year temporary versus non-temporary issue was plowed very hard as you require during Temporary Employee Housing and those were some of the issues that came up in true adequate delivery and risk for those services.

Julie – I would just like to say there are risks involved with water wells that are influenced by service water as well they can dry up at the creeks in late summer and early fall. All the creeks dry up and these water wells could as well. That puts us at risk and for some of those operators who do not have a fresh water pond or storage unit for augmentation is increasing our footprint considerably on a small facility we have to build a very large facility to store water for augmentation. It is a very complex issue, vault and haul does very good job of taking care of all of that for us and their water is just as safe. We use the same water as the Town of Silt is using right now. We do not have kitchen facility; we do not have cooking, washing dishes, this water supplies the bathroom and that is it. That is all we ever will supply. Drinking water is trucked in bottles.

A motion was made by Commissioner Houpt to close the public hearing. Commissioner Samson – Second.

In favor: Houpt – aye Samson – aye Martin – aye

A motion was made by Commissioner Houpt that we approve the request for a land use change process permit through the limited impact review process for professional office for the conduct of business for Chevron the conditions set forth and the following amendments under condition 3 crossing out the Colorado Oil and Gas Conservation Commission reference and under condition 14 changing to 70 to 40 employees so with those amendments and mine that would be my motion.

Tom asked for a clarification, Julie Justice talked about one trailer immediately and any discussion on that trailer prior to completion of the water.

Commissioner Houpt – I would allow that trailer because it does not expand on the number of employees, it is for overflow.

Tom – Would you like to add that as condition No. 19 one added conference trailer permitted?

Commissioner Houpt – Certainly. There was a term used for that trailer, so one conference trailer would be allowed.

Commissioner Samson – Second

Chairman Martin – I still feel that vault and haul system is legitimate and should be allowed. The safety issues are a company issue as well as an insurance as well as the health department, they need certification of those facilities and Mr. Rada also inspects those. When you are increasing a site in its disturbance, we are trying to keep the smallest footprint as possible.

Commissioner Houpt – There are state threshold requirements for water treatment systems and we need to be consistent with the regulations that we put in place.

Chairman Martin – Where my conflict is that we are going to have to enforce that on all of the other residents in Garfield County in reference in how they live and how they have lived throughout the years. I think this is one of the issues that we have failed to address. We really need to look at that and it really works and has worked for hundreds of years, which is the vault and haul system as well as the cisterns and we really need to consider that in our developments. That is where I am coming from.

Commissioner Samson – So if I am understanding, you are saying you that everyone that has a vault and haul is going to be affected by this.

Commissioner Houpt – No.

Chairman Martin – But it could be because of the interpretation of the code that it has to be ISDS etc and it has to meet with the different standards. It also has to have a permanent water supply however, these folks have tried to get water, they cannot, and the only resolution is to go ahead and haul water. Now you are going to affect those if we interpret it by letter of the law, it applies to everybody.

Commissioner Houpt – I do not think we will be knocking on people's doors asking if they vault and haul.

Chairman Martin – I think we would all be strung up if we did. I just say we need to consider that and we are increasing the footprint of this entire facility and it is for temporary use yes and they need to consider if they are if are going to be there or not. They may pull out; you never know and do it monitoring remotely, jobs, etc things that are going on as well. I look at it as trying to work with the temporary facilities allowing them. In fact, I was on an airplane with some folks that came from California to live 30-days at a time, a home for 30-days in temporary facilities like this. That is there job. They think it is the greatest thing in the world because they do not have to work downtown, do not have to have cars and everything is supplied to them from the entertainment to the food to the water and their job. They get transported from the airport to the site and back and they leave for their day. That is a good thing. That is what we are trying to do is cut down transportation impact on all of our neighborhoods and everything else. I am just saying this is the kind of facility that will work temporarily. We need to review it, I think every year to make sure that everything is in compliance and go from there. That is an old argument.

Commissioner Samson – Well, it is and it is not one thing; sometimes that may not always the best thing for our County.

Chairman Martin – Yes and no.

Commissioner Samson – If you just have people living here temporarily all the time, you do not have permanent residents. They do not buy houses, they do not spend their money here, and there are certain things they do not do here. They come in they work and leave.

Chairman Martin – Yes, and you have the production that they will have and you have 87.5% valuation on production that they are doing, so what is the return back to you from a home that is 7.19 in valuation or even a commercial which is 29%. You have a tax that you may or may not.

Commissioner Samson – Why not have both?

Chairman Martin – Because you will not be able to get both, it is one or the other.

Commissioner Samson – There are quite a few people who work for these companies that live here permanently.

Chairman Martin – Yes there are, but there also use this facility and they have to use it.

Commissioner Samson – I just want to make sure we are not setting a precedent that everybody that has a vault and haul is going to be affected.

Commissioner Houpt – They will not be.

Chairman Martin – They could be pushed.

Commissioner Samson – Fred, do you anticipate that in any shape or form?

Fred – I do not.

Chairman Martin – I see it under the Code in reference in non-complying residential issue, etc, etc. There is no provision for grandfathering those in so non-conforming use is what I am looking at so we need to change one or the other but you cannot have it both ways. I still feel it is a little restrictive.

In favor: Houpt – aye Samson – aye Opposed for those reasons: Martin - aye

CONSIDER A REQUEST TO AMEND AN EXISTING SPECIAL USE PERMIT FOR EXTRACTION AND PROCESSING AT A LIMESTONE QUARRY LOCATED NORTH OF THE CITY OF GLENWOOD SPRINGS. APPLICANT IS CALX MINERALS, LLC – KATHY EASTLEY

Deb Quinn, Kathy Eastley, Ben Miller and Mike Ayers were present.

Deb Quinn reviewed the notice and publications, determined they were timely and accurate, and advised the Board they were entitled to proceed. Rifle Citizen 10-15-09. Property owners – October 7, 3rd round of notification – 4 letters returned. GIS system – staff and utilized the BLM parcel – all the way into New Castle. Legal des included. Travers Trail and Transfer Tail – October 7 to minerals own by Calx.

Kathy submitted the following exhibits:

Exhibit A – Mail Receipts; Exhibit B Proof of Publication; Exhibit C – Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit D – Application; Exhibit E – Resolution 82-222; Exhibit F – Level One Traffic Assessment by Kimley-Horn dated October 19-2009; Exhibit G – Memo from Steve Anthony, Garfield County Weed Management, dated 8-21-2009; Exhibit H – Memo dated 09-24-2009 from Glenwood Sprigs Fire Protection District; Exhibit I – Email from Dan Roussin, CDOT, dated 8-13-2009; Exhibit J – Email dated 9-24-2009 from Andrew McGregor, City of Glenwood Springs; Exhibit K – Letter dated 10-20-2009 from J.A. and Celina Claudon; Exhibit L – Staff Memorandum; Exhibit M – Staff Presentation; Exhibit N – Letter dated 11-09-2009 from Steve Beckley, Glenwood Caverns.

Chairman Martin entered Exhibits A – N into the record.

BACKGROUND

A Special Use Permit was issued in 1982 to allow for Extraction and Processing of Natural Resources on a site comprised of unpatented mine claims on BLM lands. These mine claims are located within the Public Lands Zone District north of the City of Glenwood Springs in unincorporated Garfield County. The site is accessed via Highway 6 within the City of Glenwood Springs, then north on Travers Trail to Transfer Trail. Travers Trail is a City street and Transfer Trail is a BLM public access road.

The Special Use Permit issued via Resolution 82-222 allowed for extraction and processing of limestone within a 16.3-acre site. The limestone was then transported for use in coal mining operations, primarily south of the City of Glenwood Springs. Operations at the limestone quarry discontinued for a period and subsequently the unpatented mine claim ownership was transferred from Mid-Continent/Pitkin Iron to CalX. CalX proposed to operate the limestone quarry in general conformity to the original approval granted in 1982.

The original Special Use Permit approval described the extraction process for the limestone as follows: Explosive devices were set to fracture the wall of limestone with the material settling on a terrace of the quarry. This terrace area allowed equipment to safely remove the material to the processing facilities where the limestone was crushed, loaded, weighed and subsequently transported to coal mines for use. The extraction process will operate as previously approved; however, CalX is requesting removal of certain conditions of approval in the granting of the 1982 Special Use Permit. This review is limited to determining potential issues related to the removal of specific conditions of approval.

GENERAL PROJECT DESCRIPTION

An application was submitted for an Amendment to a Special Use Permit through the process described in the Limited Impact Amendment section of the Unified Land Use Resolution of 2008, as amended. The Special Use permit was approved by the Board of County Commissioners in 1982 and memorialized in Resolution 82-222 (see EXHIBIT E) for Extraction and Processing of Natural Resources. In that resolution the Board made findings that, “the impact of the proposed use on the health, safety and welfare of the population and the uses in the neighborhood requires the imposition of certain conditions related to the monitoring of activities...” The conditions adopted in that resolution are:

1. All proposals of the applicant shall be considered conditions of approval unless started otherwise by the Board;
2. The applicant’s compliance with the conditions of this resolution and any special use permit issued pursuant hereto shall be monitored through the Board’s review thereof every six months in accordance with the provisions of Section 9.03.05 of the Garfield County Zoning Resolution of 1978;
3. That the use of the tract of land shall comply with all present and future regulations of Garfield County relating to the extraction and processing of natural resources in which the property is now or may later be located;
4. That within one year of the date of this resolution the special use permit authorized hereunder shall be issued to the applicant, in the absence of which the grant of authority to the applicant shall automatically be rescinded;
5. That prior to the issuance of the subject special use permit, the applicant shall obtain and submit to the Garfield County Planning Department copies of its permits from all other government entities;
6. The applicant shall substantially comply with conditions imposed by permits issued by other governmental entities. Compliance shall be determined solely by any issuing government agency and the County shall not consider the question of non-compliance under this condition until a violation
7. The applicant shall maintain mining and processing hours, exclusive of truck hauling, from 7:00 a.m. to 5:00 p.m. Monday through Friday, and shall not mine or process on Saturday or Sunday; and the month of operation, exclusive of truck hauling, shall be from April 15 through December 15 of each year.

8. The applicant shall be responsible for maintaining the haul road from its quarry site to the paved portion of its haul route. Said maintenance shall expressly include dust suppression measures. The method to be used (whether by watering, chemical dust suppressants, or some other surfacing materials, ie. limechips), shall be satisfactory to Garfield County and applicable representatives of the United States Government.
9. The applicant and its contractors shall be limited to 20 round trips per day, computed on a monthly average, for transportation of quarried materials.
10. That the applicant shall be limited to the extraction of 50,000 tons per year from the proposed site.

PROPOSED AMENDMENT

The Applicant seeks to amend Conditions 2 and 3, as well as to remove Condition 10. The following section provides the submitted proposal followed by Staff Comments.

Condition 2 The applicant's compliance with the conditions of this resolution and any special use permit issued pursuant hereto shall be monitored through the Board's review thereof every six months in accordance with the provisions of Section 9.03.05 of the Garfield County Zoning Resolution of 1978.

The Applicant proposes to amend this condition as follows (red italics are *additions* and strikethroughs are ~~deletions~~):

The applicant's compliance with the conditions of this resolution and any ~~special use permit~~ *Land Use Change Permit* issued pursuant hereto shall be monitored through the Board's review. *The Board may request a public review of the operation at its discretion. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Land Use Change Permit.* ~~thereof every six months in accordance with the provisions of Section 9.03.05 of the Garfield County Zoning Resolution of 1978.~~

Staff Comment: The intent of this condition was to monitor compliance of the operation and reporting such findings to the Board of County Commissioners every six months.

9.03.05 Periodic Review: 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.

This appeared to be a common condition of approval from this era; however, it is unlikely that a semi-annual review was ever completed. A review of BOCC minutes did not result in finding any presentation to the Board, which would comply with this condition for review.

It is now more common to schedule a review if there are violations or potential changes that did not comply with code requirements or specific conditions of approval. More recently granted permits might have required submittal of annual reports to demonstrate compliance rather than annual reviews.

Condition 3 That the use of the tract of land shall comply with all present and future regulations of Garfield County relating to the extraction and processing of natural resources in which the property is now or may later be located.

The Applicant has provided a chart comparing industrial standards contained in the 1978 Zoning Resolution to those contained in the Land Use Resolution of 2008, as amended. That comparison indicates that the standards have not changed to a great degree, other than to be more detailed. The Applicant suggests that the operation, and therefore the condition, comply with the Land Use Resolution of 2008, as amended. The condition requested:

That the use of the tract of land shall comply with all ~~present and future~~ *general, extraction, and processing* regulations of Garfield County *Land Use Resolution of 2008, as amended.* ~~Relating to the extraction and processing of natural resources in which the property is now or may later be located.~~

Staff Comment: Given that the original approval of the Special Use Permit was issued in 1982 it would benefit the County to require the limestone quarry (industrial use) to operate under current standards. This change would alleviate any potential confusion, now or in the future, regarding the regulatory requirements for this use. The intent of this staff report is not to conduct a complete or comprehensive review of the use, but simply to clarify the regulations and standards applicable to future activity at the site.

Condition 10 That the applicant shall be limited to the extraction of 50,000 tons per year from the proposed site.

The Applicant states that Condition 10 conflicts with Condition 9, which limits traffic generation to 20 round trips per day, computed on a monthly average, for transportation of quarried materials. The request to completely remove Condition 10, which limits extraction activities based upon tonnage, would then place reliance on Condition 9, transportation limitations, to govern the annual production of the mine.

Staff Comment

This requested change could result in impacts that have not been considered in this review. The information submitted for consideration of release of conditions does not include the detailed site and operational analysis that would be required to determine what, if any, impacts would result with increased production at the site.

STAFF CONCERNS

Transportation:

The manner of describing the traffic limitations for transportation of the crushed limestone in the 1982 approval is no longer applicable for several reasons:

1. The limitations were based on a monthly average rather than on a finite number of trips per day. The averaging of trips does not give a true impact to the use and it is burdensome to enforce. This

averaging is only for transportation of the limestone and does not consider the potential impact of other traffic that may be generated by the use.

2. The surrounding area has changed to such a degree that the impact of traffic in 1982 has no bearing to the same amount of traffic today.
3. The Colorado Department of Transportation has indicated that this operation will be required to obtain a State Highway Access Permit for the intersection of Travers Trail with State Highway 6. This area is within the City of Glenwood Springs therefore the City could designate the Applicant to apply on their behalf in obtaining the required permit and constructing any improvements required by CDOT.
4. Given the changing conditions and circumstances related to the age of the original approval, there may be impacts that were never considered at the time of the approval. The main concern relates directly to the impacts to the City, particularly Grand Avenue (Highway 82) which will see a significant volume of the traffic generated by this use.

The requirement for a State Highway Access Permit may alleviate some of these concerns, particularly if the City of Glenwood Springs has the ability to review and comment on the permit requirements since it would be the City that would bear much of the burden of the traffic impacts generated by this use.

Issuance of the CDOT SHAP could result in a requirement for improvements at the intersection. An Agreement exists between the Applicant and the BLM regarding necessary improvements and maintenance of Transfer Trail, as well as an original condition of approval requiring maintenance to the satisfaction of Garfield County and applicable representative of the U.S. government.

B. Increase in Production:

As stated earlier in this report, this request did not include sufficient information for staff to complete an analysis of potential impacts that could result by allowing increased production on the site. Increased production will result in additional blasting, additional noise, additional dust, and other environmental- and adjacent property – impacts that have not yet been identified.

The Applicant states that the transportation issues (CDOT permit) will provide the mechanism to limit production and therefore no additional impacts would result. Staff does not have information compliant with submittal requirements (site plan, storage areas, mitigation of air and water quality related to the storage areas, etc.) to make an informed recommendation to the Board regarding this request.

Staff would recommend that the Board require the Applicant to submit a new application compliant with submittal requirements and standards so that an adequate review and recommendation could be conducted.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **approve** the request to amend Conditions 2 and 3 from Resolution 82-222 as follows:

1. Compliance with conditions of approval contained within Resolution 82-222 and amended conditions approved herein, shall be monitored through the Board's review. The Board may request a public review of the operation at its discretion. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Land Use Change Permit.
2. That the use of the tract of land shall comply with all general, extraction, and processing regulations of Garfield County Land Use Resolution of 2008, as may be amended from time to time.

Staff recommends the Board of County Commissioners **deny** the request to regarding condition 10, removing the limitation on annual amount of limestone extracted, as insufficient information was provided regarding extraction operations and potential impacts that may result from an increase in production. The potential impacts of the increased production were not considered in this review due to lack of sufficient information, however the Applicant may submit a request to amend to Special Use Permit compliant with submittal requirements contained within 4-501 Application Materials, 4-502 Description of Submittal Requirements, 7-810 Additional Standards Applicable to Industrial Use and 7-814 Additional Standards Applicable to Mining and Extraction.

Commissioner Samson requested to go back to a slide, if the applicant has 20 round trips per day that is 20 loads out.

Ben – It is 20 loads one in and one out is a round trip.

Commissioner Samson – Are you going to do this 7-days a week?

Chairman Martin – It is referenced in the staff report of the time and hours.

Commissioner Houpt – It is 5-days per week, Monday through Friday.

Ben – The quarry operation is 5-days a week with time limitation and the haulage is 7-days a week is the way it is defined. It may have to do with the demand. Principally we are supplying coalmines and power plants so their schedules are 24-hours a day, 7-days a week.

Commissioner Samson – What I am trying to decide is 50,000 as compared to what is 20 round trips going to get you.

Ben – 20 trips basically, if we are using end-dump trucks so that would be the tractor-trailer type of dump truck and that would be a 200,000 ton a year equivalent.

Kathy – For clarification, Condition 7 in the Resolution of approval states the applicant shall maintain mining and processing hours exclusive of truck hauling from 7 am to 5 pm Monday through Friday. They shall not mine or process on Saturday or Sunday.

Commissioner Samson – But they can still haul.

Kathy - Yes. My comment on Condition No. 10, staff does pose amendments to the first two conditions, numbers 2 and 3. We do not support the release and limitation on the amount of extraction to occur at the site primarily due to the fact that there may be increased impacts to adjacent properties. There may additional environmental impacts, additional to what we reviewed originally and they may be a potential for increase traffic. There may be these impacts because we do not have sufficient information to make a determination that it will not be impactful. Even though they are limited to their truck traffic, they can go up there and extract this limestone with explosives and set

the charges, the limestone falls from the face, they scrape it and process it. If they are permitted to extract any amount per year with no limitation, they can certainly have more impact to the adjacent property owners through dust, noise and vibration because they use explosives. We do not know what mitigation or what those impacts would be. We also do not know where they would stockpile all of this new material they are extracting prior to them trucking it out. So without those answers staff cannot support the release above the 50,000 per year limitation. One thing that is critical to understand is that the condition that limits the truck traffic is limited to the 20 round trips per day but that is computed on a monthly average. There can be a whole lot more than a finite 20 round trips per day because of the way that it is calculated. You have seen in the exhibits that there was a response received from CDOT; they do not currently have a valid state highway access permit. They did at one time but CDOT is requiring a new state highway access permit. The applicant did provide a traffic assessment related to that issue and we do have a condition of approval related to the traffic that is related to the traffic that is allowed to come out but we are not sure what may result from the state highway access permit and how those numbers may compute against what is currently approved.

Chairman Martin – Did I read the letter from Mr. Roussin wrong saying they are only saying there is only an 11 to 12 percent increase and therefore an access permit is not needed. I believe that Dan Roussin's letter said that it was not a requirement on Exhibit.

Commissioner Samson – It appears it will need a highway access permit. Exhibit I.

Commissioner Houpt – On Exhibit J the email from the City of Glenwood Springs saying they would like to reserve the right to review and comment on our application. Did they have opportunity to do that?

Kathy – I received nothing other than what I included in the exhibits so I did not receive any formal comments regarding the application. They did receive the application and I received no comment other than this email.

Commissioner Houpt – Exhibit N – The letter from Mr. Beckley who is recommending several recommendations.

Kathy – We have an existing SUP that allows extraction up to 50,000 tons per year. There will be noise, traffic and dust associated with that operation. The conditions of approval that were placed on this application were done to mitigate those impacts.

Chairman Martin – What we need to do is stay within the scope of this application. There are three different changes that have been requested. They are conditions of approval of this existing SUP permit. We need to decide if we are going to allow 2, 3, and 10 or are we going to uphold them saying that they have to be upheld to keep their SUP as it currently exists. If you cannot work within that then you start over to change it. Our question today is do we approved Conditions 2, 3 and 10.

Commissioner Houpt – So, when you open up the discussion by requesting changes that does not give this Board the opportunity to talk about updated best management practices. This was approved 27-years ago.

Kathy – If you will see my last comment up on the screen, for the release of Condition 10 it certainly would require a new application and a new review to look at all the impacts, the noise, vibration and everything in our current regulations. Otherwise, the intent of this request is to simply ask will the Board allow an amendment to the conditions as they are proposed.

Chairman Martin – Even though we have many questions and would like to give involved deeper, I am not sure the company would be able to provide that information. The city would be able to comment more and definitely the neighbors, but it is existing and it goes with the land and they do have an active BLM extraction license to operate.

Commissioner Houpt – There is a snag in our current regulations. This was a very old Special Use Permit.

Kathy – The Board does put expirations extraction activities now with the more recent applications. That is a good idea for these types of situations and applications that were reviewed 20-30 years ago.

Ben – The first two amendments are simply conceptual having mostly to do with making it easier for us to comply and you as the County to enforce. That was the principal intent on those changes. The 6-month review is fine but it would probably fill up slots that were more appropriately spent on other topics.

Commissioner Houpt said she was thinking a review with the staff and not this Board.

Ben – We would be happy to have on-site reviews with you. The haulage versus tonnage issue has to do with a change in haulage. Some trucks we anticipated using at that time had different tonnage rates and we would have the same number of trucks passing the landowners. There are only a few that can see the road. The principal property that would be impacted would be Steve Beckley's caves. The nearest residence is about $\frac{3}{4}$ of a mile away and there is a large ridge in-between the two, so we are perceivable visual only from the sound level. Steve can see us and we can hear each other's operations so he can hear the back-up alarms from our site and I can hear the screams of glee going down the Alpine Slide. We strive to minimize that impact. Steve's principal operating of the year is the bulk of the summer; we only put up stockpiles large enough to service the summer demand. We will keep the crushing to a minimum during his peak season and then we have begun start stock piling for the winter so we will have as minimal impact on this facility as we can. I would see us continue to operate as good neighbors in that way. The stock piling issue that you brought up, we have sufficient stock piling room for getting us through the winter. One of our stipulations is essentially no blasting or crushing during December 15 to April. We have sufficient facilities. To give you an idea of what 200,000 tons is, if you were to look at the gravel pits in the Rifle area, which are along the highway, those pits produce between 300,000 and 600,000 tons a year and we would be considered smaller than those pits. Steve did mention that he would like if we could stock pile and haul at different times of the year. The demand that we meet for our current clients are the Tri-State Energy Companies and they use the rock in their scrubbers and power plants. This runs all the time so we could not haul an entire year's worth of product during some timeframe. The same thing goes for the rock dust and the other crushed rock that goes to the coalmines. The rock dust is a safety product and they apply it to the coal walls to prevent combustion and explosion within the mine. They regularly apply it throughout the year both in new and old areas. They are required to apply it. We have to have a consistent haulage throughout the year because there is no space to stockpile at the coalmines or at the power plants. Rock dust, which is ground limestone, is a semi perishable product and similar to a bag of cement where it cannot sit for too long or it hardens so we have to simply grind and supply it to the coalmines at a consistent rate, which is a few trucks to coalmines per year. The request to go a truck haulage limit certainly does increase our tonnage through put in there and part of that request is to service the local coalmines and local power plants. The demand in the area for this chemical product is about 170,000 tons per year and it is currently being supplied by the Front Range so they haul from Fort Collins or Monarch Pass to here. By hauling out of the mid-continent quarry, it reduces the haulage distance considerably. If the coalmines switch over to our rock dust product you would see an average annual reduction of 1.5 million truck miles per year on Colorado roads and that equates using the

calculations from the carbonfund.org sites and the other department footprint sites that is approximately 9.5 million pounds of CO2 by reducing the haulage piece. That is important to all of us to reduce but the coal companies are very cognizant of it because of their negative image as a coal producer. That is an important piece of marketing on our end. This is a quarry, which is closer to their mines and they can reduce the trucks on the road. There is a desire to increase our tonnage but we would like to do it though minimal impacts by using trucks that can carry heavier weights. They are still road legal and meet all the requirements of CDOT. I do not believe that the drilling and blasting impact would likely change substantially between 50,000 and 200,000. We would have approximately the same number of blasts per year. They would just be larger blasts. We have already shot once this fall and we have one more in the next week and then that will put enough rock on the ground for us to get through the winter. Chairman Martin – Jock Caldron and Steve Beckley may have noticed the shots. In your mining patent, do you have a limitation on what you can produce from BLM?

Ben – Yes, we are a locatable mineral only; we can supply some construction materials only if it is a waste product so we are only really able to mine the chemical grade limestone and supply it to special uses like coalmines and coal fired power plants. This is a construction material site just like you would see other places.

Chairman Martin – Is there a tonnage limit?

Ben – No.

Chairman Martin – BLM said if you locate it you can mine it within that patent.

Ben – There is an environmental assessment for the operation.

Commissioner Samson – Back in 1982 you were allowed to make 20 trips at that time but the load would be consistent with how many tons per load.

Ben – Approximately 7 tons per load.

Commissioner Samson – And now you have the capability of 24 tons. I see why you want to raise the limit because the more product you sell the more money you are going to make, etc. You would not be making any more trips; you would just be increasing the amount per trip.

Ben – Correct.

Mike – It would also allow the County, if you want to know what we are producing, counting how many trucks come out of there would be much easier than trying to throw it on a scale. If we were limited to 20 trucks per day, you could park someone with a car and a clicker and count the trucks in a day. That was one point of our thinking as well as part of this was written as an enforcement issue like how can we help you with enforcement as opposed to figure out and guess how many tons would be in the trucks.

Commissioner Houpt – But that limitation is there already so we have both. I think it is important to recognize that we do not have enough information in front of us to understand the potential impacts of multiplying the amount of tons allowed per year by four. Because of the sensitive location of this quarry, I think it is very important and stands out a little more than others; but it is always important to know what kind of impact the level of activity is going to bring to an area. I am not discouraging you from wanting to expand from where you were in 1982 but certainly not without updated studies and an appropriate application coming before us so we can measure what those impacts would be and make an educated determination.

Mike – If I may, in 1982 we were approved for the same truck haulage that being the 20 trucks as Commissioner Samson suggested. It is truly the same number approved in 1982; it is the tonnage that would change.

Ben – We are governed by the state's mining board so there are reclamation responsibilities. What is called the marble head quarry, visible from I-70, our quarry is not visible from the valley. It is tucked behind and you can see the very top edge of the high wall but the marble head quarry, which is very visible has been deemed as reclaimed and that is upsetting a few people because of the state that it is in. It does not look very reclaimed. That has to do with the age of the mining that went on there, the majority of that was pre-1980, which essentially counts as pre-law in the eyes of the state's mind reclamation board. This site was one of the original 1980 air permits that came out so we are bound by reclamation permits and it includes bonding. Our site is required to be completely reclaimed and part of our reclamation plan is for a series of cliff faces and benches to be seeded with native grasses and native forbs. It is bound by some of the newer rules. The air emission, which is an important piece especially in quarry operations, is also covered by the state. The CDPHE governs the extraction of minerals for air emissions. At the 50,000-ton limit, we are actually exempted from it and there is not the level of inspection that goes on. Once you cross 70,000 tons you are then covered under the air emissions permit and inspected by the state. We have submitted that request to go over that limit toward that 200,000-ton limit, that would place us then under the watchful eye of the state, and we would actually have inspections and requirements. We would probably be enforced at a considerably greater rate at the state because of that bump over that 50,000-ton limit.

Commissioner Houpt – I am not just talking about trucks. I am talking extraction of 200,000 versus 50,000 tons and it does change your level of activity.

Chairman Martin – Through your estimation when you took over the quarry, if you did 200,000 tons a year what would be the life of your expected quarry.

Ben – Roughly, 10 to 15 years. It would depend on how much reject there was in it.

Chairman Martin – But if you were able to go forward and move that 200,000 you would have 10, 12, 15 years at the most left in the life of the pit.

Ben – Within the permit boundaries, right.

Public Comments:

Steve Beckley – I have lived with this permit for 11 years and first of all Ben has talked to me and I think there is a solution where we can all work together on and I think it is a good project. Just some history, we worked with Pitkin Iron for the last 11 years under this existing permit and they did absolutely nothing they said they would do as far maintaining the road. I do not want to get in the same situation with Ben because we were stuck with all of Transfer Trail; Pitkin Iron told us they would haul and maintain but did not. There was no teeth to get them to do anything. This mining law allows them to get away with most everything and I want to work with Ben as good neighbors but let's get it in writing to make sure we maintain the good neighbor policy. A couple of concerns are the traffic on the road. We talked about getting some radios and talk between our buses and his trucks. Our vehicles are allowed 30 trips per day on the road by our BLM permit and I think back when they were hauling this 50,000 tons a year a lot of it was during the summer and they did not haul in the winter. Ben wants to haul in the wintertime and I think there is something that has to come up with the Snowmobile Club. We have a meeting this afternoon to try to figure this out, but that is a very significant trailhead to the Flat Tops and these big 25 tons of haulage but the total weight of the

truck is 55,000. They are large trucks. Snowmobilers, trucks and buses, this is a concern that we should also address. Sound is probably not much I can do but we do hear all the backup alarms and grinding with the truck loading, we hear all of that at the park and 100,000 visitors that visit Glenwood also hear that as well. I think we can work with Ben to try to eliminate some of that. I do want to go on record that I am disappointed in the reclamation of the marble head quarry. It is completely reclaimed and there is still an old tram up there, cables, buildings and it looks like a bomb went off there. This is going to be in the County for the rest of my life and my kid's lives. I do not want to get in the same situation with this reclamation. The reason I bring this up is it seems like under the federal guidelines there is not a lot of things the County or the public can do. Ben can come in and do whatever he wants. I hope we can make sure we are protected. The building codes, Ben does not have to comply with any of the County codes. He can build his mill, do it himself and I wonder if there is fire suppression, if there is a fire at the mill it would travel upward and burn down the tram, there is no building or inspection code criteria with the County. I think the mill is starting to be built today. I do not get any of that information. Another concern, this is a 16 acre site but Ben has a total of 1500 acres, what are the reserves in the 1500 acres, is this going to require another permit and can they mine all the way up to his property line. It is very cloudy for me and probably for you but I would prefer us to stay within the existing permit and then have a new permit if they want to expand and add stuff that all of these concerns could be answered and we could be good neighbors.

Chairman Martin – Clarification for Steve, are the Caverns on a patented mining claim.

Steve – It is a patented mining claim.

Chairman Martin – And so is Jock's or did he buy it outright.

Steve – Ours was not a mining claim, it was an 80-acre homestead. There is a 10-acre parcel down below and we own part of it.

Chairman Martin – Do you still have your claim in place?

Ben – For clarification, we do not have 1500-acres, that is the BLM parcel boundary that we utilized for notification purposes. We do have 37 classic claims and those are approximately 20-acre claims.

Commissioner Houpt – Asked for clarification on what that means.

Ben – The reason I did it was I did not want anyone else to have a mine right there.

Chairman Martin – So he purchased all the patents in reference to mining.

Ben – We are governed by the state mining laws and we are not allowed carte blanche to do anything we want up there. We are governed by that as well as yours. The building permit, we spoke with your building and planning department about how to go through the process and they are in a hands-off position as far as it is not County because it is on federal land. We have to adhere to County regulations as well as the UBC and we would be happy to be inspected. We are not trying to sneak under the rules. These are unpatented mining claims, which differ from patented. Patented are treated as fee simple and are treated just as any piece of land within the County and much of the County was settled under the 1872 mining law. These are unpatented mining claims under 1872 mining law, which is essence it acts as if we were mineral owners with a surface on the BLM so we still interact with BLM for surface impacts but it is a grayer region. We would love to patent it but the patent process is on hold. That is where these pieces of land will likely stay in an unpatented state.

Steve – Ben, I think this is going to work out really good but I think I want to stress that the 20 loads per day is fine but in 1982 they were only hauling in the summer. There is a lot of stuff we have to overcome before they start hauling in the wintertime. Transfer Trail is a tough road in the summertime and it is even tougher in the wintertime and these are big trucks and I would hate for them to meet one of my vehicles going up in the morning. I just want to make sure that we are all in agreement that we will be as safe as possible on the road and I would recommend the first year we start with 50,000 tons or 6-months or some timeframe and then look at increasing it.

Deliberation

Commissioner Samson – It seems to me that Mr. Beckley raised some major concerns and he is a principal property owner that is next door. Seems like you guys will be able to work together and that is what I like to see. I think you two need to get together and work some things out and come back before this Board. I do not think anyone is saying no to this but there are some question and Steve has a business that is very vital to this County and this city as you will, because you are going to be employing many people there and the economy does have something to do with it, but I think the two of you could work that out; and I would like to see us I would make a motion when it is appropriate to table this to a later date and you guys work this out.

Commissioner Houpt – It is appropriate to continue this public hearing to another date certain.

Commissioner Samson – How much time do you think you two would need to work things out?

Chairman Martin – If it deals with the road you will need to include BLM because that is a BLM issue of transportation and both of them have permission to do what they have to do in writing.

Ben said we are all meeting with BLM at 4:30 pm this afternoon and the Snowmobile Club will be there as well.

Chairman Martin – They have the right to go ahead and use their SUP today; there are three conditions that they are requesting a change. However, all the other conditions are the same. When we come back, we will see if you have some more answers. We still have to answer the questions on conditions 2, 3, and 10.

December 7 was suggested.

Kathy – I think it is great that they the adjacent property owners work with the applicant on this but their coming to an agreement on things is not going to alleviate some of the concerns that staff has on additional tonnage. The provision of stormwater management plan, air emission permit and access permit would all be required.

Commissioner Houpt – What staff is saying is, if there is an expansion in production, those are really things that our staff believes we needs to look at again in an updated application. Not everything can be solved through your meetings together. We will still have concerns this Board will need to contemplate and discuss.

Ben – We should have in the relatively new future the air emissions permit and a few other pieces that come in line here.

Commissioner Houpt – I do not want to promise you that will help because what we really need is a comprehensive review of all of the impacts and we need to look at them together. In all fairness to you, staff has raised a very important issue that I do not think will be taken lightly with this Commission of expanding the amount of extraction that you are able to do without bringing a new application forward. It would be a new application, not an amendment with all the updated studies.

Chairman Martin - That is what is being requested by the staff, if you are going to go ahead and increase your production that would be a significant change and therefore they would need to have a new application as it would alter the present SUP to a significant amount outside the scope of what was approved under that original.

Mike – Page 8 of the information from staff, the last paragraph, it says specifically potential impacts of increased production were not considered however the applicant may submit a request to amendment that with that information.

Kathy – An amendment of a substantial change is the submittal of a new application.

Mike – An amendment is a new application.

Commissioner Houpt – It is a new application and so with that in mind, I need to ask Commissioner Samson what other issues you think will be able to be contemplated by sending this back for discussion.

Commissioner Samson – I know we are going to have to make some tough decisions as to whether we are going to do this and how we will do it. I guess my major concern at this time is Steve is a major landowner with a major business to the southeast and I want that to be taken care of before we tackle these other issues.

Commissioner Houpt – And it may not happen if they do not know the extent of the extraction that is going to be allowed.

Commissioner Samson – Let's see if they can work this out amongst themselves and come back and say, we both feel good about this amount of tonnage.

Chairman Martin – We still have to satisfy the staff; right now it is a use by right with a special permit in place and they do not have to do one thing other than work with CDOT to make sure they are up to grade and the City of Glenwood on the transportation issue and go to work. What they have asked for are three changes. The number one is the staff recommends if they go to a four-fold production and it constitutes a new application period. That is the staff's recommendation. We can say yes we agree or no we do not agree but I do not think anything that is not in written form right now, agreement with BLM or anyone else is going to change the ultimate decision of this Board saying yes to 2, 3, and 10 or no to 2, 3, and 10.

Commissioner Samson – I disagree because you have a gentlemen that has come here and voiced his concern and has a letter to us and both of them are willing to work to that end and that is what I would like to see them do.

Chairman Martin – The ultimate decision is still ours to make.

Ben agreed to a continuation so that Steve and I can work this out.

Commissioner Samson made a motion to continue until this public hearing until December 7, 2009 at 1:15 pm.

Commissioner Houpt – second. In favor: Martin – aye Samson – aye Houpt - aye

Comment in Reference to Jim Golden's request at 1:00 p.m. today

Commissioner Houpt – I just want to say a few words about a previous statement that was made today. Local officials who are elected to serve the public are in a different kind of position than state or federal elected officials because we have the advantage. At times, we have the disadvantage of being able to work very closely with our constituents and oftentimes, decisions we make will not be understood by our constituents and they will be very upset with us. There was a request made by Mr. Golden and I know and I believe everybody in this Commission knows that he and his family have been through a great deal of pain in terms of their exposure to energy development and I think that is true of many people who have come to us with concerns around this County. When that happens people take decisions we make very seriously and personally and I think his statement today was a very personal concern that he has and I certainly think that I have been requested to do the same thing in the past and it is very dishearten because I know what kind of effort everyone puts into this job. I also think it is a reminder for us to be diligent about communicating with everyone and listening to understand and I just want John and Mike to know that I do appreciate the time and effort that you both put into this work. I also appreciate the pain that this kind of statement can bring to you. I think all three of us need to understand the issues and concerns from stakeholders in this County and work together to address those issues. I want to thank you for the work that you do.

Commissioner Samson – Thank you and I would like to say a few words on that is any person who is a constituent has the right to come before us and voice their opinions on things. I am sadden that Mr. Golden thought that it was necessary to do that to John and I but he has a right to do that if he feels that is necessary and obviously he did. I will make this statement and I hope it makes both newspapers, if someone came before us and was mad at you Tresi and I appreciate your comments today and demanded that you resign, I would say to them that in that meeting and say I think they are out of order for your resignation. The reason I would state that is because you have been elected by the people to serve and you serve your people and John serves the people and I serve the people as best as we can. As you know, one of the major reasons why I ran for this Board was to open lines of communication and I think I have been very successful. I think I have helped you and John get along, if I can be so bold as to say that publically and I want to state a thank you to both of you because you have been very patient with me in teaching, instructing and helping me learn how to be a Commissioner and I owe a great deal to both of you. I consider you both my friend because of the help you have given me and I believe that we can do a lot better on this Board in trying to work together than trying to fight each other. I know that people get emotional at times and because of that, they do and say things. We are all human, I have done things myself that at times I have thought back and well maybe I should not have said that or done that but we are all human etc. But I will let you know Tresi, right now that is someone who is very emotional on my side and comes before this Board and asks for your resignation, I will address them and say that is not appropriate in my way of thinking. Yes, you have a right to way to say that, I understand that but do not agree with you and I think that could be out of line. So again thank you Tresi for your comments, I appreciate that and I think all three of us are doing a good job in our own right.

Chairman Martin – That is just Mr. Golden.

Commissioner Houpt – Yes. Mr. Golden is as well and I do think it is important for us to always strive to better understand the needs of our constituency.

Chairman Martin – The other issue that Mr. Golden has right to speak his mind in a public setting and we have been sworn to uphold that right to defend that right and that is what we did, agree or disagree with it. He still has a right to express his true feelings and that was it. Thank you for expressing you true feelings, I do not agree with it but I also have a personal attachment to this job and I think I do a good job as well as both of you do. So let's end the day.

Deb Quinn – Just a correction on a Work Session on Thursday, November 19 with Winston and Associates, we have earlier discussed the invitation to a meeting from noon to 2 pm; it is not going to be held in this room, it has changed to the 4th floor in the Courthouse.

Chairman Martin stated he would not be there due to a prior commitment.

ADJOURNMENT

Attest:

Chairman of the Board

NOVEMBER 19, 2009 PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The Work Session of the Comprehensive Plan 2030 Focus Group, Garfield County Planning and Zoning Commission and the Board of County Commissioners in attendance began at 12:00 noon on Thursday, November 19, 2009 with Commissioners Tresi Houpt and Mike Samson present. Also present were Deputy County Attorney Carolyn Dahlgren, Fred Jarman, Tamara Allen, Greg McKinnis, Phil Vaughan, Molly Orkild-Larson and Jean Alberico Clerk & Recorder. Chairman John Martin had a scheduling conflict and was unable to attend. Other members present from the Comprehensive Plan Committee included: Greg McInnis, Steve Mullen, Jock Jacober, Bob Fullerton and Keith Woolsack.

Winston Associates presided over the Work Session - Paul Glasgow, Jeffery Winston.

There were six public meetings held in New Castle, Glenwood Springs, Silt, Parachute, Rifle and Carbondale where citizens attended and provided input into the plan.

Those meetings were informative focusing on education, public lands, development in the community, oil and gas and housing and agricultural. There were many good conversations.

The Garfield County staff and consultant team have just completed the initial Community Dialogue and Focus Group meetings for the Garfield County Comprehensive Plan 2030. The information received from the public during the initial meetings represents a broad range of ideas and suggestions related to future growth in the County. These were presented and those present were asked to make a list of five things they felt were the most important aspects of the Comprehensive Plan.

Another meeting will be held and additional discussion will take place.

ADJOURNMENT

Attest:

Chairman of the Board

DECEMBER 7, 2009 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 7, 2009 with Chairman John Martin and Commissioner Tresi Houpt present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn 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

DISCUSSION OF FUNDING FOR HOGBACK – DAN BLANKENSHIP

Dan Blankenship and Michael Ausley were present.

Chairman Martin stated they had made an offer, they had a discussion, you settled on an amount that was not acceptable; so back to the RFTA board and we made a counter offer of \$565,000.00 and that is where it sits right now.

Dan summarized that he had a conversation with Ed and he indicated there might be a possibility that Garfield County will increase its contribution for the Hogback service from \$465,000.00 to \$565,000.00. He did not want to speak for his Board but he thinks they were hoping they might be able to encourage other jurisdictions to contribute as well. Dan was directed to set-up meetings with the Town of Silt next Monday at 10:00 am, and he met with the City of Rifle on Wednesday night. The city council there indicated they would take the request for additional funding under advisement; they have just adopted their 2010 budget, and had to make a 20% reduction in their expenditures because of the decline in their sales taxes. However, they were going to review the matter and try to determine whether the trends were more favorable than they were forecasting. While they did not say yes they would give us more funding they did not say no either. He is not sure when they will decide if they can give more funding; it may be after the first of the year after seeing the closeout for 2009. Again, he has not had an opportunity to meet with the Town of Silt yet. It is the hope of his Board to encourage other communities to provide more funding although they did indicate that they appreciated Garfield County's willingness to increase its contribution by \$100,000.00. Commissioner Houpt asked what happens to the route if the communities do not increase their funding and we go to \$565,000.00, will there be some stops cut out, or the service, or will you continue the route? What is the plan? Don said his board is meeting on Thursday and it is the last meeting of the year. The IGA with Garfield County is on the agenda and he thinks the Board will discuss what the options are. He thinks among their options would be to accept what Garfield County has offered and agree to continue the service with the hope that the other jurisdictions will provide more funding at some point. On the other hand, they may say they want to take a wait and see if the other communities actually do provide more funding prior to the end of the season. They might say they will plan on truncating the service at New Castle on April 12 and if so he thinks the question they would like to have answered would be whether Garfield County would be willing to pro-rate its contribution for 2010 for 3 ½ months to get us to that point.

Commissioner Houpt explained if Garfield County is not in a position of replacing that service if we put money into it, we want to know we have service. What you originally asked for was \$614,000.00 and we are at \$585,000.00 with Rifle and Silt.

Don thinks there is about a \$50,000.00 gap right now.

Ed said they do not know if Rifle is going to go through with the \$20,000.00.

Commissioner Houpt stated they said it was in their budget. Commissioner Houpt asked don't they realize how important this service is, they must not. One thing we said months ago was that we would not leave you hanging and we would back-fill what the communities could not do, but we are really urging the communities to come to the table and find that money. It is an important service for folks who are living in the Colorado River Valley. She thinks they need to follow through with that and she cannot imagine that Silt would be able to give you \$50,000.00. She thinks it is important that until we have some other alternative or until Garfield becomes a member with RFTA that we make sure this service is taken care of and recognize the fact that RFTA members are taking care of the rest of the County. I make a motion we back-fill what the communities are not able to fill and she is not saying she is going to back-fill that \$20,000.00 that Rifle already committed.

Dan said he believes the number is \$149,000.00 and then with Garfield County's indication that they might come up with \$100,000.00.

Commissioner Houpt asked if \$614, 000 was not the total, it was that plus the \$20,000.00 that was already committed?

Dan said the \$20,000 was already assumed in the \$149,000.00; we assumed \$465,000.00 from Garfield County and \$20,000.00 from Rifle. That left a gap of \$149,000.00 and then if Garfield County were to contribute \$100,000.00 that would leave \$49,000.00.

Commissioner Houpt – I make a motion we back-fill the \$49,000.00 in the amount that is not committed by the communities; but as a part of that she wants to see the communities come up with some money for RFTA.

Chairman Martin asked, your motion is that you want \$614,000.00 instead of the \$565,000.00, which is in the budget, and Commissioner Houpt answered correct.

Commissioner Samson - You were taking to this to your board to see if they will accept the \$565,000.00 on Thursday night.

Dan explained that on Thursday morning he thinks they will have discussion at that point in time because they do have the Intergovernmental Agreement with Garfield County for the Hogback service on the agenda. The Board will have a serious discussion about the amounts that are offered. There is some potential out there and they will decide what their options are either accepting or waiting to see. They may perhaps indicate they are going to truncate it effective April 12 in which case what they would like to know if Garfield County would be willing to pro-rate your contribution through that time frame.

Bruce Christensen said the Board has formally acted stating that service would cease on April 12 or whatever day, unless the shortfall was obtained through a combination of the municipalities and the County. Apparently Rifle and Silt have not stepped up, so as he understands the rules in RFTA it would take a super majority to change that policy to accept less than the \$614,000.00.

Dan said the IGA is on the agenda to see if the Board will accept. There is still a blank there in terms of the dollar amount to Garfield County.

Commissioner Houpt asked Bruce, when you voted to discontinue the backfill that was not funded did you talk at all about shifting service down valley. Do you feel that still would not cover the expenses you are seeking? Not shifting service but cutting some stops.

Bruce said as an alternative to or reducing; he did not think they did, in fact he knows they did not and he guesses that could be another option to downsize the service to the amount of funding available. He would like to point out again, they did already put \$90,000.00 supplement into that out of RFTA general revenues.

Commissioner Houpt restated she made a motion, she did not have a second but she is going to put that motion forward again.

Commissioner Samson said he is wondering if they should wait and see what the decision will be Thursday morning.

Chairman Martin stated if they do not receive the \$614,000.00 then they would truncate on the 14 or 12 of April. It goes to New Castle; you are paying \$614,000.00 to run from Rifle to New Castle and to help with the service into Glenwood Springs.

Dave Sturges thinks this is less about which government is paying; he thinks the issue is really that people need alternatives to get around. Here in your community survey, a rather surprising response that said people in the west end of the County indeed wanted to see a balance transit system. He thinks that this is really thinking about people who live in the west end of the County that choose to have or may be the only job that part of the family has that requires the opportunity to take a bus up valley. He means to Glenwood, Basalt or Carbondale and he thinks the Board is very conscious of the employees of the County. They utilize your local bus; what they do not know is exactly how many nurses and teachers probably are using busses. He would like everyone to hopefully look at this as how do we give people who are struggling today an option of a safe and economical way to get to work wherever they choose to work or can work. He was reminded of the presentations that Human Services Council made to you on some of the kind of people that are struggling out there. There were examples of employees of Garfield County who are really trying their very best to provide for their families and get to work and get home. He would suggest this is really a lot less about which government is paying; but it is more important that people have an option that they are asking for.

Chairman Martin said no disagreement; the County is paying about \$5,000.00 a month just for the ridership of the employees through every office. We buy those passes and are very much aware of how much it is in the budget. A couple of years ago it was \$345,000.00 to run the service. We have stepped up and did an increase there as well as a one-time contribution to help match for the bus that is running. That is still in there and we put another \$100,000.00 on top of that. Chairman Martin thinks their offer of \$465, 00.00 needs to stand. Everyone has to draw the line.

Commissioner Houpt reminded Chairman Martin they were up to \$565,000.00.

Chairman Martin stated okay; \$465,000.00 was because we were generous and gave another \$100,000.00 plus the \$60,000.00 that we have for passes on there. We need to stop. The citizens said no they do not want to continue to pay for a service, they voted and Chairman Martin honors that decision, but he knows it is valuable service.

Dave said he has heard this reference to a vote taken some years ago and he is suggesting that vote is not the conclusion of Garfield County's opportunity.

Chairman Martin – I disagree until we have another vote.

Dave said, it is very generous in trying to support this and he urges Chairman Martin to continue to support.

Chairman Martin stated he does and that is why he has a contract for service for this one and the senior programs. He thinks it is a very valuable. That is not the issue, it is the funding mechanism. The funding mechanism coming out of the general fund; we are under attack every day with the general fund. We have to start drawing the line and say no, because we are running out of money. He knows that other governments are having a hard time and we are going to be in that same boat. We have avoided that by priority budgeting and being very strict how we spend our money. Even though sometimes he thinks they are drunken sailors when we spend money. We have to put our foot down. It is not that we do not like the program; it is not that we do not support the program. We know it is worthwhile, but we have to stop. We cannot continue to spend all the time.

Commissioner Houpt stated this is during an economic time when it is very difficult for people to find alternatives to transportation, and we can afford to do it this year. If this service is cut without a great deal of lead-time for people who rely on that transportation corridor, then we are not serving our constituents well. She said she would ask one more time if someone would give me a second to on the motion to back-fill the additional \$49,000.00 that has not been met yet, and encourage the other communities to contribute as well.

Chairman Martin said he would second the motion for discussion.

Bruce wanted to clarify two things; he thinks it is fantastic that the County, like many other employers to provide passes. He thinks that is something that minimizes the impact of those of us who transport many people into Glenwood Springs. However, we do need to remember those fares only cover a portion of the cost of running public transportation. Public transportation nowhere in the country can run on fares alone, it only covers a portion. The other thing is concerning the County's cost a few years ago was in the \$300,000.00 range. The cost of service has not gone up by double. What has happened is the ability of the other members of RFTA to subsidize that service has gone down. When the County was paying \$300,000.00, other communities were paying a higher proportionate and RFTA has agreed to put in \$90,000.00 this year to help with the Hogback. They have had to cut service throughout the member communities as well and they feel that is meeting the County halfway. He thinks it is very unfortunate that the City of Rifle and the Town of Silt have put the County in this position; but they have attempted to get them to help.

Chairman Martin stated when they sat down with Dan the county wanted to know exactly how much it cost to the run service period. The County agreed they would pay and Dan was very up front, honest, and even said they might need new vehicles. The County went ahead and matched them; he stated they feel they are paying 100% of the Hogback service. Again, he stated our contribution is only for that portion of the contract that runs Hogback. He feels they should not be subsidizing the rest of the system because we are not a member of that system.

Commissioner Houpt explained that is what he is saying; they are subsidizing the Hogback, so we are not paying 100% and we are not paying for service anywhere else in Garfield County. The members of RFTA pay.

Chairman Martin said that was not his approach.

Michael said this has been a struggle for the RFTA board and it has not been sort of well we know where the money is; it is in Garfield, let's just ask Garfield County and of course they will give it to us. It has been a struggle throughout our jurisdiction, how to deal with this. Because we are dependent on sales tax, and sales tax is going down that has left us with the shortfall. How do we deal with that shortfall? The Hogback route came up because it was pure subsidy from the point of RFTA. It only made sense to come forward and ask. We appreciated what you have done so far, but it still is a shortfall. It is not a question of negotiation and the effort to say we have to truncate this service, was not an effort to strong-arm you. It is just a simple reality of economics for RFTA. Because the jurisdictions that are members are doing as much as they can including raising the prices. Basalt to Aspen went up 30% that is a struggle. They made those efforts in other parts of their jurisdiction to become financially viable; but they are still left with the Hogback, which without your help is not financial viable for their membership. This may seem like negotiation and we are holding back but we are not. It is just that portion of the Hogback is a cost to RFTA and it has to be met somehow. RFTA cannot meet it. The idea of \$49,000 is some one's wage that is the earnings of someone on that bus and if they have to drive it will be that much less. We are arguing over a small amount of money that can make a huge difference in the ridership of people from Rifle, New Castle, and Silt to Glenwood etc. He really is urging the Board to consider the \$49,000.00 as a small amount that can make all the difference in many of your constituents.

Dave said he has watched transit for a long time in this valley and one of the ways it gets hard is where there are cutbacks or there are changes in service. You do not all of a sudden go back and have any reason to expect that the riders that have been riding before and have now lost some particular service are going to come back. He suggests this is not the time to think about the dollar but the long term of Garfield County residents. He thinks that if they could get through this year, he would like to see RFTA, Rifle and Garfield County actually do a study of how service to the west end of County might be maintained. Whether it is maintained by a contract with Rifle, or even a separate district that the County with the west end municipalities who might have an interest. However, you again cannot make that study without some time and a resource looking at what the ridership is and the cost. He would again urge the Board to look at this not as a short term decision; but a step in trying to determine what the west end of the county really requires in terms of transit system; be it operated by Garfield County, or be it operated by RFTA.

Chairman Martin stated in doing so, they are still leaving over 10,000 people out of the scenario in reference to our population, which is just another 7 miles to the west of Rifle and 8 miles from Rulison to Battlement Mesa.

David stated it is an opportunity to look at that kind of ridership and say how are we going to get you into a system.

Commissioner Houpt stated it is also easier for them to drive to Rifle and catch a bus than further up valley.

Chairman Martin said to drive from Rifle to New Castle to catch a bus is a 14 mile drive, I understand this that and again it is not about that the service is invaluable; it is just that we have reached the saturation point where we need to look the other way.

Commissioner Samson said he wanted to throw some things in that people are not aware. He did not want to bring this up until the commissioner report but he thinks this is probably the appropriate time to do so. As everyone knows, he has been meeting with the mayors, and at the last forum meeting he and several of the mayors brought up RFTA and the transportation issue. At that time he called for a special meeting, which they met a few Mondays ago and it was a good meeting. Bruce was there as the Chairman of RFTA and they had the mayors from Silt, New Castle, Rifle, two representatives from Battlement Mesa and Ed Green attended. They talked about many things that Dave brought up today, which are important. The consensus there is that we really need to do something in transportation. It appears as though people on the west end of Garfield County do not want to join RFTA. RFTA

has done their best to get them to join; but they say thank, but no thanks. We have to go a different route. With that being said, we decided and he needs to get the Boards permission, but he suggested they have a meeting on February 1 and try to have it at CMC in Rifle. At that time have all the elected officials from those entities come and their staff as well. We would feed them at 6:00 p.m. and start the meeting at 6:45 p.m. The purpose of that meeting would be to educate everyone with the studies that you are talking about with transportation. We will have a study done by January by Garfield County staff concerning transportation needs in Garfield County specifically in the west end. We will get a feeling from those different councils as to is there a need and would they be willing to work for a transportation authority from New Castle all the way to Battlement Mesa. He thinks it would be safe to say that everyone there felt that way; but they wanted to get everyone on the Boards on board.

Bruce thought that was exactly where they were. He thought it was a very productive meeting where they began to think about alternatives. That is why we are here today. This will continue to go on until we find a permanent funding solution for transit in those communities and it seemed very worthwhile to look at another alternative. Commissioner Houpt said she is very concerned about the cost of doing something separate. She knows staff is going to bring forward a white paper on different alternatives; but she does not know if they will have numbers on the cost of doing different alternatives by January.

Lisa Dawson said they have some numbers now that they are finalizing.

Commissioner Houpt asked we would know exactly how much it would cost to do the different alternatives.

Lisa said their best estimate, yes.

Bruce stated the other option out there that we talked about although he said he cannot speak for the RFTA board, but they did talk about either a short or a long-term arena. This district could contract with RFTA for those services if they did not want to start their own system. To him that would clearly make sense at least if this district were to be formed for a couple of years while things sorted out but that would be the districts option. He thinks RFTA contracts with the City of Glenwood Springs and the City of Aspen, and the Aspen Ski Company now.

Commissioner Houpt said she is amazed that people are interested because they are not interested in putting money into an established option right now so where will the money come from to fund a new system.

Commissioner Samson stated let's be honest, it will come from Garfield County.

Commissioner Houpt said she is not willing to do that unless the communities are honestly onboard.

Commissioner Samson said if the district is formed he thinks Battlement Mesa, Parachute and Rifle will come on board, Silt seems to be interested and New Castle, if he understands correctly, has an option of opting out or remaining with RFTA and joining with a new district.

Commissioner Houpt said she would really want to see what kind of money these other communities are willing to bring to the table. She has a feeling it would turn into a County program and we would have to pay for the whole thing. Then we would not have any equipment; we would never have to subsidize as we have been in the past. We would not have Rifles \$20,000.00.

Commissioner Samson explained this is the purpose of meeting, to lay the cards on the table. His question is does he have Chairman Martin and Commissioner Houpt's blessing and will you both be there February 1?

Commissioner Houpt said she would be there.

Michael stated it is very difficult for those communities to see what they have in common with all the other jurisdictions. However, he thinks within their own jurisdictions, it is possible to find common interests. That is a good step. Pitkin County started RFTA by going to Indianapolis, buying four used busses, driving them back here and that is how it got started. It got started through leadership and no one had thought this many years later there would be that, many jurisdictions involved in RFTA. It has been through a very gradual recognition of common interest reaching from Aspen to Basalt, Carbondale and Glenwood. This is part of that gradual transition; the organization of western Garfield in its own district makes a lot of sense to him. The contracting and the real alternative is to contract with RFTA. There would be no initial capital costs and RFTA would deal with it. It is an open process so you see what the costs are that RFTA is incurring and you can share in those.

Commissioner Houpt said she thinks they need to recognize that Garfield County is more than just Silt or New Castle west, and she has heard many people say they would like to see bus service up to Spring Valley. We really have two municipalities who are paying for service in unincorporated Garfield County and the Roaring Fork Valley, so that really needs to be part of the white paper too. That needs to be part of the discussion as well; how are we going to help to support bus service in the eastern part of Garfield County if we are going to run it in the western part of the County.

Chairman Martin stated that has been his point all along in reference to sales tax. Sales tax is down; the only government that is not paying sales tax to run RFTA is Garfield County. The only way you will have a funding mechanism is going to be a tax or an ad valorem tax on property. There is not enough commercial outside in the Roaring Fork Valley of Garfield County limits and outside the municipalities that can support \$614,000.00 in sales tax revenue. There is just no way; it has to be a property tax levy and that has been the question all along. How do we pay for it? We are taking it now out of the general funds, which are getting shaky. We need to stop spending general fund dollars because that happens to be ad valorem tax. The question that was put on the ballot was do we use ad valorem property tax money to pay for RFTA, and the answer was overwhelmingly no. We do not have sales tax dollars to use for transportation because it is 100% dedicated. The sales tax in Garfield County is dedicated 100% not for the general use of transportation. That question needs to be put before the citizens, do they want to pay property tax for transportation. They need to answer the question.

Commissioner Houpt said she would like to call for her question at this point; there has been a motion on the table for the last half hour.

Don asked; did your motion include authority for the Chair to sign the IGA with RFTA?

Commissioner Houpt replied yes.

Don said the reason he asked that was because it is not on the agenda.

Commissioner Houpt stated that he has had authority to do that because we made a \$565,000.00 offer and she was under the assumption that we had done that previously.

Don explained that he had never discussed the IGA with the Board. The IGA was sent to the administration of RFTA a few weeks ago and he has not received any feedback on that. He is assuming the forum agreement was acceptable in terms of its legalities.

Commissioner Houpt stated they are actually meeting on it on Thursday if you want it on the agenda, they can do that. She stated she was just talking about the backfill.

Don said there are some issues that need to be discussed because it is not your normal IGA. Don said he did not know if they wanted to do that now or not but if your motion includes authority to sign the IGA, then he needs to discuss.

Commissioner Houpt explained she was actually talking about funding.

Don would rather, after RFTA has had an opportunity to get back to him on the IGA, bring that IGA to us next week.

Don said that is the choice of the Board; if you want to act on the IGA today, he needs to discuss.

Commissioner Houpt said they have not seen it.

Chairman Martin stated to Don for clarification, he thinks the question would be is the \$565,000.00 is in the budget. The request is to move from \$565,000.00 to \$614,000.00 and then give direction to staff. Put it into the budget and then work with the contract.

Don stated that was on the agenda.

Commissioner Houpt - Forget the IGA right now, they will meet on it and get back to Don.

Chairman Martin explained the motion is to raise the amount of funding from \$565,000.00 to \$614,000.00.

Commissioner Houpt stated or to backfill what is not covered by the communities, she wants to see communities come forward as well.

Chairman Martin said that would be an open-ended amount at that point.

Commissioner Houpt said up to a not-to-exceed \$614,000.00.

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

Chairman Martin said he thinks a contract could be negotiated. Don asked if RFTA should be on the agenda for the 21.

Chairman Martin explained pending on the action after RFTA's board meeting.

Dan stated that Todd Williams, their general manager, has reviewed the IGA and made a couple of minor revisions, suggestions; they will get Don a copy. The Board will be acting on it Thursday.

Don said the 21 would be appropriate.

RENT ABATEMENT REQUEST – BRIAN CONDIE AND JOE CARPENTER

Joe Carpenter is a local pilot and a flight instructor, is the designated airport support network volunteer for Garfield County Regional Airport through a trade organization Aircraft Owners and Pilots Association. He is also a sub-tenant at the airport; he is here on behalf of airport tenants, sub-tenants, pilots, on site business owners, and aircraft owners to request an abatement of rent during the pending closure. As all parties mentioned they would be adversely affected by that event. He wanted to say thank you very much to the Commissioners for your support by way of past improvements and those that are planned. He recognizes the significance to economic growth to the County that an airport of the caliber and capacity that Rifle represents. Closure of the airport for runway realignment scheduled from April 5 until November 18, 2010, approximately 7 ½ months representing the majority of the flying season for local pilots. While the enhanced tax revenues made possible by the runway improvements are to the benefit to all citizens in the County, the extended closure is a serious concern for local pilots and businesses for leases as well as their sub-tenants. The issue is one of fairness. While commercial leases often contain clauses obligating tenants for continued rent during the periods of which the leased property may become unusable such clauses are typically mounted to short-term events and not events of the magnitude or duration. In addition, the scope and duration of this project have both been extended well beyond the original expectations. He has not spoken to or heard from any of the interested parties who object to closure itself but there are many who are understandably concerned about the time, cost and inconvenience of relocating aircraft to Aspen, Eagle, Grand Junction during the extended closure. It should be noted that the runway improvements, which necessitate this closure, are of little if any benefit to local pilots for who the existing 7,000-foot runway even with the downward pitch is perfectly adequate. A burden is also created for airport businesses whose cash flow would be adversely affected during the closure, making the retention of skilled employees during that time a challenge that can be significantly mitigated via the request. Specifically the request is to abate base rent for Garfield County Airport leases for the 7-month period from April until October 2010. In discussions with airport and county management it was determined that it was more beneficial for budgeting purposes than an arrangement based on actual dates of closure and reopening. The estimated economic impact is in the amount of about \$65,000.00 is insignificant relative to the overall project costs and represent less than 2/10th of 1% of the project. While the lease premises for most leases will be completely unavailable for its intended use and few aircraft will be stored for the prolonged period of time due to the potential damage that can result from doing so, it could be argued that the lease premises may be used for other storage during that period. For this reason, and in the spirit of compromise and simplicity, the request does not extend to abatement of triple net expenses including taxes, insurance and maintenance for leases obligated for such expenses. In summary, an abatement of rent at the airport during the extended closure provides an equitable manner in which to offset the adverse economic impacts to local pilots and businesses while help to ensure their continued viability and flight retention, and airport use upon reopening.

Brian passed out an exhibit to show exactly the numbers they are talking about. Brian has been aware of this request for sometime; however with the uncertainty of closing the runway next year Brian waited until all the obstacles were out of the way and he is sure that the runway closure will take place on April 5. At that point, we had an airport user meeting and invited the public and all the tenants; they had over 50 people attend this meeting. They were all willing and excited about the improvements even though most of the local pilots said it would not affect them at all. They have asked Joe and me to come and make this request on their behalf. They realize the lease agreements say they will pay the lease for this period of time that is why they are asking for this consideration. In talking with Ed Green, the three of them met and came up with 7 months as being fair. This means they are giving about 60% reduction in the lease revenue. They would go for the tenants he has listed in a document submitted to the Board, who would get rebates and go from \$111,000 with the discount being \$64,996.00 and would make the revenues for the leases next year \$46,421.00.

Commissioner Houpt said it seems fair to her as they cannot use the property and it is a long period.

Brian explained they would still pay insurance.

Commissioner Houpt said they would still have to figure out where to rent space somewhere else.

Commissioner Samson said he does understand why they do not want to pay when they cannot use it. I move we grant the abatement request as requested from these two gentlemen so that the general operations on this would not exceed \$64,996.00.

Commissioner Houpt – Second.

Ed asked Brian if he could pay it with fund balance or do we need new money?

In favor: Houpt – aye Martin – aye Samson – aye

Carolyn wanted to make sure this is a fact decision and not instructing us to amend all of the leases for any future events.

Chairman Martin stated that is correct.

GREAT OUTDOORS COLORADO GRANT APPLICATION

Martha Cochran, Bethany Collins and Betsy Suerth were present.

A letter was received November 24, 2009 from Betsy Suerth, Town Administrator, Town of Silt, stating they were working on a grant application to acquire 210 acres of undeveloped agricultural land adjacent to the Colorado River just off County Road 346. They have been working with Aspen Valley Land Trust and the property owners regarding acquisition of this property for recreational and open space use. 50-acres of the property nearest to County Road 346 are intended for development of a public park, natural trail system and other recreational amenities. The town intends to provide public access to the river, with an access road across the 160-acres of open space and provide parking and a launch ramp for boats/canoes. A GOCO grant would fund a portion of the cost of the acquisition and the town is seeking letters of support and monetary contributions toward the purchase plus in-kind contributions to help this proposed project go forward. The Town of Silt would appreciate receiving a letter from Garfield County setting forth their willingness to support this grant application and state the reasons for their support. If the Board is willing to make a monetary donation or an in-kind contribution, please set forth what that would be. They have enclosed a draft support letter for the Board's reply. They are hoping they can count on Garfield County for a cash contribution of \$100,000.00 in matching funds to help move them closer to their goal. Betsy explained their letter to Garfield County and they passed out maps to show where the property is located. They have settled on a price and that price has been run through their board, the Dixon Water Foundation Board. They felt that was a big hurdle to get over and are happy to announce to this Board. The community would be engaged to plan this space should they be successful in acquiring it. The concept you see before you this morning is only a concept. They would want to have a large community engagement effort to plan specifically what they would like on the property. Before you today is only the property acquisition. There is a special opportunity grant cycle by GOCO that was recently announced that becomes available only every 3 or 4 years. It is quite a special opportunity that does not come along very often. That grant cycle is similar; the cash match requirements are similar to those of other GOCO grants. We need to supply 30% of that match; the GOCO grant supplies 70% of the cost of the acquisition. That leaves a match of approximately \$500,000.00 they need and they are asking Garfield County for \$100,000.00 participation.

Commissioner Samson asked Betsy if they had to come up with \$400,000.00.

Betsy stated yes and they have put out requests to Antero Resources, Williams, and EnCana. They have also put a request out to the Town of New Castle because ultimately, they envision this as being a regional park and hopefully that has participation from more than just the Town of Silt as a municipality. New Castle has come back supporting their request but denying any ability to participate financially. Antero Resources has come back with a \$25,000.00 pledge, EnCana and Williams are currently considering and that does look positive although the higher ups will give them a final reply in the next few weeks. They have also put out support requests to the various conservancy districts and they do not expect any cash match there; however, they would certainly appreciate that.

Martha explained a portion of the property is deemed farmland of statewide importance if irrigation is returned. We will be applying to NICS. They have a rolling grant cycle and expect a portion of matching funds. They are also in the process of talking and getting into the next grant cycle at the Gates Family Foundation. They do some very specific funding opportunities and this falls into their guidelines. AVL T will be asking our board for potentially up to \$100,000.00. Portions of that \$500,000.00 can be in-kind contributions. We are getting there; it would be a spectacular, close to the communities, and accessible. There will be public access to the river.

Betsy stated there are two well pads planned for this parcel that Antero is not willing to give up and they certainly would not expect them too. They have recently partnered with Antero to jointly plan and collaborate on where those pads will be located. There is a concept plan in their surface use agreement with Dixon Water Foundation and they are willing to morph that plan around what might be the potential park area. She is to meet with both the geologists/planner, and the landman in the next few weeks to begin that collaboration and partnership for planning. That will be a hurdle for GOCO. They make statements in the grant applications that the potential mineral rights, to be developed, are looked at very carefully. They hope to be a model for GOCO to be able to collaborate with mineral rights, in this case the lessee, or lessor to provide a real partnership and show GOCO that we can develop a park around mineral development, which we recognize is a necessity. We are in one of the greatest basins in the nation and why should we be penalized because of our location.

Commissioner Houpt said it really is a very broad partnership.

Betsy said many people are very excited about this project. She is not sure they can pull this off but she sees this as really happening, and especially if Garfield County can be a partner in this great vision.

Commissioner Houpt stated the grant request or the GOCO request is \$1.5.

Bethany stated the total grant from the Town of Silt and the AVL T's will be \$1.89 million of which they have to come up with 25% and they have to come up with 30% matching.

Betsy stated they are still playing with those figures because they have not finalized the cost of closing and the accessory costs.

MOTION:

Commissioner Houpt asked if the \$500,000 is for both grants and they answered yes. Commissioner Houpt believes in these partnerships and she wants to make sure she has all of the numbers straight before she looks at this level of commitment. We are really looking at a project that will bring in close to \$2 million into this area. It certainly is going to serve Garfield County beautifully if we can preserve open space and have recreation areas that bring people to the area. She is glad that Antero is working with them on those sites; it makes a huge difference. I make a motion we support the Great Outdoor Colorado Grant application and provide a letter of support and a commitment of a match of \$100,000.00 for this project.

Commissioner Samson asked where the money would come from.

Ed stated the general fund. He stated they would have to make an adjustment to our budget. He is assuming that the money would be paid out in 2010 and they replied yes. Commissioner Samson – Second.

Ed said we do have a fund balance left.

Chairman Martin said in which one; not the Conservation Trust Fund, he thinks that is committed.

Commissioner Houpt agreed that was committed. She stated off the top of her head that she would not want to commit those monies.

Chairman Martin stated there was only one group that is requesting money on Conservation Trust Funds and that is LoVA.

Ed said they had fund balance carried over from prior years and we anticipated a \$190,000.00 in revenue streams for 2010, and they distributed that \$190,000.00 to Crystal River and LoVA. He stated they still have the fund balance remaining, which he believes is \$114,000.00.

Commissioner Houpt stated that is over and above what they have already requested for 2010 and what we have committed too.

Ed stated they could conceivably take it out of conversation trust and not affect anything.

Commissioner Houpt said she thought LoVA would come back to the county for an additional request. She asked Jeff Nelson if LoVa was coming back for additional funds for the trail for 2010.

Jeff said yes for Phase II; but he thinks it has already been allocated. All the funding they have for Phase II is allocated.

Chairman Martin said the only thing he sees is that they have a tendency to go ahead and make open space and active recreational where we should be using the money to preserve and keep active agricultural purposes and there is a conflict there.

Bethany said it is a combined grant; 50 acres would be developed for parks and recreational, and the remainder would be open space. There would be a requirement to revert it to agricultural use; there is a good combination.

Don stated you are only asking for a letter of commitment today. When would you actually need the funding in 2009 or 2010?

Bethany stated 2010. They are looking at closing sometime in July.

Don stated you are looking at the 2010 budget, which is still being finalized. Normally, when would you require an IGA, it seems they would need in the first part of 2010.

Bethany stated that grant approval is April 1, within 30 days of that they require government approval, IGA's and then within 100 days that is when all the purchase agreements have to be in.

Don stated they have time to develop an IGA with Silt, after they award. Don asked if they are aware that there are some planning requirements with Garfield County.

Chairman Martin stated Don brings up a very important one that you did not touch on; you just hinted at, and that happens to be the maintenance and also the 346 Road as well as the access to it. Is this a parcel that is continuous to the Town of Silt across the river and they stated it is. Our policy is that you annex also the road.

Don stated the other question is; is this in the Town of Silt.

Betsy stated this is not in the Town of Silt. As this Board will recall, the Town of Silt de-annexed this entire property about 1,500-acres. They only had internal discussions among staff as to how they would phase what they need to do for this project. Annexation would be a consideration; however, that has not been presented to her board and would have to be discussed. She thinks it would be appropriate, probably within the next couple of months, to have some discussions with the two boards on how to do go about doing this.

Don stated what he was alluding to us if it remains in the County, you will need to work with Mr. Jarman's department and the planning commission as well as the Board of County Commissioners.

Betsy said they have discussed that option as well but again, those different options have not been presented to her board.

Marvin said that he has never seen the official de-annexation of the County road s with Stillwater and he was told it was recorded.

Commissioner Samson wanted to make sure it was coming out of the Conservation Trust Funds and they stated it was.

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

Chairman Martin explained that it was not that he did not like the idea. He thinks there are too many questions hanging out there and it is contingent upon many things. It is going to be one heck of a leap to get there; he does not want to have false hope to think it is an easy deal just because they are supporting it. It is not even close to being easy. Look at the lottery funds, gambling funds going all to balance the State budget next year; you could have a raid on that as well and no money.

Commissioner Houpt stated they would not need the County's match if they do not get the money.

RULISON UPDATE AND POSITION ON DOE PATH FORWARD – JUDY JORDAN

Judy submitted a letter from a meeting held by the Department of Energy Office of Legacy Management by Jack Craig, Site Manager held on August 25 with the U.S. Department of Energy Rulison Team. In this meeting, they talked about Prompt Inject, Krypton-85, Length of nuclear fractures and the possibility of a mineral rights swap. Judy explained that she, Ed and Jeff met with DOE last summer about Rulison and they presented a path forward document; which they had drafted in the spring. They are actually looking for us to endorse their path forward document. There is nothing new in the path forward document other than what they are advocating and it is because the fracturing from the site is oriented east/west. They are advocating instead of observing the ½-mile radius that the Board has before in recognizing that it would request a hearing on any permits that invaded that territory. They are actually asking that the shape be compressed so that it is oriented east/west. Meanwhile, not only did they meet with DOE; but also with the meeting with DOE, they had many opportunities to ask questions technically about the site for many years and got some of those resolved. Her conclusion is she is still comfortable with the ½-mile radius. She thinks that is still an appropriate distance to be stepped out from the site. She checked with Jeff afterwards. Some of his questions having to do with other elements that might have migrated from the site were answered and he is comfortable with the ½-mile radius. She thinks Ed was as well and he answered yes. They would prefer to recommend that we stick with the plan. That is they still recognize the ½-mile radius as being the relatively safe zone. They still maintain that there needs to be compensation of the mineral owners within that area and that compensation would best take the form of a trade of mineral rights from elsewhere where the Federal Government already has mineral rights and they may or may not lease out to someone else. She also had a conversation with Noble and the property owners about this. The property owners agree. The only thing is they had differences of opinion on how the compensation might play out and sometimes the distance, if you talk to the

property owners, they would rather the distance be greater than ½ mile. There is not 100% total agreement from all parties but Noble is also interested in this trade. She made an effort on her part; it turned out to be a feeble effort to identify some property that mineral rights might be traded and they said do not worry they will take care of that. They are in the process of trying to identify something that might work and they do own the share of the leased rights there. That is where things stand. It is really now sitting in the laps of the property owners in terms of what they want to see as far as the trade and Noble. If a trade occurs that would happen by way of legislation. The legislators are willing to help us out on that front.

Chairman Martin – Again, talking to all the same people that Judy did, the only ones that are not in favor of a trade or attempt to get it done is the Department of Energy because they need to prove their theory. He thinks we need to stay with our approach and push forward with the request for a trade and again right down to the Department of Interior it seems they want to help us. He recommends we stay that way and continue our ability to do an exchange. Again based upon the pool, the surrounding areas, and that information is available through the Oil and Gas Conservation folks as well as BLM and the operators. They can work out that detail, the mineral right holders would receive almost immediate payment instead and the surface owners would be safe. He hopes they do not vary their approach.

Commissioner Samson feels that is the way to go. He thinks it is the best equitable solution for everyone involved and he would love to see this come.

Chairman Martin suggested that they make a note through Mr. Green's office to respectfully decline to support the Department of Energy's approach and we stay with our position that we need that the best thing to do to solve our problem is a transfer of mineral rights and no development.

Commissioner Houpt stated if you recall she has been having this discussion at the state level and she is pleased to see the position that her Garfield County colleagues are taking and thanked Judy for her leadership.

Chairman Martin stated they have never varied on that position anyway from the very beginning. We need a motion to go ahead and do so; he stated he would make the motion if Commissioner Samson will second. Commissioner Samson - Second

In favor Martin – aye Samson – aye Recused - Houpt

OIL AND GAS MAPPING – JUDY JORDAN

Judy stated this is what they have had their intern, Ryan working on and it addresses a couple of related items.

There have been some discussion at the EAB about how Judy's office responds to complaints they receive about oil and gas operations. This will update how we go about addressing those complaints.

Commissioner Samson asked; the complaints you are hearing, are those from a very specific cliental or does that entail many. He is concerned the complaints you are hearing are not widely based.

Judy stated that recently they have had a narrow group of sources of complaints and a low number. She introduced Ryan Clark, he has worked with her since spring, and tomorrow is his last day. Judy gave a background; if they were to get a phone call from someone and they say they are experiencing an odor, or a noise problem, then they have an address to start. What do we do next is determine where is it coming from. In some cases, people have an idea where it might be coming from and in other cases, they do not. What they do is certainly they go out, visit, and try to get information from the site and the person first hand. Nevertheless, there is a lot of private property out there and we cannot just go wondering around looking for whatever the case maybe. They have tried to pull a lot of information into GIS and turn that into a tool. It does not preclude them from going out to a site, investigating and talking with the complainant and/or whatever the source might be. However, we can sit at our desk and identify some potential sources of these. They started out with getting in touch with the COGCC and being able to import all the locations of all the wells. Why is that important; you can go to the COGCC's website and look at where the wells are, but there we cannot overlay the parcel data from our GIS. The County imports their data; that is now an automated process. They work very closely with the IT department and COGCC. Once or twice a month she receives all of their well location data. That is fine; but it does not necessarily tell them where the actual source site is from the problem. It is a pad for instance; they could be talking to the industry about a pad for whatever reason. There have been a couple instances where they had a fire on a rig, or a blowout where there was a loss of well control last year, and the operators ordinarily talk about their pads back at the office as a 625 or the 456. They know what they are talking about; but we do not know what pads they are talking about. That is because the pads have never been permitted by COGCC and those sites have never been located geographically. Do those correspond with the wells; no. Now that we have directional drilling, the wells go out to the side and that does not necessarily show us where the pad is. What actually gets mapped is the bottom hole location projected towards the surface. What you are seeing if you can see the terminus of each of those lines that projects off the base underneath of the schematic showing where Derek is the ends of those lines is where you see the bottom of the well on a map. That does not tell us where a pad is. We never had a way of being able to tell where the pads are, so basically now they have identified where those pads are; when she says we, she is referring to Ryan who has done all of this. What he did was use aerial photographs and now we have the latest data using the aerial photographs as to where those pads exist. Going forward under their new rules, the COGCC now does require that the locations of pads be logged. Their new form 2A's are filled out by the operators who explain where there are new disturbances and that includes well pads. From now on, the latitude and longitude of those pads are described in that form 2A and they can actually log those onto GIS. They will, going forward, have the ability to identify where the pads are. What about all those pads that are out there we do not know how many there are, but what about all those pads we built from the 1990's? Ryan mapped those.

Ryan showed the maps and explained that the yellow dot was the bottom hole location. The red star is the well pad identification. He explained and showed how he identifies well pads on the map. Ryan stated they are easy to identify.

Judy said sometime what you see you what looks to be a pad may or may not be a pad. So Ryan is confirming that his pad location, based on the fact that there are bottom hole locations around it, that makes him sure it is a pad.

They were walking through how they would present this information to the Board and they were thinking, how many pads are there. It turns out that Ryan could pull information from the GIS and got a count. Given those points have now been mapped they are logged in to the GIS and we have a number here of 2,057 pads he identified.

Ryan explained that the State requires companies to give latitude and longitude coordinates for where the well pad is. If you go to the COGCC website and glide over a point, it gives you all the API numbers. We have the ability to identify now through the Form 2A. they can make the attributes table for what they feel is necessary; like the

company name, the pad name, the pad number and obviously section, township, range to help. Another layer he has created is the compressor stations. It was not up to date when he started it and he added he is working with the building and planning department and the GIS department to come up with the best way to do this. He added all the points are up to date and they now have an up to date compressor station layer.

Wendy Swan stated it worked out great. Recently she received a call about a bright light shining into some ones residence; they said from a compressor station. When she went in with the old data they had, picked the parcel address from the person who called, looked around and did not see any compression station nearby. Researching a little further, she realized the data was not completely up to date. Ryan again, working with building and planning, has all the data from 2007 to date, the location of the compressor stations and the contact information, company and so forth. She was able to place the call to the operations manager of the compressor station about the complaint and they redirected the light and resolved that complaint. It was a great tool.

Commissioner Houpt stated that the response time is much faster; you do not have to drive out and figure out from signage who to call.

Judy stated that is right and in this case it was purely an office exercise where they could make calls.

Ryan explained there was one more layer he created and that is for injection wells. What he did was use the GOGCC website and did a query on all the injection well sites. He used the latitude and longitude coordinates to place the point on the map. All the points you see are related to an injection well in Garfield County.

Wendy explained that the great thing is that this data comes straight from COGCC and in their JIS they are able to query on that point and get a specific number; the number they assign when they assign the permit and go into the COGCC database and get all information on that permit All the documents related and everything.

Judy said they get calls about an injection well and it will show us the location. They would not know anything about it, they would have to go through COGCC and find the information. This helps when people have concerns and they can answer many of those concerns right there with this information at their fingertips.

Commissioner Houpt said it is such a wonderful tool as well to be able to connect with data that the COGCC has and really compliment that process and move into a useful format for Garfield County.

Ed stated this is also going to give Judy an opportunity to provide additional data in regular reports as to exactly what is going on with each complaint and how they were resolved.

BUDGET FOR DR. THYNE – JUDY JORDAN

Judy stated this is follow-up on a presentation that Lisa Bracken made a few weeks ago to the Board. She was asking that there be some follow-up on recommendations that Dr. Thyne had made in a report. The question is where you want to go from there. Do you want her to ask Dr. Thyne to carry through with that? He has a fulltime job and it is always a question of his availability. If so, she did not put a budget request in this year to fund his continuing consulting.

Ed asked how much she thought it would be and Judy imagined another \$20,000.00.

Chairman Martin stated; as a contingency to call upon him if necessary, but you would still have to redo his contract and get an agreement that he would function as our representative.

Commissioner Samson asked if they would take the money out of the energy impact and Ed Green said he could if he wanted.

Commissioner Houpt said they would have to revise the resolution. How would we do that, can we access that money?

Chairman Martin said they could use that, it is already identified for that.

Commissioner Houpt said it is nice to have him on board to be able to call him and be able to have the funds.

Chairman Martin said they would still have to have a motion with the line items under Judy and the funds would be coming from the energy mitigation funds.

Commissioner Samson asked if they wanted to put together a proposal so they could see it next time. You do not have those figures yet; do you feel comfortable with \$20,000.00.

Judy said she felt comfortable with that number as she said that is about how much they have budgeted in the past couple of years and it has been plenty to cover his time.

Ed explained it is a level of effort contract based on an hourly rate. You just establish a not-to-exceed amount.

Commissioner Samson – So moved. Commissioner Houpt – Second.

In favor: Houpt – aye Martin – aye Samson – aye

BLACK DIAMOND MINERALS TDA RELEASE – JAKE MALL

Jake submitted a letter to the BOCC acknowledging Black Diamond Minerals, LLC has satisfactory performed under the terms of the road use permit and recommends release of the "TDA" cash deposit securing their use of County Road(s) under the permit(s). They also submitted an acknowledgement of satisfaction and direction to the Treasurer to authorize disbursement of the funds in the amount of \$500,000.00 plus interest. Commissioner Samson – So moved. Commissioner Houpt – Second; this will be a release of a treasurer deposit agreement in the amount of \$500,000.00. In favor: Houpt – aye Martin – aye Samson – aye

ENCANA CONSTRUCTION BOND RELEASE – JAKE MALL

A surety bond in the amount of \$50,000.00 was held by the Garfield County Road and Bridge Department to ensure proper installation and restoration of the pipeline within County Road 215 easement.

Jake said everyone is fine on this.

Commissioner Houpt asked where the \$50,000.00 fall into that.

Jake said that is what they asked for construction.

Commissioner Houpt asked if there was a bond number for the \$50,000.00 or is this rolled into the \$785,000.00.

Jake stated it was inclusive. We are only addressing the \$50,000.00 not the \$785,000.

Commissioner Houpt stated they need to be specific about not releasing; who is holding the rest of this.

Jake said he could not tell her because they did not ask for it.

Chairman Martin stated it is on the surety bond 105073449 - \$50,000.00 held by road and bridge and that is the only one he is requesting to release. Commissioner Houpt – So moved. Commissioner Samson –Second.

In favor: Houpt – aye Martin – aye Samson – aye

ENCANA RE-VEGETATION BOND RELEASE – JAKE MALL

A re-vegetation security in the amount of \$8,000.00 was held by the Garfield County Road and Bridge Department for re-vegetation of County Road 215 easement.

Chairman Martin stated this is identified under title number 105073450 - \$8,000.00 requested for release.

Steve said they did a site visit on November 12 and it is acceptable, and finished.

Commissioner Samson – So moved. Commissioner Hought – Second.

In favor: Hought – aye Martin – aye Samson – aye

Jean asked for the originals and Jake stated that Deb Quinn had them.

GARFIELD COUNTY EMERGENCY COMMUNICATIONS AUTHORITY 2010 BUDGET – CARL STEPHENS

Carl presented his budget for the 9-1-1 restricted budget for 2010 along with a proposed resolution.

Carl said they are projecting a decrease for next year. They are almost \$900,000.00 under what they projected for this year. They will be borrowing about \$200,000.00 out of the reserves to finish covering under the projections of the sales tax.

Chairman Martin asked what his overall fund balance was.

Carl stated almost \$3 million.

Chairman Martin stated and you are asking for \$200 plus thousand dollars.

Carl stated no; they just have to present the budget to the Board.

Chairman Martin asked; did you take the \$200,000 out of fund balance and you still need over \$3 million and Carl answered correct.

Commissioner Hought - I make a motion we approve the resolution concerned with the acknowledgement of the receipt of the Garfield County emergency communication authorities budget for the year 2010. Commissioner Samson – Second.

In favor: Hought – aye Martin – aye Samson – aye

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #1 (RFQ-GC-CT-Q-005) TO FOREMOST RESPONSE, INC. IN THE AMOUNT OF \$284,000.00 FOR SECURITY SERVICES FOR THE GLENWOOD SPRINGS AND RIFLE COURT COMPLEXES FOR FISCAL YEAR 2010 – THE TOTAL NOT-TO-EXCEED AMOUNT FOR SECURITY SERVICES IN FISCAL YEARS 2009 AND 2010 SHALL NOT EXCEED \$584,000.00 – KENT LONG

An original solicitation for courthouse security services was issued on November 21, 2009. The current contractor, Foremost Response, Inc was deemed the most qualified offeror to perform these services and was awarded a contract to perform services in fiscal years 2009, 2010, and 2011. The services are “professional services” and come within the scope of Rule 5.13 of the Garfield County Procurement Code. This rule limits professional services contracts to a total term of no more than 36 months. Staff is recommending the award of this contract renewal letter for fiscal year 2010 in the not-to-exceed amount of \$284,000.00. The performance of these services will have to be re-solicited in fiscal year 2011 for fiscal years 2012, 2013 and 2014.

Chairman Martin stated they need a motion to renew those and he stated that is in the budget for 2010.

Commissioner Hought – I make a motion we approve the contract renewal letter #1 for court house security services in Glenwood Springs and Rifle for 2010 in an amount not-to-exceed \$284,000.00. Commissioner Samson – Second.

In favor: Hought – aye Martin – aye Samson – aye

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #3 (RFP-GC-AO-60-06) TO VISUAL LEASE SERVICES IN THE AMOUNT OF \$90,000.00 FOR OIL AND GAS EQUIPMENT AUDIT SERVICES FOR FISCAL YEAR 2010 – THE TOTAL NOT-TO-EXCEED AMOUNT OF THESE SERVICES FOR FISCAL YEARS 2007, 2008, 2009 AND 2010 SHALL NOT-EXCEED \$655,000.00 – KENT LONG

An original solicitation for oil and gas equipment audit services was issued in late 2006. The current contractor, Visual Lease Services, Inc., was deemed to have submitted the proposal that was most advantageous (i.e. a best value) to Garfield County and was awarded a contract to perform services. The services are “professional services” and come within the scope of Rule 5.13 of the Garfield County Procurement code. This rule limits professional services contracts to a total term of no more than 36 months. A new RFP should have been issued in fiscal year 2009 for the performance of these services in fiscal years 2010, 2011, and 2012. The office of the County Assessor did not inform the office of Contract Administration of the existence of, let alone the need to re-solicit, these services until the fall of 2009. Accordingly, the Board’s authority to approve Contract Renewal Letter #3 derives from Rule 5.8

Staff is recommending; in order to avoid a break in the delivery of services, which impacts the financial welfare of the county and its citizens, the Board exercises its authority under Rule 5.9, GCPC, and approves Contract Renewal Letter #3 for fiscal year 2010. The performance of these services will have to be re-solicited in fiscal year 2010.

Commissioner Hought stated to clarify, they have been well aware of this contract, she does not know if Kent’s department or the legal department handled this before but this has been a visible contract so perhaps the assessor probably did not understand that you did not know it was out there. I make a motion we approve the contract renewal letter #3 to Visual Lease Services for 2010 in the amount not-to-exceed \$90,000.00.

Commissioner Samson asked if we had to attach to that or a separate motion for Rule 5.

Chairman Martin said they should do that first so they could go ahead and award. We will need a motion.

Commissioner Samson stated he is not sure how the motion should be worded to use our authority under Rule 5.9 to waive the requirement for the bidding process to accept this.

Kent said the motion would be along the lines that we move to approve pursuant to 5.8 in the amount of \$90,000.00 not to exceed \$655,000.00. Commissioner Samson – So moved. Commissioner Hought stated 5.9 not 8, that’s fine. Second.

In favor: Hought – aye Martin – aye Samson – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF THE 2ND AMENDED LEASE-PURCHASE AGREEMENT WITH THE TOWN OF SILT

The amendments are as follows:

- Paragraph 2 shall be modified to provide the date of termination of December 31, 2009 shall be extended and now be December 31, 2010
- Paragraph 4(a) and 4(b) shall be deleted
- Paragraph 4c shall read The Lessee shall be entitled to prepay all rent and purchase prices amounts. The cumulative amount of all rents and purchase price amounts under the agreement shall be \$110,000.00. The

parties agree the Lessee has made three (3) lease payments of \$10,000.00 in the years 2005, 2006, and 2007. The lessee will remit the remaining \$80,000.00 to the Lessor by the termination date.

- Paragraph 18 shall be amended to read the total purchase price for the property shall be \$110,000.00. This amount includes all rental payments and accumulated interest. The full purchase price shall be fully remitted to the Lessor prior to transfer of the property by deed.
- Paragraph 19(a) shall be deleted
- Paragraph 19(b) shall be amended as follows: At closing, Lessor shall convey the property to the Lessee by Quit Claim deed, specifically reserving an easement for an area needed for a road and bridge department staging area and also incorporating the provisions of paragraphs 12(b) and 12(c). The Lessee shall be responsible for obtaining any title insurance, as it deems necessary.
- In all other respects, except as set forth herein, the terms and conditions of the agreement of October 24, 2005, shall remain in full force and effect and shall be binding upon the parties as originally described in that agreement
- The 1st amended agreement is hereby terminated for convenience by mutual agreement of the parties, supplanted by the agreement and this 2nd amended agreement

Don explained the Board should have had in their packet the second amended purchase agreement for the Silt shop. The concept of accepting the reduced amount from Silt and transferring title to Silt on the bridge shop was approved by the Board months ago. This is wrapping up that process; the \$110,000.00 is the full purchase price and Silt is paying for the facility. Other significant changes are they will transfer the property by quit deed rather than warranty deed since they received a very much-reduced amount for the property. It is a simple process by quitclaim deed; we just transfer whatever we owe on the property to Silt.

Ed stated we continue to use a small portion of it for a staging area.

Commissioner Houpt replied right and that is in the agreement as well. I make a motion we approve the second amended lease purchase agreement between Silt and Garfield County in an amount not-to-exceed \$110,000.00.

Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

APPROVAL OF IGA FOR SB232 GRANT MATCH FOR CONSTRUCTION OF A NEW INTERCHANGE WEST OF PARACHUTE

This new interchange and bypass will help alleviate congestion at Exit 75, reroute truck traffic away from the business district and away from school zones, increase pedestrian safety, provide secondary access for emergency responders, virtually eliminate traffic backing up on to Interstate 70, and spawn commercial growth in a development ready PUD. The application showed the existing population and future population in the Parachute, Battlement Mesa area. The project budget indicates a total cost of \$16,443,789.00 with sources of revenue from energy/mineral impact fund grant request of \$13,000,000.00 not committed, Garfield County \$2.5 million committed, Town of Parachute \$443,789.00 committed, CDOT \$200,000.00 in-kind and Williams Energy \$300,000.00 committed.

Don asked Jeff Nelson and Mr. Bob Knight to come forward. He explained this is a match for a grant that is being requested by the Town of Parachute. Late on Friday, Don tried to email to the Board a draft of a commitment letter that he and Jeff discussed with Mr. Knight last week. This has been a late developing issue and the reason it came to you late. Don asked Jeff and Bob if the letter expressed what it needed to and they both answered yes. He said he should not assume the Board is familiar with the project, he will state his concept, and he would expect Mr. Knight to elaborate a little on this. It has come to the Town of Parachute; just recently, they may have an opportunity to obtain significant funding for construction of an interchange, which he is referring to as west Parachute. The interchange itself lies just outside the town limits; the project would include an interchange and by-pass improvements both. It is a substantial project amounting to somewhere between \$16 and \$17 million dollars, estimated cost at this time. The County is being asked to agree to commit to \$2.5 million dollars as a match to obtain that grant. Mr. Knight will elaborate on others who may be able to participate in this project and how Parachute would approach that. However, Parachute needs to get a grant application to DOLA by the 15th and it is important to get the County's position on record in this matter. Don's understanding is that the Board budgeted \$1 million for this next year, and so any commitment we have is why there is qualifying language in here about budget appropriation. You could choose to go forward and commit the full \$2.5 million, but he thinks it is anticipated that it will be \$1 million and then \$1.5 million subject to budget appropriation in 2011. The project itself may take into 2012 to actually complete by the time all the design work is done and the construction work is done.

Commissioner Houpt thought this had already been submitted to DOLA.

Bob said they have submitted the pre-application and was selected as one of the seven finalists. The game has been changing with DOLA and a week before Thanksgiving they did a conference call and compressed the timeframe. What they are saying is that they have to have all of their commitment letters. Anything out of place at all and they will reject the grant, you have already pretty much approved the money. This is just putting a letter in a format that says; yes, we are committing to this project and for this amount.

Commissioner Houpt stated there are two things in this proposal she is not comfortable. One is on page 8, under G, it makes a political statement about connecting energy activity with the uncertainty of Colorado regulations and she would be more comfortable if they would take that one portion of the second to the last sentence in G, page out. She thinks that is a political statement and thinks they wrote a wonderful grant but that statement goes beyond; it is more of an editorial than a fact.

Bob stated what Jack has proposed; we have the commitment letter but in that commitment letter, Garfield County recognizes that is a regional basis. He can take it out.

Commissioner Houpt said the other concern she has is that there was a statement made that you are certain Garfield would be comfortable with putting more money into this project if needed. She stated they are committing a large sum of money and she does not think today that she would be able to agree with that statement.

Bob said this was a draft

Ed said he thought they originally talked about the project being \$10 million and as he looks at this, it is up to \$16 now.

Bob said what they looked at this; the interchange itself has been estimated between \$13-\$14 million dollars. They were going to go after \$10 million dollars from DOLA to build the interchange and when it went through their pre-application process, they were going through the assumption that was all that DOLA would fund. Susan might

consider more than that, so they were asked by Tony Hernandez and the advisory committee to submit for the by-pass. Without that being built, it just funnels traffic more efficiently into the downtown borders of Parachute. Thus, the grant was amended to that portion. This has to be in by the 15th and there are a number of other things that have to be done. He has received a formal commitment letter from Williams; they are putting up \$150,000.00 for 2011, 2012 and they would be willing to go another \$150,000.00 in 2013. He has had conversations with EnCana and they are willing to match that. EnCana also wants to get Williams together in a room and approach community council. He stated if he were a betting man, he would bet they have good odds getting the interchange funded. He would suspect getting the entire amount to build the by-pass would be more than his reasonable expectations. If it does not happen, that by-pass has three distinct components to it. One is about \$800,000.00 to do the improvements on Highway 6, about \$1 million to build the bridge, and then we have 1,500 feet of roadway. What he would expect to happen, if they are not fully funded is we will get the interchange and with the energy commitments, depending if they have any savings, and we will go toward building one or more components of the by-pass itself. The recommendation from Jack if we are not fully funded, then we will present the by-pass again in another grant if and when more funds become available. We have to play the odds.

Ed stated, as you recall they had a specific discussion about this in the western district meeting. He got the impression, from the inquiries that Susan was making, that she was leaning towards funding some big projects. Commissioner Houpt said she does too but \$70 million dollars worth of request were made and it is nice that you are down into the final seven. This has been a state discussion and she does not know if she feels confident, they will get the entire amount.

Don wanted to point out a couple of things about the letter. If the grant is awarded, there are significant discussions that need to happen with CDOT to bring a conclusion to their necessary permits and provisions. This letter and he anticipates the IGA would place that responsibility with Parachute. In addition, this is one of the unusual projects that require a 1041 permit through the County Commissioners as you are permitting the land use process, so this project would have to go through as well.

Bob wanted to note that the 1601 study has gone on and on they have spent over a year discussion two or three paragraphs; it has now been signed off by the State.

Chairman Martin asked if they had a motion to go ahead, approve the letter, and send it forward.

Commissioner Samson – So moved. Commissioner Houpt – Second.

In favor: Houpt – aye Martin – aye Samson – aye

DECEMBER 7, 2009

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated he needs to talk about contract negotiations concerning the agreement with the Dutton's on County Road 306; talk about the status of the contract to develop the Phase III hydrological study; provide advice on claims concerning the Demarko litigation; the claim against the sheriff; a contract claim regarding Overlook Mines LLC; provide legal advice on the current training status of the coroner; provide legal advice on the potential formation of the Rifle Village South Drainage District; provide update and request direction on litigation concerning GVCA, the COGCC; two code enforcement litigation matters need to be discussed concerning the H. Lazy F and the

Construction; there is potential that you made before your 10:15 items need to receive legal advice on ambulance licensing and the role of the County Commissioners. On most of those items, other members of county staff will be needed.

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

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

No action taken.

PROGRESS REPORT ON GNECI – ALICE LAIRD

Dave Sturges (Glenwood Springs Advisory Board), Bobby Hays (Silt Advisory Board), Jim Rada (Garfield County) and Heather present.

Heather presented a presentation on results and work in progress since the initiative started one year ago. Heather gave the background saying in the summer of 2008, they pulled together all the local governments in Garfield County to apply for a grant being offered by the Department of Local Affairs through the Governors Energy Office and they had a big success. They won the single largest grant award in that program; \$1.6 million dollars and they wanted a local match of \$1/2 million dollars in local match provided by our local government partners. It has been a great partnership with all these different organizations to move forward. They decided on six main program areas; the grant was split into about 11 different subjects and they felt they fit into six main program areas rather neatly. Residential, commercial and greening government, which is a big focus, they broke it out as a separate category called energy efficient transportation and clean energy financing. They set up a structure to run the organization. Garfield County serves as the fiscal agent and handles the money with this project, which has been a huge task. They have an advisory board, which includes representatives and alternates from all nine partners. They meet monthly alternating between Glenwood and Rifle. Earlier this year Garfield County issued a competitive bidding process for the management contract and CLEER has won that bid and is under contract to deliver the programs and services. She went through some of the things they accomplished and some of the things they have seen from the work so far. The website is up and running and people are being drawn to the residential rebates; they are the most frequently visited pages. The website is www.garfieldcleanenergy.org. First program was the solar rebates in Glenwood Springs; five residential systems install, stimulated an additional \$80,000.00 in private sector spending on top of the \$45,000.00 in rebates that were awarded. Insight Colorado is another program carried out on behalf of the Governor's Energy Office. They have given 20 rebates; this program has not been quite as robust as some of the others, but they are learning on how to make this more attractive. They had several booths at community events in the summer months and handed out information to people about home energy efficiency. They bought 13,000 light bulbs and gave them away at the booths in Glenwood Springs, Parachute and the town halls throughout Garfield County. The bulbs are still available for citizens to pick up at all the town halls in the County. Holy Cross Energy joined in, as an active partner on this campaign, they have contributed over 1,000 light bulbs and they have extended this to their customers in Eagle and Pitkin Counties. They are getting ready through the Garfield Senior Program to

do direct installation of energy efficient light bulbs at senior housing. It was done a couple of weeks ago in New Castle and they will be starting on Glenwood senior housing units soon. There is training for builders, home energy raters and other folks who are interested in building homes right the first time. The Energy Star new homes program has been cooperating with Habitat for Humanity in Rifle, which is building three energy star homes. They are using those homes as a training center for builders. They have had three classes so far and there will be one more class coming up either later this month or in January for the final inspection process. You do an energy audit of the home before they move in to see what its energy rating is. Commercial programs - again solar rebates for three commercial facilities in Glenwood Springs stimulated an additional \$72,000.00 in private sector spending on top of the rebates. The CARD Program is a demonstration scale audit and retrofit project. These six participating businesses received a free commercial energy audit back in September and now they are moving forward with energy efficiency upgrades that are focused on electrical savings since the local match money is coming from the Glenwood Electric Department. They hope to expand this program countywide and it will then move into gas savings as well as electrical savings in the coming year. These six businesses are benefiting from rebates and then they have agreed to share with them their energy bills. The focus is on a case study that they will be doing once they have some new energy bills to work with after finishing the upgrades. Greening government has been a very exciting and productive area of this project so far. They have been doing energy efficiency guidelines and technical consulting on new buildings using Jeff Dickenson of Carbondale, who is the lead accredited professional and architect. He has been consulting on the Rifle Library building and working with Garfield County on its building projects that will be coming up. He will make sure that we are building new structures as energy efficient as possible from the get go. The Rifle LED street lights on Third Street are the same old historic lamp poles there; but the lights in them are coming from the LED Street lights, which make a dramatic reduction in electrical consumption. In addition, operating costs, these bulbs last a lot longer than conventional street light bulbs and so the change outs are happening less frequently. Greening government has also been focused on behavior and immediate feedback with information about energy use. They started with a pilot in the Town of Carbondale, teaming up with the Roaring Fork Schools in Carbondale and Alpine Bank; just in the school district alone they have already seen a savings of \$50,000.00. Some of that has been better use of building controls; but a lot of it has just been some common sense with changes in the way things are being operated at the schools. They are moving forward with the energy database building for all the local government partners. Commissioner Houpt asked what kinds of things were done to get to that savings. Heather stated many of the savings were achieved over the summer months for example, the walk in freezers. Instead of having them all on in all three buildings, the food was consolidated into one freezer and the others turned off. The buildings that were not in use; the cooling zones were turned off. Alice stated there is a website that the building managers can use for real time data on their buildings energy use. Heather said the chart shows three main people. This approach relies on hiring facility managers with energy information. That is the main facilities manager, Ken, and the main Carbondale building manger that have played a key role in generating the savings. The school districts buildings and maintenance staff has grasped this very readily. We could see the value of it from the very beginning, and are proud of the work they have accomplished. Performance contracting - you have been hearing about this all along because Garfield County is a partner in this effort they did the joint solicitation last month. You approved Ennovate Corporation of Arvada to serve as the preferred company and they will be getting started with their audits probably the first of the year. They will need to have contracts established with each of the partners. They have a set price; the beauty of this joint solicitation was that everyone, all eight partners have the same price. It has been great especially for the smaller partners; Parachute, Silt and New Castle would not have necessarily been able to attract a big energy services company especially at the price that is being offered without having larger entities like Garfield County, City of Rifle and the Roaring Fork Transportation Authority participating as well. Renewable energy - this is the signature project of this effort; the biggest single amount of money is going into these installations mostly of solar PV. You will be able to see solar PV installations in every town in Garfield County by next summer. They already have one being installed in New Castle. They are at various stages with the other. Glenwood Springs will be using its money for solar thermal at the community center. The next chart showed information about potential for renewal energy projects on your building in Garfield County. You will be getting a more detailed presentation on that from the consultants that have done this work. They have an energy transportation component to the project; two special events were bike to work day back in June 24, 2009. Clean energy transportation week, in the RE2 and District 16 school districts was in October 5, 2009. Clean Energy Transportation Week was especially fun; they got a message out about the fun of biking and walking to work to 4,000 kids. All these different classrooms competed to see in one week's span of time; how many kids in the class could bike, walk, carpool, or ride a school bus compared to having one parent drive one kid to school. There were winners at each school and the kids were excited about that. There is more information about the winners on the website. Finally, clean energy financing is something they continue to work on. Unfortunately, money is the thing that makes everything happen. They are working on continuing to find new funding for the program through the DOE retrofit ramp-up and of course, you know that Garfield County already has an allocation from the block grants from the ARRA. They will be having further discussion with the Commissioners about the clean energy-financing district, which is a way for the local government to offer financing to property owners for energy efficiency, renewable energy, and improvements. They are in the process of talking with the Governors Energy Office about the partnership model for continued rebates and in 2010 for energy efficiency and renewable energy. The Manaus Fund, a non-profit based further up valley is working with them to provide some capital for the Carbondale senior housing to bridge them over to the time when they actually need to pay contractors to do work and the time that the Xcel rebates checks get cut and sent out. She thanked the Commissioners for their continued support. Commissioner Samson applauded the work they are doing and he is hearing many comments from his end of the county. However, he does have some concerns looking down the road if money gets tight and funds and grants are not there, how will this be financed? Alice explained that one of the deliverables of the grant turn is the long-term structure and January 14 they will have a retreat with the Board to delve into that question. There are many models around the country of different ways this could continue. It could be partnerships, government, non-profit; there are a lot of different options and funding sources. Commissioner Samson asked; after you do that will you come back to the board and report to them.

Heather stated definitely and they will be hoping to interview you in preparation for that session. They will talk to each of the Commissioners to see what their thoughts are.

David stated that his observation is there has been so much energy put into this. As we roll out some of these programs, he thinks it is catching a lot of people's interest and he thinks the issue of energy efficiency is under appreciated as a costly idea. He thinks the challenge they may have is the opportunities of trying to take people who have taken the course work and start actually trying to get them working on seniors housing and other low income in places that really they need very badly. He really looks at this as an exercise to see how all the partners work and plan. He thinks it has to include the public getting more engaged with this issue and trying to learn.

DOE RETROFIT RAMP UP GRANT APPLICATION – ALICE LAIRD

Talk about the Colorado Retrofit Ramp-up Grant Application; they will ask Garfield County's approval for the G-NECI/Garfield County to join with the governor's energy Office, the City and County of Denver, City of Boulder and Boulder County to respond to a Department of Energy major block grant opportunity. The grant application will propose a countywide conservation and efficiency retrofit program that will result in full-neighborhood and downtown conservation and energy efficiency retrofits, including residential, commercial and public buildings with significant, measurable energy savings. In addition to the GNECI partners, they are linking the grant to Colorado Mountain College, in particular the training programs CMC is offering at the west Garfield campus to create job and economic development opportunities related to increasing the efficiency of existing buildings. They are also approaching utilities, Chambers of Commerce as partners in this effort. The grant application will connect Front Range urban areas with Western Slope non-urban areas to allow for testing various full-neighborhood and community energy efficiency retrofits. The GNECI advisory board recommended that our region pursue an application and the Governor's Energy Office recommended that we join with Denver/Boulder to create a statewide approach to this opportunity and create conservation and efficiency models that can be replicated throughout the state as well as other regions of the county. Lastly, they are requesting Garfield County participate in the Governor's Energy Office 2010 Partnership Model for residential rebates.

Alice stated the DOE is interested in models of efficiency and conservation, upgrading business districts and entire neighborhoods. They put out a proposal; it is actually 70 some pages asking for proposals to respond to the Energy Efficient and Conservation Retrofit Ramp-up Program. The advisory board recommended that GECI go after this and put out a proposal, knowing it was competitive. They put in a proposal having to meet the first level of approval from the Governor's Energy Office and they liked the concept. They suggested they team up with Front Range counties, Denver and Boulder so they would have a statewide approach. Boulder, Denver, City and Counties are putting in proposals and the Governor's Energy Office is recommending and excited about the possibility of Garfield County joining that effort. What they are proposing is a way to increase the efficiency of all of Garfield County building on the proponent's contract and public buildings. Still taking that as a corner stone moving to the commercial sector of properties, work with downtown district to go through and do a whole block downtown. The amount they would be asking for is \$2 million in this grant, tagging along with a much larger parcel that Denver and Boulder would be putting in. The money would be put into the revolving loan fund; it could help fund the PACE Program. The program started with schools and is showing how you can save public money that goes to the energy bills; your grant would go to starting up those programs.

Commissioner Houpt stated, this does not change the focus of the efforts, it allows us to move those programs forward in a more enhanced manner.

Alice stated yes, it is an opportunity to take what we have learned from being in Glenwood and replicate it in Rifle, New Castle, and throughout the county. It does not require a local match; it requires that we show how to leverage the funding over time and through the revolving loan fund, banks, performance contracting; they can leverage that money about five times. It is a huge opportunity to be a case study for the whole State. A program like this is not occurring just in Denver and Boulder; but it is occurring on the Western Slope and a very different environment where we can learn a lot and it can be replicated in other rural counties.

Carolyn asked Alice if the BOCC had to sign the application or one of the other partners.

Alice replied the other partners are putting it in because they are asking for a lot more funding. It would be a joint application and it would need a letter of support from Garfield County. The other counties will be the fiscal agent; she would imagine there would need to be an IGA between those counties and Garfield County should it go through. Carolyn asked if they were asking today for the BOCC to approve by motion their involvement, and Alice stated yes. Carolyn asked if there is a letter of support needed today as well.

Alice stated they would need to draft a letter of support and they are asking for a motion to approve participation and a motion to include a letter of support.

Commissioner Houpt – So moved. We can continue discussion. Commissioner Samson – Second.

Chairman Martin stated the original amount of money that the grant is coming from, the recovery and reinvestment act is where the money is actually coming from.

Alice stated DOE funding; yes.

Chairman Martin restated from the stimulus package.

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

Chairman Martin stated he is against the Recovery Act and thinks it is a waste of money. If the funding came from somewhere else, he could support 100%.

Commissioner Houpt asked Alice if she would get a letter of support to the Board, and Alice replied yes.

Carolyn asked the Commissioners if they would like this on the consent agenda and Chairman Martin stated it should be.

Alice stated they will need it very quickly and asked if it would be possible to get the letter this week.

Carolyn stated, if the Chair is authorized to sign otherwise it needs to come back on the consent agenda.

Chairman Martin stated it has been approved; go ahead and we will sign.

Alice was instructed to send the letter to the administration office.

REQUEST FOR PARTICIPATION - HEATHER

Heather explained the Governor's Energy Office is learning from having these programs going on in the past, and one of the things they are talking about for 2010 is they would take, under a partnership model, they would take over the entire administration of re-bate programs. They would handle outreach and promotion, take the applications, they do the handholding, review the paperwork people submitted, and they actually cut the checks. Having spent quite a few hours this year processing rebates; she said that is a great plan.

Chairman Martin stated there is only one problem; there is no funding of personnel in the office to do that for the Governor. He is cutting his expenditures as well.

Heather said they are using part of their block grant from the stimulus package to actually create a call center, an interactive website, and they recently have issued a contract for another company to do all the rebate processing State wide. They will be offering a very interesting array of rebates in 2010 aimed at home insulation, appliance upgrades to Energy Star appliances, water heaters, and solar PV rebates. This is an opportunity to take a local match and match it dollar for dollar with this State money. They have also been talking with the City of Rifle and the City of Glenwood Springs and what she is looking for with this proposal is to figure out how to fill the gaps. Because we have Xcel Energy, in western Garfield County, and the Town of Carbondale providing good rebate programs to their customers. Source Gas is providing rebates to their customers in the Roaring Fork Valley on home insulation. The big gaps are Glenwood Springs Electric not having a program for solar PV rebates and for its all electric customers, so they had a great conversation with the city, last week about the City of Glenwood Springs putting up somewhere between \$150 to \$175,000.00 in 2010 as its local match for a combination of residential weatherization for all electric customers in the Glenwood Springs electric territory. Kicker for appliance upgrades for all of its customers and solar PV rebates, which are not available from any other provider. The City of Rifle is talking about \$10,000.00 as a kicker for water using appliance upgrades for City of Rifle residents, since Rifle has a water utility and they are concerned about water conservation. If you get a fine Energy Star dishwasher or clothes washer, not only will you save electrical energy, you will save water. The City of Rifle sees value in that. They would like to sweeten the pot on those statewide appliance rebates. What she is proposing for Garfield County is that for \$25,000.00, she would like to be able to reach out to the people who are off the natural gas grid, people who are up county roads and in some of the rural subdivisions that are not served by Excel natural gas or Source Gas, and they are using propane, and give them a rebate for home energy audit and for insulation and air ceiling, and duct ceiling if that fits for them. Also for furnace or boiler upgrades, water heater upgrades and appliance upgrades. Basically offer them a rebate package that they would get if they were an Xcel customer or a Source Gas customer; but because they are out further in the rural areas they just are off the grid and don't get the benefits that other county residents get. Chairman Martin said some of them are thankful for that, as they do not have to pay as much either. He said he has a problem with government giving the rebates back. It seems to be an industry or a commercial operation that should be there as well as the people that are benefiting from DMEA, Hold Cross Electric does the same thing and all of those other folks providing a service should offer that rebate back to them. He does not think that government needs to be involved.

Heather stated Holy Cross does offer rebates to its customers. The big gap is for folks in Battlement Mesa who are on Holy Cross Energy; actually, they are on Xcel Gas so they are served with Xcel's rebates. It is the people way up the county roads and in rural all electric subdivisions that are falling between the cracks of these commercial utility offered rebates.

Carolyn asked if this a new money match you are asking for and Heather stated yes. Heather stated the checks from the Governor's Energy Office would have a dual logo on them, of either G-NECI or Garfield County.

Commissioner Houpt stated that Ed was involved in the discussion and she asked Ed to share his thoughts.

Ed said as it was characterized; it is just to cover the gaps where rebates do not exist and that is quite a few folks, in the County that do not have the opportunity for that.

Commissioner Houpt stated if we believe in rebates and really want to encourage people to move toward more opportunities for energy efficiency; it is certainly a great opportunity for that because our dollars are matched. She sees great value in it; she knows that John does not, but.

Chairman Martin said there is value in it but not coming from the general fund of the Garfield County folks. That is not what we are collecting taxes to do; they are supposed to be identified for what they are used for and this is outside that scope. He is trying to be true; stay within what government is supposed to be doing and it is not to go into the rebate business or the banking business, or the energy business.

Commissioner Houpt said that years ago it was not to go into affordable housing, and transportation and other issues that counties are very involved in now, and our constituents expect to have certain services available to them.

Commissioner Samson asked if there was a big rush on a decision on this.

Heather stated she needs to submit a letter of interest to Governor's Energy Office by December 15 with the total amount of money identified. The Governor's Energy Office has a big amount of money for its rebate program; a local match will reserve an equal amount of money in their larger pot for the constituency you identify. When Rifle says they want to put in \$10,000.00 the Governor's Energy Office will reserve another \$10,000.00 in its supply for City of Rifle beneficiaries.

Commissioner Houpt said they could look at this next Monday and still be within the limits and Heather stated yes. She also stated they could also come back with what the other partners are putting. The advisory board responded very positively to this as an opportunity to make sure that everyone in Garfield County is getting access to these rebates, and Glenwood Springs is definitely on.

Chairman Martin stated through their electrical office though because they have that energy company that is within there and we do not. The county that does not have that energy company but again, his problem is they become the bank. Now we are reviewing and submitting, and sending money back; we become the bank now for rebates and that is not governments business.

Heather said philosophically you are, technically what will happen is; Garfield County would write a check for \$25,000.00 to the Governor's Energy Office and they will handle the program.

Ed said they would take that \$25,000.00 and multiply to \$50,000.00.

Chairman Martin said by adding \$25,000.00 to it if it remains there; again that was the discussion last week, in reference to what that money is going to look like in the future in 2010. It may be appropriated in different matters and that money may disappear.

Commissioner Houpt stated not appropriated money.

Chairman Martin said reallocated should we say; it is taken away. Again, we are in unsure times.

Commissioner Houpt said that once those funds are allocated that is where they are. That is why they are looking at these time frames and she asked Commissioner Samson if he would like to discuss next week and he stated yes.

Carolyn asked Alice and Heather to talk to Linda Morcom about getting them on the agenda on the 14th and they replied they would.

Dave wanted to point out that this is because of NECI that this opportunity is coming our way. The county and all the partners should feel a lot of pride in that we have captured that credibility and we are becoming effective. He stated he is seeing the human energy that has been sparked by the working relationship, the partners and all of that. He shares Chairman Martin's concern about where, ultimately, is the funding coming from. He guesses his feeling is that DOE is going to be the one who has the responsibility. He thinks this is a great opportunity; they are putting the money up and we could use that money for the citizens. We would like to reduce the amount of energy we have to buy.

Chairman Martin

Ed, Town of Carbondale, stated to Chairman Martin that he did not totally disagree with your position. However; he has talked to a lot of people outside of Carbondale in reference to how they feel about renewable energy, what they would like, what they wouldn't like and it seems to him as a government body your responsibility is to the constituents and he guarantees him if he talks to the constituents outside of the municipalities, there are a lot of folks that would like to invest renewable energy. As you said, times are tough; however funds are available to make this a reality to many residents and he thinks it is important that you should be more open-minded. What you are saying he agrees with; however there are many folks who would like to participate in these programs and he thinks as government they need to cater to the wishes of our constituents.

Chairman Martin stated; renewable energy he agrees with him. But there are other methods that need to be followed and that would be through an individual deciding to invest his money or take an equity loan, or do the other programs available; not through Garfield County, government itself. He thinks it gets outside the scope of what government was established for. Maybe it is philosophical; but we are to collect and redistribute taxes as well as provide the sheriff's office, basic needs for human etc. That is a private property right issue that you need to take on as an individual. Again, it is his belief; he is responsible to take care of his family. He would never ask the government to take care of his family for him. Everyone here is asking the government to come in, run their lives, and make those decisions for them. He is just saying "no". His personal choice is and the people that he has talked to say "no". It is my decision; it is my ability to pay for it, invest in it and to utilize it. If he can afford it, he will do so, if not he will wait, he is not going to ask the government. It is not that he is against it in any way; he has looked at it many times for his own use and he is not going to ask Heather, Alice, or the Governor's Energy Office to come in and put something in my property.

Dave stated that every elected official has to look at the question of is this an appropriate expenditure. What the public wants does not mean they are willing to pay out of their own pocket. However, this is a subject that has deeper feelings; particularly in this economy and this time and he thinks this is where government has to keep asking that question. Are there other vehicles to use to achieve this kind of public goal; but sometimes those vehicles aren't there and he went back to his words of human energy and interest is really so strong because of this effort of what we are all doing right now. He is looking for very creative people and sources of money and ideas to really bring this whole concept of energy efficiency.

Chairman Martin told Dave not to give up on that. He stated to John; you have another question and then we have to take a vote.

John said he thinks there is a greater responsibility at work here. We put some of our best minds and our best international scientific efforts toward trying to figure out what the climate is going to look like in the upcoming years. We have come up with some pretty interesting stuff, 400,000 years of temperature and CO2 data. He put that together on a graph for the Commissioner and passed out the chart. It shows there is something happening now that demands a response from government to try to change that line. This is pretty solid information that should be acted on or at least considered.

Chairman Martin said he knows John is committed to this; he is not. Mankind's presence on the earth is in a cycle; the whole climate thing is a cycle, it is affected on the eruptions on the sun verses a whole bunch of other things. Yes, mankind creates some delusion; but not to turn it into an ice age or into a global rainforest. It is in a cycle and yes, it is going to change. It has changed numerous times before this place has been a sea seven different times in the history of the earth that we know of. It will happen again; it may not happen in our time and it can be eruptions from volcano's affected by many things. One forest fire puts as much carbon in the atmosphere as mankind has. There are many factors; but changing some ones dishwasher to a water saver is not going to save the world. Yes, it is a good thing and if you can afford it; do it. Live what you preach; he does. He uses the least amount of electricity, water and gas than anyone in this room; but that is his personal choice. You guys talk a good story; but how much are you doing yourself? That is what really weighs follow through and do it yourself. Pay for it yourself, reap the rewards; be proud of your accomplishments.

Commissioner Houpt stated that is one way of looking at it and we will be discussing this again next week and thank you for this.

CONSENT AGENDA

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant Lists
- e. Grants – Sales Tax Recovery Distribution for November 2009 - \$51,658.53 – Georgia Chamberlain
- f. Authorize the Chairman to Sign the Resolution Concerned with Approving the PUD and Preliminary Plan for TCI Lane Ranch and Retracting and Replacing Resolution 2009-71 in Order to Correct a Scrivener's Error in the PUD Guide – Applicant; TCI Lane Ranch, LLC – Fred Jarman
- g. Authorize the Chairman to sign the Resolution Concerned with the Approval of a Land Use change Permit for chevron USA, LIPA 5970 – Tom Veljic
- h. Authorize the Chairman to sign a Resolution Approving a One-Year Extension of the Preliminary Plan for Lexie Meadows Subdivision – Applicant; Jim Bob Ventures, LLC – Kathy Eastley
- i. Authorize the chairman to Sign a TDA for Western Colorado Storage for Re-Vegetation Security on Grading Permit Number GRAD-1168 – Georgia Chamberlain and John Niewoehner
- j. Authorize the Chairman to Sign the Acknowledgement of Satisfaction for the Release of the Letter of Credit of Springridge Subdivision Phase III – John Niewoehner
- k. Authorize the Chairman to Sign the Acknowledgement of Satisfaction for the Release of the Letter of Credit of Springridge Subdivision Phase IV – John Niewoehner

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - k; carried.

INTER-FACILITY MEDICAL TRANSPORT SERVICES BACKGROUND INFORMATION AND REQUEST FOR GARFIELD COUNTY AMBULANCE LICENSURE APPROVAL FOR TRANSCARE, INC. – GRAND RIVER HOSPITAL DISTRICT AND VALLEY VIEW HOSPITAL – DEB WEPKING, MARTIE WISDOM AND DUSTIN DODSON

A letter was sent to the Garfield County Commissioners from Gary Brewer, Chief Executive Officer, Valley View Hospital and Martie Wisdom, Chief Executive Officer, Grand River Hospital District regarding the deadline for initiating an alternative service to Westcare non-911 transports. They also included letters from TransCare and Montrose Fire Protection District. These two entities have been working together over the past year to find a solution that is in the best interests of their patients. They have concluded that using an entity whose core business is Inter-facility Transport (IFT) is the best course of action and believe TransCare is the most qualified and cost effective IFT service available in this area. Valley View Hospital and Grand River are jointly requesting the County Commissioners move forward with approving ambulance licensure for TransCare Ambulance Inc. to provide non-911 medical transport services for Garfield County.

Chairman Martin stated he needed to set something in motion, we are not having a hearing this week. We are having the hearing for TransCare next week; that is when we will make the decision. If you would like to give information; but you will have the duty of repeating it at the public hearing process; no decision will be made today to licensing etc. Chairman Martin stated the Board did receive their letter; they also received Mr. Brewer's letters and the concerns. We also have no recommendation from ENTAC yet in reference to licensing etc. That is a process that they have to follow to make a recommendation to this Board. He asked if anyone was here from Transcare; he then asked if he was notified and willing to go ahead and have the public hearing next week instead of the 14 days, which would make it on the 21st.

Mr. Hughes stated this was the first that he heard about this.

Chairman Martin informed it that our requirements are a 14-day notice. He is asking if they would be willing to have that scheduled public meeting on the 14th instead of the 21st.

Commissioner Houpt stated it could be either one of those days and they assumed they wanted to have it earlier than later. It was not noticed for a hearing this week; there was not enough time. She stated if they wanted to waive the notice period they could do next the hearing next week.

Martie stated it would have been helpful when we requested to be put on the docket, if we would have known that.

Chairman Martin explained that was a communications breakdown; Dale was out of town and it fell upon his desk at the wrong time, and he was not able to notify you.

Martie said since they are here; the hospitals would like to proceed with the educational portion of the presentation.

Commissioner Houpt and Chairman Martin stated they might need to do it all next week again.

Deb, Valley View Hosp wanted to talk about the time line and the overview process they have been through. They are here today in support of TransCare providing transport for both of the hospitals.

Chairman Martin said we are getting into public testimony; we will need to hear at a different venue and he asked Don to keep his ears perked. There is a fine line in the public hearing process and information that is coming forward. He did not want to jeopardize that.

Martie stated that she noticed the fire departments are not represented here; are they aware that this hearing will take place next week?

Commissioner Houpt said this is the first time she heard of it being next week. There was a lack of communication and she is really sorry for that.

Martie stated but not to the fire departments.

Commissioner Houpt said she did not know about that. But, she stated the option is the 14th or the 21st.

Carolyn stated there is not a hearing today. We are not discussing whether or not an entity can be licensed. So we are not talking about whether or not the vehicles are up to snuff, whether or not individual human beings have the right certification; we do have a set of regulations that we have to follow as well as the State Statutes. Staff will set the hearing next week for consideration by the BOCC of the question of licensure. That is not what we are looking at today.

Martie said from Grand River's perspective they would certainly prefer December 14. She will be out of town on the 21st and made an effort to be here today, because she was under the impression that the item we placed on the docket would be happening. Her vote is for the 14th.

Carolyn asked if there was a representative here from the applicant and Chairman Martin stated yes. Carolyn said what we would need, in order to do that, is to waive the 14 days notice. You are entitled, under our regulations to two full weeks of notice.

Allen stated; as the facilities, he was ready for the entire event today, so the 14th would be great.

Don restated; anything you want the Board to consider as part of the decision to issue or not to issue a license; you will have to state on the 14th.

Martie said they are happy to state it twice because they believe this information is vitally important.

Chairman Martin stated that is good; as long as we have that understood.

Deb stated the two hospitals began calibrating on inter-facility hospitals back in June of 2008 when it came to their attention there could be an issue with West Care closing and not providing a service. In August 08, Valley View Hospital and Grand River Medical Center also met with Western Eagle County Ambulance to talk with them about inter-facility transports and how that organization has addressed that. After that Western Eagle met with both fire chiefs; Rifle and Glenwood's Fire chiefs. They brought them to the table to talk about how we can provide inter-facility transport. From that, they received a proposal from Western Eagle County Ambulance Service for \$850,000 per year in order for them to do inter-facility transport.

Martie stated \$850,000 per year in order to provide IFT for both Grand River and the hospital.

Deb explained at the fire chiefs meeting in October; they told them, it was off the cuff, that it would cost them \$900,000 to 1 million to provide IFT for the entire region. Both Valley View Hospital and Grand River Medical Center support WECAD in approximately \$120,000 per year to help with IFT and with the indigent clients they serve. In January 09 both Valley View Hospital Grand River Medical Center received a letter from the Town of Silt that West Care Ambulance will no longer be doing IFT. They were giving them time to come up with a solution to this issue. It is vital for the operations of both organizations. The summer of 2009 came along and it was their

understanding that the BOCC 911 and the 911 services to replace West Care was deferred to Dale Hancock. Valley View Hospital and Grand River Medical Center continued to look for a solution that would be acceptable to both organizations to provide this inter-facility transports. October 14th Valley View Hospital met with TransCare who gave them a proposal, for IFT, and the hospitals were going to get back to him on their response to that. Her response was; if Grand River and they were on the same page, they would consider it. October 28th the boards of Grand River Medical Center and the Rifle Fire Protection District met to discuss the IFT's. The hospital decided to support TransCare at that meeting. November 17th Martie and Dusty Dodson of Grand River Medical Center waived the decision to work with TransCare to the fire chiefs at Rifle. November 14th Valley View Hospital and Grand River Medical Center received notice from ENTAC that they were unable to make a decision on licensure of Trans Care Ambulance to provide IFT. The concern for both hospitals is about patient care and getting them to the appropriate place when needed. With Valley View Hospital providing cardiac care and neuro-surgical care, it is essential they have timely transport. That has been an issue in the past.

Martie explained the purpose of IFT is to move patients to a different level of care. That could mean a higher level of care; both the mayors of Rifle and Silt have been very vocal about how important it was that they were stabilized at Grand River Medical Center and transported to Valley View in order to receive services in Valley Views cath lab. In addition to that kind of transport; however, it is also important to be able to transport patients to and from nursing homes and to psychiatric and detox facilities. In our first meeting in the spring of 2008 nearly a year and a half ago, Deb Wepking and she and with the help of Chris Monteria, came up with a list of criteria they would use to evaluate potential IFT's. They looked at three issues; clinical quality, patient satisfaction, and cost effectiveness. The first thing they looked at in terms of clinical quality was that they would require that the service had 24/7 availability for all IFT including nursing homes, psychiatric and detox. When you have a full hospital, as Grand River did several weeks ago they were on divert, beds full of sick people. A psychiatric case came in, in the middle of the night, which required suicide watch; it would have been vitally important to move that person to a safe facility. When they spoke of WECAD, they indicated that they could not provide 24/7 service. The next thing looked at was that they would need to have prioritization equivalent to 911. In other words, the IFT, be it a transfer to an ICU, or a transfer to a detox center would need to have equal prioritization with 911. She was told on numerous occasions, most recently following the October 28 meeting between the Rifle Fire District and Grand River Hospital Boards, she was told by Chief Morgan that in fact could not guarantee that. If a more important activity were happening that would need to take precedence. They also said they would need personnel certified in advanced life support and clinical personnel including availability of registered nurses. As far as she knows there are no registered nurses available to ride run the vehicles run by the fire department. The other criteria is that it would need to be cost effective; as Deb mentioned they were spending approximately \$120,000.00 per year to help support indigent transport from West Care. The goal was to stay within that range. You can imagine when we started hearing numbers like \$800,000.00 to \$1 million dollars a year; they became concerned. What they learned; in order to provide IFT for them, any of the fire departments they spoke with, would need us to finance additional ambulances and additional personnel for their use. Valley View does not receive tax support; Grand River, however receives 20% of its revenue from property tax dollars. As the chief executive officer felt that \$120,000.00 for a better service than we could get for \$1 million dollars that was the way to go. They also wanted an experienced transporter with references showing a positive track record of IFT in rural communities. In fact, they did have those references checked on TransCare. Their concern at the fire districts are not represented here today; because she would like Chief Morgan to speak to what he found when he called his counterparts, the fire chiefs in the rural communities served by TransCare. They also performed due diligence including reference checks, as mentioned, not only with the hospitals served; but with community leaders and fire chiefs in the community served by TransCare. They did a great deal of financial scrutiny including asking an independent accountant to provide conformation of TransCare financial help; including the important financial ratio. In the meeting with Chief Piper, in the spring of 2008, he stated that any entity who tries to do both 911 and IFT is doomed to fail. Given that, they recognize the need for a systematic plan that incorporates all entities including hospitals, nursing homes, psychiatric and detox facilities, fire departments and a strong IFT entity. In the past, until now, they lacked a strong IFT entity. The Town of Silt was perpetually wondering whether they should continue to support West Care. There was never certainty that they would have IFT in their area. Now with the entry of TransCare into this market they know they will be able to have a stable IFT entity and they can begin the discussion that the fire chiefs are asking for. A discussion of how we can all work together for a master plan for patient transport. However, there is no reason to delay licensure of anyone until that discussion has taken place. It is quite clear, until the entry of TransCare there was a big partner missing at the table, and that was someone who could provide that service. She looks forward to next week and the opportunity to provide support to licensure of TransCare.

Mark Gould explained he is on the board at Valley View Hospital and the bottom line is if any of you had a relative who had a heart attack in Rifle, goes to the hospital and the fire department decides if it is important that you get to a basic cardiologist in Glenwood Springs to open up the vessel. Put yourself in those shoes. This is such an easy decision; we are doing two things, you have two excellent hospitals doing their best to save lives and keep people healthy. This is really simple and they are doing what they are supposed to be doing. The bottom line is those two organizations are cost effectively attempting to solve a problem they have which is how to transport people from one hospital to another and save lives. He stated he would attempt to be back on the 14th; but it is that simple. We have some of the best doctors in the nation in Garfield County. You have to get to that doctor to have them save your life.

Allen Hughes wanted to make sure they got his letter.

Chairman Martin stated it will be part of the public hearing process and introduced as an exhibit.

Allen explained for the application or the process he has a letter of liquidity for financial stability from the accountant, and letters of references.

Chairman Martin explained it needs to go to Mr. Hancock and they will be introduced as exhibits in the hearing process.

Martie asked Dale Hancock; what is the best way in the future that when IFT is on an agenda that the hospitals receive the same information as the fire districts.

Dale explained this was a fluke; what they had in the office was a letter from the hospital requesting to be on the agenda. Accordingly, you were placed on the agenda; at the same time the information service came; he had made a review of it and had every intention of having it scheduled one week from today.

Carolyn gave the applicant a copy of your regulations to know what to ask the clerk and recorder for to get prepared for next week's hearing.

PRESENTATION AND CONSIDERATION FOR APPROVAL OF A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT FOR AN ACCESS CONTROL PLAN FOR UNITED STATES HIGHWAY 6 (SILT) AND RIVER FRONTAGE ROAD, MP 97.946 – MP 102.481 – DAVID SPRAGUE OF PBS&J – TAMRA ALLEN

This plan is an intergovernmental effort between Garfield County, the Colorado Department of Transportation, and the Town of Silt for an Access Control Plan encompassing sections of US Highway 6 and River Frontage Road Access Control Plan between milepost 97.946 and milepost 102.482. A public open house was held in the Town of silt on December 2 to review the ACP and the Town Board of silt will consider the IGA for adoption on December 14. Tamra is recommending the Board approve the resolution concerning adopting an intergovernmental agreement with the Town of Silt and the State of Colorado Department of Transportation, for an access control plan for US Hwy 6 and River Frontage Road and authorize the chair to sign the intergovernmental agreement. Tamra stated it was requested to be pulled from the agenda today. She wanted to make herself available. I hope that it will be in January or February.

Executive Session:

Don would like to complete the items already noted with one exception that they covered.

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

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

Action Taken:

Don received communication from the license report for the coroners association that the Garfield County Coroner has completed all the necessary training requirements, and has asked that the Board reinstate the coroner, and order payment of back pay.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

All in favor: Houpt – aye Martin – aye Samson - aye

Deb explained they had a request from Luke Danielson, Attorney for the Grand Valley Citizen Alliance to file an amicus brief or join in an amicus brief already filed by Gunnison County in a case before the Colorado Court of Appeals that deals with citizens standing to intervene and request hearings before the COGCC on applications for permits to drill. The Grand Valley Citizens Association lost the case in District Court and is now appealing that decision. It has to do with the extent to which adjacent property owners and other who may be injured by a decision of the Colorado Oil and Gas Conservation Commission; have standing to challenge that through the court process. The request is that Garfield County join in that and staff requests direction from the Board.

Commissioner Houpt recused from the decision since she serves on the COGCC and is one of the parties.

Commissioner Samson – I move that we as a Board file a brief in support of that. He believes the COGCC should let adjacent property owners approach them, have their say, and have standing. He stated that is his main reason and that he has others.

Chairman Martin – Second. As long as we stay within those perimeters in reference to the opinion to Garfield County and not those outside of Garfield County Government, and we have our own opinion we are filing in reference to the brief; he agrees. He said he is not saying they join and follow the same brief that has already been filed; it needs to be original and it needs to be from Garfield County approved by this Board.

Deb asked; limited to adjacent owners.

Chairman Martin stated others who can establish.

All in favor: Martin – aye Samson – aye Houpt - Recused

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Georgia Chamberlain explained she was here to present the results of the tax lien sale. She passed out a data sheet for the last three years. She said the sale went better than she anticipated. She was in front of the Board the Monday before the sale and this shows that the sale was November 19 and they offered for sale, 282 real estate liens and 282 were bought. They offered 25 mobile liens and only 18 bought. The total taxes offered at the sale were \$1,053,326.67; purchased at the sale was \$1,049,617.82 and the premium bids were \$21,125.00. She explained that premium bids are in excess of the purchase of the certificate kit of purchase and that money will go into general fund. The interest rate of return this year was 10% set on September 1. It is 9 ½-basis points over the discount rate and it is the same all over the State. The percentage of the taxes for the premium bid was 2%; last year it was 5% and the year before 9%. The actual dollar figure that Garfield County receives stays about the same. We did offer for sale twice as many or three times as many taxes.

Commissioner Samson stated; you made us \$21,000.00.

Georgia gave credit to the auctioneers; not only did they make us a premium bid all the real estate taxes were sold. They were nervous because that was not happening across the State and they had several very large tax liens to offer. One was for \$173,000.00, they had purchasers, and Georgia attributes this to the auctioneers.

AFLAX INSURANCE – DANNY CHRISTENSON

Danny Christenson – she is a representative from American Family Life Insurance Company. Garfield County and AFLAX have been a team since 1983; business owners have to be creative in offering benefits. Good choices in anyone's benefit package allow you to recruit and retain key employees. Good benefit choices increase employee morale and you know the more you do for your employees and their families, the more they will do for you. Companies today will have to keep their eye on the bottom line. One of the benefits they offer on their products is a wellness benefit. Once a year if they go to doctor, for a physical, to the dentist, or an exam, or to the eye doctor they are entitled to the wellness benefit. In checking, she has found that if your employees, who currently have AFLAX, did go for a yearly exam; the wellness benefits are over \$10,000 due to them. When the County signed up with AFLAX; in order to get a group rate you agreed to do this on a payroll deduct and also on a pretax basis under Section 125, which is an IRS code, and at no direct cost to the County. This saves the employee and the employer. In order to comply with the Section 125, AFLAX needs to do a face-to-face visit with each employee once a year. If you hire new employees during this year, she would like to visit with them as well. In trying to set up a face-to-face meeting, she has been told the county will no longer participate in sponsoring these benefits. We are living in

unsettled times right now times where families are living paycheck to paycheck, more than they have in the past. AFLAX can help. Wouldn't it be helpful if there was an insurance that paid you instead of the doctor or the hospital? You get to use the money in any way you want; co pays deductibles, groceries or mortgage. Her questions for the Board; did you, the Commissioners make a policy deciding not to offer these supplemental benefits to your employees at direct cost to you, or did someone else make that policy. Do you want to continue offering these benefits to your employees at no direct cost to you?

Commissioner Houpt said she is not familiar with that particular benefit.

Chairman Martin said that people sign up; it is voluntarily. Chairman Martin said he has had no direct decision to remove it from anyone. He thought it was voluntarily and still available; he will have to check on this and has not discouraged anyone that is interested.

Danny explained it is part of your flex plan; but it is a supplemental. She said they just need to do a face to face with each employee once a year. She said she has been discouraged from doing that and that you were not going to do a payroll deduct anymore.

Jean said that is what she has heard from employees in her office who have chosen to have AFLAX. They were informed, when we did enrollment for the 125, it would no longer be taken out of their paychecks. If they wanted to have this, they would have to establish that on their own.

Chairman Martin stated he was not aware of that.

Commissioner Houpt said they would talk to our administration about it.

Danny stated she has had some conversation there and that is why she came here.

CONSIDER A REQUEST FOR A ONE YEAR EXTENSION FOR THE PRELIMINARY PLAN FOR THE STRONG SUBDIVISION – APPLICANTS; GEORGE AND LESLIE STRONG REPRESENTED BY COMPASS MOUNTAIN LAND USE, LLC – FRED JARMAN

On December 8, 2008, the Board of County Commissioners approved a Preliminary Plan for the Strong Subdivision. This Preliminary Plan is valid for one year or until a technically complete Final Plat application has been tendered to the County. Presently, the Applicant has tendered a Final Plat Application to the County but it has not been deemed technically complete yet and the 1-year deadline is approaching. The Applicants are presently working on making the application complete; however, they request a 1-year extension for the Preliminary Plan. As you will recall, the Board has the authority under Section 4-103(G)(8)(a)(1) as follows:

The Board's decision to approve or conditionally approve the preliminary plan, minor exemption, major exemption or rural lands development exemption shall be effective for a period of up to one year or until the final or exemption plat has received a Determination of Completeness pursuant to Section 4-103(C), Determination of Completeness, whichever occurs first. Prior to expiration of the original approval, the applicant may make a one-time request for an extension of up to one year, upon a demonstration of why the original conditions of approval cannot be met.

Eric McCafferty and George Strong were present.

Eric stated they have submitted a final plat application, it has not yet been determined to be technically complete, and they need a little extra time.

Fred explained that Eric tendered a letter to Board and there is a resolution that this Board approved for the original preliminary plan. This Board certainly has the ability to grant them a one-year extension, and they are working the final plat as we speak. Commissioner Samson – I move that we grant the one-year extension for the preliminary plan for the Strong Subdivision to December 8, 2010

Commissioner Houpt – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson asked how things were going with 300-road intersection.

Strong stated it is still with the engineering department.

Fred said they are working on revising the preliminary engineering costs. Once they have that figured out, they pull folks together.

Eric said the last time he was here he was requesting original study; he did receive that and thanked everyone. The engineering department told him, another study is being done and he would like to receive that study also.

Chairman Martin explained that study was what they talked about the actual cost of the engineering, the proportionate share and identifying all the partners.

Fred said it is really the refinement of the first study to make sure when they pull the groups together they have a study that is based on real traffic counts, for example Mr. Strong is really only paying his fair share rather than a very loose figure they had before. Fred is hoping to move forward very quickly.

CONSIDER A REQUEST TO EXTEND THE PRELIMINARY PLAN APPROVAL FOR QUICKSILVER COURT SUBDIVISION – PRELIMINARY APPROVAL FOR QUICKSILVER COURT SUBDIVISION – PRELIMINARY PLAN APPROVAL WAS GRANTED BY THE BOCC ON DECEMBER 8, 2009 FOR A PERIOD OF ONE YEAR – OWNERS JODY DANIELS AND GREGORY HASENBERG, REQUEST A ONE YEAR TIME EXTENSION TO FILE THE FINAL PLAT, UNTIL DECEMBER 8, 2010 – TOM VELJIC

Planner Tom Veljic submitted the following exhibits: Exhibit A- Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Staff memorandum; Exhibit D – Letter requesting time extension from Jena Skinner-Markowitz dated November 18, 2009 and Exhibit E – Draft resolution.

Chairman Martin entered Exhibits A – E into the record.

Planner Tom Veljic explained:

Tom received a letter from Jena Skinner-Markowitz explained they recently submitted an application for the Quicksilver Court Subdivision Final Plat at the end of October. In order to preserve the approval for the Quicksilver Court Subdivision Preliminary Plan, the Final Plat must be submitted and be considered technically correct prior to the expiration date of December 8, 2009. It has been suggested that they request an extension. Jena explained they are very confident they will be able to accomplish their goal for final plat without further issue; however not all application detail are within their control. They have been delayed in applying for the final plat because of their negotiations with Xcel Energy/Public Service in relocating an easement. They anticipate getting a new easement and agreement (recorded) will take upwards of 7 plus months. They are requesting a one-year extension to

December 8, 2010. She explained, as extensions are a one-time request, they are asking for the maximum time allowed in case they are faced with similar experiences as presented earlier.

Discussion:

Greg Hasenberg was present.

Tom stated this subdivision is currently in review. There will be an overlap from the expiration of the preliminary plan to the acceptance and a letter of technical completion for the final plat. In the interim, they have requested up to a one-year time extension to complete the requirement of the preliminary plan and the finalized final plat. Tom has provided their letter and a draft resolution.

Commissioner Samson – I move we extend the preliminary plan for Quick Silver Court Subdivision for a period of one year, which would be December 8, 2010.

Commissioner Houpt – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONSIDER AN AMENDMENT TO A SPECIAL USE PERMIT (EXTRACTION AND PROCESSING) FOR CALX MINERALS, LLC ON A SITE LOCATED NORTH OF THE CITY OF GLENWOOD SPRINGS – THE PUBLIC HEARING FOR THIS REQUEST HAS BEEN CONTINUED FROM NOVEMBER 16, 2009 – KATHY EASTLEY

Ben Miller, Mike Ayers were present.

Kathy Eastley presented two new exhibits Exhibit O and Exhibit P.

Deb Quinn 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.

Exhibit A – Mail Receipts; Exhibit B Proof of Publication; Exhibit C – Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit D – Application; Exhibit E – Resolution 82-222; Exhibit F – Level One Traffic Assessment by Kimley-Horn dated October 19-2009; Exhibit G – Memo from Steve Anthony, Garfield County Weed Management, dated 8-21-2009; Exhibit H – Memo dated 09-24-2009 from Glenwood Sprigs Fire Protection District; Exhibit I – Email from Dan Roussin, CDOT, dated 8-13-2009; Exhibit J – Email dated 9-24-2009 from Andrew McGregor, City of Glenwood Springs; Exhibit K – Letter dated 10-20-2009 from J.A. and Celina Claudon; Exhibit L – Staff Memorandum; Exhibit M – Staff Presentation; Exhibit N – Letter dated 11-09-2009 from Steve Beckley, Glenwood Caverns; Exhibit O – Letter dated 11-30-09 from Steve Beckley, Glenwood Caverns and Exhibit P – Letter dated 12-1-09 from Steve Beckley, Glenwood Caverns.

Chairman Martin entered Exhibits A – P into the record.

Planner Kathy Eastley explained:

CalX Minerals, LLC has requested an amendment to the Special Use Permit for Extraction and Processing for a limestone quarry located north of the City of Glenwood Springs. The public hearing was opened on November 16, 2009 and continued to today so that additional discussion could occur between CalX and Glenwood Caverns. The discussion between these two entities did occur and Steve Beckley provided two additional letters of comment regarding the proposed amendments (added as Exhibits O and P).

BACKGROUND A Special Use Permit was issued in 1982 to allow for Extraction and Processing of Natural Resources on a site comprised of unpatented mine claims on BLM lands. These mine claims are located within the Public Lands Zone District north of the City of Glenwood Springs in unincorporated Garfield County. The site is accessed via Highway 6 within the City of Glenwood Springs, then north on Travers Trail to Transfer Trail. Travers Trail is a City street and Transfer Trail is a BLM public access road. The Special Use Permit issued via Resolution 82-222 allowed for extraction and processing of limestone within a 16.3-acre site. The limestone was then transported for use in coal mining operations, primarily south of the City of Glenwood Springs. Operations at the limestone quarry discontinued for a period of time and subsequently the unpatented mine claim ownership was transferred from Mid-Continent/Pitkin Iron to CalX. CalX proposed to operate the limestone quarry in general conformity to the original approval granted in 1982. The original Special Use Permit approval described the extraction process for the limestone as follows: explosive devices were set to fracture the wall of limestone with the material settling on a terrace of the quarry. This terrace area allowed equipment to safely remove the material to the processing facilities where the limestone was crushed, loaded, weighed and subsequently transported to coal mines for use. The extraction process will operate as previously approved; however, CalX is requesting removal of certain conditions of approval in the granting of the 1982 Special Use Permit. This review is limited to determining potential issues related to the removal of specific conditions of approval.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **approve** the request to amend Conditions 2 and 3 from Resolution 82-222 as follows:

3. Compliance with conditions of approval contained within Resolution 82-222 and amended conditions approved herein, shall be monitored through the Board's review. The Board may request a public review of the operation at its discretion. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Land Use Change Permit.
4. That the use of the tract of land shall comply with all general, extraction, and processing regulations of Garfield County Land Use Resolution of 2008, as may be amended from time to time.

Staff recommends the Board of County Commissioners **deny** the request regarding condition 10, removing the limitation on annual amount of limestone extracted, as insufficient information was provided regarding extraction operations and potential impacts that may result from an increase in production. The potential impacts of the increased production were not considered in this review due to lack of sufficient information, however the Applicant may submit a request to amend to Special Use Permit compliant with submittal requirements contained within 4-501 Application Materials, 4-502 Description of Submittal Requirements, 7-810 Additional Standards Applicable to Industrial Use and 7-814 Additional Standards Applicable to Mining and Extraction.

Kathy stated she had nothing to add; but she could show the presentation again.

Commissioner Houpt said there were concerns brought forward by Steve Beckley; she referred back to the November 9th letter, which is Exhibit N. The first concern, the mining claim was referenced in the initial

application, were allowed to expire in 1999 by Pitkin Iron; does this change the effectiveness of the permit they had in the county.

Kathy explained that the special use permit was granted for the use on that site. Who owns the site is not relevant; it is issued to the land itself regardless of the ownership.

Commissioner Houpt stated; if they are allowed to expire, it doesn't impact the special use permit?

Deb said they looked at the current rights to use the land and CalX does have those rights to use this land. Our special use permit never expired.

Commissioner Houpt said; assuming we will be talking about legal access across different properties today, that is part of what these new – do you want to address the new exhibits at all?

Kathy stated the access to the CalX site is a BLM access road. It is her understanding that BLM has issued or granted the right for CalX to use that road. A determination of access is yes because they have issued the permit.

Commissioner Houpt said she would ask Mr. Beckley about that later. She said she would wait until someone responds to the new exhibits before she asks questions.

Chairman Martin stated they are to consider two requests; a change of a special use permit and to increase the production and/or number of trucks and the other one was...

Kathy stated there are three conditions that are being requested to be amended or deleted.

Chairman Martin replied 2, 9 and 10. To increase the tonnage from 50,000 to unlimited and then the review of every 6 months, and the number of trips is 20 per day and they wish to stay with that but to increase the tonnage.

He asked if he was correct and Kathy stated yes.

Commissioner Houpt stated it is increasing tonnage and the review.

Kathy asked which regulations would be applicable to the site. They had a condition that said all regulations forever and ever.

Chairman Martin stated that is indefinite into the future if we decide to change; you still have to meet those requirements even though we do not know what they are going to be at this time. Seems a little unfair to try to comply with that when you do not know what the rules are going to be.

Commissioner Samson stated he had a question on Exhibit K, which he could not read.

Kathy explained it was from property owners by the last name of Claudon; they own property that accesses the transfer trail and they had some concerns about the maintenance of the roadway.

Commissioner Samson said the one against the operation of the quarry; they are just worried about the upkeep and maintenance of the road itself and Kathy said correct.

Chairman Martin explained where they lived.

Commissioner Samson stated the 3 conditions we are talking about; Mr. Beckley it appears according to your letter of December 1st; did we get everything worked out? Commissioner Samson stated; since we agreed that if once the State mine permit expired that the county special use permit would also expire, so everyone is in agreement with that?

Steve Beckley stated yes; the big concern was that this was left pretty open-ended that if they went bankrupt, this special use would follow the land forever, and he thinks there needs to be some way that it can terminate. He stated he has sent two different letters; one was before he met with Ben and one afterwards and he is agreeable to several things and that was one of them. If the State mine permit ever expires, the special use would expire at the same time.

Chairman Martin explained that was two different issues; one is a State Statute and one is a County Land Use issue. Actually State and Federal because it is a Federal mining permit.

Ben said he believes the county special use permit does have a clause in it involving other permits and the applicability, if stripped; it strips them all or at least strips the county if they were to lose the State permit for whatever reason. He understands that to be the case and agrees with Steve on that.

Commissioner Samson referred to condition 9 and 10; they agreed that CalX should be limited to no more than 20 haul trucks and 10 ancillary vehicle trips per day, correct and they answered correct. Commissioner Samson said this addresses our concerns on the impacts since the old condition allowed for an average of 20 trips per day, which could be 140 trucks per day.

Ben said the ancillary vehicle trips were not included in the original discussion; that is only haul truck trips, but 10 is about the number of workers/employees they have.

Commissioner Houpt asked Steve if that took care of his concerns during the winter.

Steve said they would have their hands full trying to get trucks up and down. His biggest concern was, if they do not haul for 29 days and then they want to try to get all the loads done in one day. At least he knows they can only do 20 trucks per day and he thinks that would also fit within their C-DOT permit they have to obtain for access onto 6 & 24. With that in mind that is one thing that will help to know what they are getting into.

Commissioner Houpt believes in order to increase the tonnage there needs to be a new special use permit. She thinks that staff outlined that carefully last time and she thinks it is important to make sure that we understand all the potential issues in expanding this process. She thinks it is important as they look at this; we look at it as the special use permit that was approved and is in place, which is for 50,000 tons and if at any point, at a later date, the applicant wants to expand; they need to come back for a special use permit to accomplish that.

Chairman Martin said he thinks they are self-regulating; they have 20 trips a day no matter what vehicles they are; in the BLM permit, it does not have any tonnage that they are allowed to or not allowed to do. It is economics and they have a market.

Commissioner Houpt said there is already a condition in place for the 50,000 though; she thinks that in any other situation the Board would do the same thing. That is a tremendous increase in production and she thinks it is important that they separate those, so adding the conditions that the applicant agreed to in terms of the 20 haul trucks and 10 ancillary vehicles, and taking away the 6 month review; which is a condition currently, she believes in reviews, but hoping we will keep track of what's going on out there anyway, and go with the agreement that once the State permit expires this special use permit expires as well. Those are the two agreements they came to that we could add to that special use permit that she really is not in favor of increasing the tonnage with a thorough review of what kind of impact that would have on the area.

Chairman Martin said again; the BLM is who is in charge of the property. They have their standards, they have also the reclamation, and the State is to review all of that. He said they really do not have much say on that.

Commissioner Houpt said we should change the wording through.

Chairman Martin said he disagrees; he thinks they are limiting themselves. The amount of production they can do means jobs, means revenue, happens to be fulfilling contracts, and at this point in time if they choose to do 200,000 tons, or whatever they are going to try and do; it's a heck of an undertaking from 50,000 tons right now. They have already put the shot on the ground and no one noticed it went on the ground. He does not think the impact is that great; because the BLM is in charge of actually the mining permit process not the county. If they have issues, they have to answer to the BLM.

Commissioner Houpt said they need to answer to us as well for land use concerns and this is not the BLM application in front of us right now, this is a discussion of the special use permit that we have in place that specifies tonnage and because we have a special use permit that specifies tonnage; she believes they need to honor that, and if in some point in time they want to bring forward a new application; she would welcome the opportunity to listen to that. But, condition 10 of the special use permit specifically talks about 50,000 tons and she is not willing to change that unless a new application comes forward.

Chairman Martin said that is understood; you are changing in reference to two of the other requests and the third, which is self-regulating, should be considered, that is all he is saying. Your willingness to make changes on two of the three; the third one should be under consideration without a new application. Again, with the agreement of the applicant to the concerned adjoining property owner, plus they have an issue with C-DOT access permit, it will be self regulating if they are able to do it or not.

Commissioner Houpt said it should be county regulated; this is under a special use permit and she does not think that industrial activity is self-regulated when it is required to have a special use permit. Maybe she does not quite understand his message; but it really is not self-regulating, the County regulates it.

Chairman Martin said he thinks it is and they both disagree with each other, we will leave it at that.

Commissioner Samson said he is glad to see that Mr. Beckley and the landowners got everything worked out on the quarry. He has some questions, this is new to him, you were saying John we are changing two out of the three and not making them apply for a special use permit that we are changing. Tresi, you are saying we should, you are picking one out and saying that we should make them do that.

Commissioner Houpt explained they have asked for a change with condition number 2, which was the review every 6 months, and she is not quite sure what the connection is between what was the mining permit and a review. Can you (CalX) explain that to her?

Ben said he thought the concern was because a county special use permit stays with the land. You could have a mining operator go bankrupt, or have their bond seized, or the mine operation shut down for any number of reasons, and that county special use permit would stay in place. The discussion they had, in terms of the permits, what it comes down to, if the State mining permit is stripped it also invalidates that special use permit. Steve's concern was that a lot of it seemed to be tied to the way Marblehead has been handled; in the sense that Marblehead is the adjacent quarry that has been reclaimed and its reclamation standards are less than standard to Steve and he agrees it does not look very reclaimed. That quarry is a different situation; it was a prelaw quarry meaning it was not under a State permit at that point.

Chairman Martin stated; the review that was in the special use permit is to the county, and was to be done every 6 months by the owner, back to the Board of County Commissioners. What you are doing by changing that is that we can have them subject to any review at anytime. Therefore, we do not need to specify within your special use permit that you will have a review every 6 months.

Commissioner Houpt asked Kathy Eastley if they were fine with this recommendation.

Kathy said absolutely.

Commissioner Houpt stated to Commissioner Samson is that she is agreeing to is the recommended change to number 2 and number 9; but she wants to keep 10 the way it is. If they want to change the tonnage, they have to come back with new application because it is a much larger production to move from 50,000 tons to 200,000 tons. We don't know what implications will be and it may not be right inside of the City of Glenwood, but it is adjacent to the City of Glenwood and we need to be sensitive to what sorts of impacts there may be, and there is a letter in here from the City saying; if there is an application that comes in, they certainly want to review it. If we talk about substantially changing, what was approved for this special use permit, she thinks we owe it to all of the stakeholders to make sure there is a new application brought forward and we understand what the implications are of changing from 50,000 to 200,000 tons. That is why she is not agreeing to change 10; but would like to keep that with the original language.

Steve wanted to clarify; in the past, the reason the 50,000 tonnage was there is because they were hauling in the summer, and now they want to try to haul in the wintertime and that is going to have a whole new impact on what they do. Keep the road plowed; deal with the snowmobile club and things like that. He cannot tell the Board how to do their job; he can tell them the impacts will be on him; if they only haul 20 per day, he is okay with that. But in the winter time they will have their hands full and you may want to hear from some snowmobile club members who are here today.

Commissioner Houpt stated we simply do not know what all the impact s will be unless we have a full-fledged application come forward.

Steve stated they have never hauled in the wintertime.

Ben said he would like to speak to the impacts: our argument from the beginning of the submission was that there was not a significant change to the impacts in the community. The principle reason that there is no significant change is the capacities and the technology available today is different from when the permit was originally applied for. The time they would spent crushing or screening the product is probably shorter at 200,000 tons than it was at 50,000 tons when the permit started. That has to do with the crushing and screening plants available today compared to previously. The same thing goes for haulage and blasting; they would look to have fewer shots per year than they had before weeks of crushing or screening than before but they would still see a production increase. The impacts to the adjacent landowners, or to the area, are actually probably a reduction. You go from being able to crush and screen; let's say 50 or 100 tons an hour and today's modern day plans might be 1,000 tons per hour. That reduces his time that Steve could hear us essentially.

Chairman Martin said if there is constant turmoil and conflict; the Board has the right to be able to pull that back and say the special use permit is not working out well and we would have to make adjustments.

Commissioner Houpt thinks it is important, and she really appreciates Ben's opinion on that; but the reason they have the application process is so we can receive reports from numerous experts and give everyone an opportunity

to understand the implications at the level of work you want to do. We do that with everyone; she appreciates what he is saying and she knows technology has come a long way.

Commissioner Samson asked; what we are saying, is actually you will be able to do less work, less noise and produce four times the product, with less noise and less work.

Mike stated that the key is; within the 20 trucks, they are currently allowed today. That seems to be the thing we are missing; number 2, he thinks they have nailed that as far as the 6-month review. Number 9 currently allows them to haul 20 trucks per day on their monthly average. Number 10 then says 50,000 tons and that is part of their amendment; we seem to have a conflict here. If we stick with the 20 trucks per day, which is what they are requesting, that fits what they are trying to do. The 50,000 that was their concern and that is why number 9 and number 10 they placed them on the table to say, hey we think we have a conflict. So, to your point, yes we can in fact get more done with less work and using condition number 9, that currently exists, which allows 20 haul trucks a day, and also to your point Mr. Chairman allows us to increase our hauls and make this an economic venture. Which; is something that currently exists in the permit today.

Commissioner Houpt asked Kathy Eastley to explain why she made the recommend to not increase the tonnage to 200,000 without a new application.

Kathy explained as the applicant stated; there will be no additional truck trips as a result of the additional tonnage. But the trucks will be much heavier; there will be no additional blasts, in fact there will be less blasts, but they will be much bigger. She thinks there are potential impacts associated with that; but we have no idea about that because they were not considered in 1982. She thinks they could continue operation with the 50,000 tons based on what was granted and what was reviewed back in 1982. If they are going to increase that, she thinks that the impacts to the City of Glenwood, to the adjacent property owners, to air quality, to water quality issues really need to be looked at again. Because of the significant increase, they are requesting.

Commissioner Samson wanted to say; let's say hypothetically we approve as they want us to. We have the right, if that in essence becomes a problem; we have a right to readjust it?

Chairman Martin said they have the right to review it, bring out the conflicts, and discuss.

Commissioner Houpt said they would not be able to do that because they would not have an application or studies in front of them that tell us what those issues might be. If they are not part of the conditions of approval, and these are conditions that were put together in 1982 for 50,000 tons; then the problems we may have with a larger production would not be covered in here. So no, we would not be able to go back and change that.

Chairman Martin stated what has changed in 1982 and today is that they need a C-DOT permit and process. That right there takes care of the control, the traffic, and if they exceed that then they are in trouble with their special use permit; because they are not in compliance with CDOT. They need to go to the City of Glenwood Springs regarding using that portion of the city street and make any improvements or impacts whole to the City of Glenwood Springs. If they fail to, they do not have a special use permit. They need to put everything in place to make it work. If they cannot do that; our special use permit is just going to stay out there; they can use it exactly the way it is today. But, they still have to meet the City of Glenwood Springs and C-DOT.

Deb stated; hypothetically, if you say today we will change condition 10, you can do 200,000 tons instead of 50,000, and then someone complains because it is too noisy, too much blasting, too much this, too much that; you have already changed that condition to 200,000 without knowing what those are to begin with. It would be very difficult to revoke your approval after the fact without knowing going in what those impacts are.

Chairman Martin stated yes and no. If they are not in compliance with the noise regulation, if not in compliance with traffic and C-DOT regulations, they are in violation. If they exceed or violate BLM standards or mining practices, they are in violation. All of those issues are controllable if there is a true violation.

Commissioner Houpt stated those issues are; but we often give special county conditions as well, depending on what kind of impact activity could have. Those conditions would not be in place because we would not have had the opportunity to learn more about what kind of impact this new activity would have. She thinks it speaks to the whole structure they have in place for having people of any industry in front of them. The whole purpose is not for the Board just to give them their blessing; it is for the Board to understand what the potential impacts, what kind of conditions they have to have in place to mitigate those impacts. We need to understand what we are approving before we approve it, and she personally doesn't understand or would not understand what she was approving if she suddenly allowed a use that allow for four times the extraction that the permit, that is in place allows. She would not be able to vote to approve that because she does not know what the implications are.

Commissioner Samson asked; hypothetically, what if we approved for double, 100,000 tons

Commissioner Houpt said she did not want to change the tonnage on that.

Commissioner Samson said; and then no problems, everything is fine, they want to come back in 6 months for a review and we could change it to 200,000 at that point.

Chairman Martin explained that's another application and that is an expense and time, and investment that the applicant would have to do. If it is a matter of condition; that you are saying you are going to approve a periodic adjustment of production up to 200,000 tons over a period of one or two years. They can look at it economically; do they go ahead and invest into it or not?

Commissioner Houpt said this is really a bad precedent; we have gravel pits and a lot of other activity going on in this county, and what we are saying is, don't worry about our process, we'll just let you come in here and tell us there aren't any impacts.

Commissioner Samson said he has a problem with that if you are saying the process; because you are saying go ahead with 2 and 9 and it doesn't need a new permit.

Commissioner Houpt said it does not change the production level.

Commissioner Samson said it changes the scenario.

Commissioner Houpt said she does not have to change any of it; but the only thing it changes is referencing how we do our reviews. Now we know under our new regulations, we can do reviews whenever we want and we also have better defined, or we have reconfigured the truck traffic. If you would rather not change anything, she is fine with that; but she is not fine with changing the size of the business, basically.

Commissioner Samson said he guesses what he is questioning; someone might say that is really important to them that they come in every 6 months. So, they don't want to give on that but you're willing to give on that but not this.

Commissioner Houpt thinks this is very different. She is trying to give a little bit today; she would have kept the 6 month review in there, but she is giving on that because she knows they review when we feel there is a need to review. The other change makes more sense to me.

Commissioner Samson said let's stop right there; we review when we need to review, you just said it. So if we thought in 6 months we needed to review.

Commissioner Houpt said Commissioner Samson does not understand, at all, what she is saying; because with respect to tonnage, she is talking about air quality, water quality, road conditions, noise, different impacts that a larger production may have that we would not be aware of. The only way we will be made aware of those potential impact is if we have studies come in front of them with a new application for a special use permit. That is a huge major change; the other are small changes.

Commissioner Samson said that is why he is offering a compromise of 100,000 and then review it in 6 months.

Commissioner Houpt thinks that is a significant change; she thinks they need to bring studies forward to them to show what kind of impact this level of activity would have. That's what they did in '82; they did all of the studies, brought all of the information forward, the commission that was here at that time was comfortable with the level they approve, and that was 50,000.

Chairman Martin said he needed to ask some questions. Has the air quality control standards and permitting processing changed from 1982 to present?

Kathy said she does not know; but she has to let them know that they have absolutely no information on this regarding this operation. She stated they have no copies of any permits or files from 1982.

Chairman Martin said; then you would say that the standards with air quality and water quality controls have changed since 1982 or not, to present for everything?

Kathy - I do not know.

Chairman Martin stated he thinks they have tremendously. Do you have any permit process for air quality and water quality controls review process with the health and environmental?

Ben stated absolutely; CDHE requires no intermission permit for less than 70,000 tons, and they have submitted an application for the 200,000 tons so they would go from being not regulated to being regulated by CDPHE for air emission standards. Water standards, they have submitted our discharge permits; they are under review and there is no fundamental change to the disturbed areas, so water emission calculations are the same whether its 50,000 or 100,000 or 200,000.00.

Chairman Martin stated they still need a permit though. Water discharge permit, again any kind of run-off mitigation, storm water management plan; all has to be in place.

Commissioner Houpt stated that is what they would ask for, so you have to do it anyway; you may as well just bring it in to this Board as well.

Chairman Martin said his point is; it would actually be better monitored and a better control situation, both with health and environment, if you increased it to the point where you are coming under the regulations, where you are not now. I am saying; it is better health wise if you do increase it. Put it on the review process, involvement of the State, health, water safety etc. Plus the BLM has some new reclamation requirements; which are not under review. But they have increased that since 1982 and you will have to come into compliance with. That is the example we have of Marblehead. Overall, if we do allow it to go forward and with the different production levels; he thinks they will have a safer and a better situation than you do now. His other question; how many employees, when you bought the property, when you bought the property and they answered zero? How many people do you plan to employ, at full production, if you were to go to 200,000 tons per year; including your truck drivers?

Ben stated 20 to 30.

Commissioner Houpt stated they are restricted to the 10 vehicles.

Ben said a large number of those are haulers, contract haulers. They do not own any trucks; they use local contract haulers.

Commissioner Houpt stated all of these detail would be understood if we had a special use permit in place. But these number are just floating around and she is not comfortable approving a 27 year old application, 25 year old application; but we have no choice, it's in place. She is absolutely not comfortable with changing the scenario of what kind of work is done on site without any application coming forward at all.

Steve stated to Commissioner Samson; they have looked at this application for 10 years and it has been really difficult with a promise they will fix the road, they never would they would say sue us. In his letter, he said that they were going to come up with a road agreement that he was hoping would be put in place as part of this special use permit. Because, the problem is that the BLM says sorry. He hoped if he and Ben would come up with some type of road agreement; he will mag the road, keep the ditches clean, plow it, do all the stuff required on the road, and would be included in the special use permit; at least he could come in and say he is not abiding by what he said. Right now Steve has nothing and he has gone this battle, over and over, for the last 10 years under this permit and there is nothing he can do.

Chairman Martin explained that jurisdiction lies with BLM.

Steve said the BLM would not do anything.

Chairman Martin said he understands; but we cannot tell the BLM that you have to plow their road either.

Commissioner Houpt said if they are approving an activity, we could not have a condition in there.

Chairman Martin said under our jurisdiction but not under the BLM's jurisdiction.

Commissioner Samson asked if that should be worked out before this is taken care of.

Steve said he at least has something that says that a road maintenance agreement agreed by both parties that now the road will be maintained. He thinks that is critical; there are many uses on that road.

Commissioner Houpt said the plan should be submitted to staff.

Ben asked Kathi if there was a clause in the permit that mentions road maintenance agreement.

Kathy explained they have no information.

Ben said she has the original the conditions of approval.

Kathi said the conditions of approval; no, there is nothing in there.

Commissioner Houpt said they could add something.

Steve said since they took over they have done more on the road, in 6 months. That does not mean it will continue.

Chairman Martin said they should take it to the BLM with the access folks; sit down with them and say this is what we will do on this portion of the road and we both agree to it, and have them as the third party enforcer. That is an

agreement between the BLM and the two property owners that they have a right to be on. You have a mining claim, they have a mining claim and it is BLM Federal access to public lands.

Commissioner Houpt restated; but we can put a condition in here that says that the management plan that CalX and Mr. Beckley are working on will be submitted to staff.

Commissioner Martin stated it is not enforceable by the county itself. It has to be agreed upon by the Federal Government in reference to the public access.

Commissioner Houpt said we can say that you should talk to the BLM with each other and come up with this plan; we do not have to be a part of it, but we need to have it on file. So it is recognized as part of the special use permit.

Steve explained that was the problem to Chairman Martin; the BLM is basically washing their hands of it. They do not want anything to do with it. CalX right now has done a great job maintaining the road and he hopes that continues; if it does not, there is nothing BLM will do.

Chairman Martin explained there are other agreements in reference to the access and the use of that by the snowmobile club etc. He thinks that needs to be a consideration as well. You will have to work out that issue and that is another part of it; it is a public land issue. They need to be included as well; it cannot be just you guys. Everyone that uses it; at that point you have the four wheel driver club that goes up there, and the kids using it breaking through up at the gate to see who's the first one on the flat tops. They will tear it up your road as well. You have the occasional tourist going up there, plus people who use horses up there.

Commissioner Houpt said it sounds like a traffic plan should be put together.

Chairman Martin said that jurisdiction belongs to the Federal Government.

Mike said their whole question to number 9 and number 10; trying to quantify 50,000 versus the 20 trucks they are allowed is truly a basic of economics to make this thing work.

Commissioner Houpt said there is no saying you would not get that if you went through the proper channels through the application process.

Ben said having gone through a few gravel permits in this county before; it seems to him it is not common to have a tonnage limit, but rather a haulage limit that governs the production rate of a gravel pit.

Kathy stated that is absolutely wrong.

Ben asked if she could list a couple of pits that have a tonnage limit.

Kathi stated; RTZ North Bank, Mamm Creek, every single one of them has a tonnage limit.

Chairman Martin said that also goes along with their mining claims as well; what they are able to do and the impacts that have been established. Unfortunately, you do not have a limit on your mining tonnage.

Kathy replied except through this permit.

Ben said they basically feel that the three requests for change of text within their permit are minor impacts. The first two are procedural and allow the Board to both monitor their compliance and allow them to comply with the County's code better. It essentially ties down the standards and it allows adequate review of their permit. The request to strike the tonnage limit reflects no significant change in impact simply a change in available technology to allow them to produce at an economic level with the same impacts to the community.

Kathy agrees with Ben that we do not know what the impacts may be. Therefore, we do not know if there will be negative impacts associated with that; but even more reason for getting the information and performing our duties to review and mitigate those things.

Steve stated he would just ask; he does not want to sway them either way and not give him the 200,000. However, if we do increase tonnage; it has to be no more than 20 trucks a day. Any more than that would be a huge impact on everyone that uses the trail. This average is not acceptable; they can haul one day, do 140 trucks, and not haul for a week. If there were some way to put something in with the road agreement, the County Commissioners would have some kind of ability to step in if CalX is not doing what they agreed to do.

Commissioner Houpt – I make a motion we close public hearing.

Commissioner Samson asked to wait; he stated that Chairman Martin made the comment that they still have to go before the City of Glenwood for the haul permit.

Chairman Martin said; if it impacts the roads and the City has determined the impact is there, he is sure the City will contact them and say they can use it or they will have to make adjustments.

Ben said he was pretty much dead on, on that; their application for the C-DOT permit, they are acting as the representative and the City is acting as the owner. Currently they are working with the City on their access permit and the City is well aware of their intent and has agreed with their application. He believes it is in C-DOTS hands at this point; signed by both the City and...

Commissioner Houpt stated they did not receive a comprehensive application; it just has to do with the narrow scope. They did say they wanted to respond to any kind of comprehensive application, they could. She explained to Commissioner Samson not to get that confused with them actually seeing a full...

Kathy said they were forward a current copy of the request.

Chairman Martin stated the request with the original resolution; which is 82-222, they have seen the entire packet and he believes Ms. Eastley has had; plus they worked with their access issue and C-DOT along with Dan Roussin's letter. Do we have a motion to close public hearing?

Commissioner Houpt stated she moved already.

Commissioner Samson – Second.

Commissioner Houpt – I make a motion we approve the changes to the current special use permit that is in place, under resolution 82-222; using the language brought to us for condition number 2 that it is agreed that once the State mine permit expired, the County special use permit would also expire, and deleting the requirement for a 6 month review, acknowledging the fact that we have the opportunity to review at any time. Condition number 9; with the language brought forward by the applicant and Glenwood Caverns that the applicant and its contractors shall be limited to no more than 20 round trips and 10 ancillary vehicle trips per day. Taking out the computed on a monthly average for transportation core materials and then add condition number 11 requiring the applicant to submit a road maintenance plan to the County Planning Department and it sounds as if you need to get a number of people involved in the discussion including BLM, Glenwood Caverns, and submit that plan to staff.

Deb said maybe before you issue the changed amended special use permit.

Commissioner Houpt stated before we issue the revision to the permit and that would be her motion. She would maintain the rest of the conditions that are in place.

Commissioner Samson – Second for clarification.

Deb wanted to point out that the existing permit, 82-222, has a number of conditions that have not been requested to be changed. One is that prior to the issuance of the permit, the applicant shall obtain and submit to Garfield County Planning Department copies of its permits from all other government entities. There was testimony today that at least three permits need to be obtained; she thinks since they have not requested the change to that, before you amend this permit, you need all those other permits submitted. Number 7 of the existing permit says that mining and processing is from 7:00 a.m. to 5:00 p.m. Monday through Friday and the operation shall be from April 15 through December 15 of each year. There was not a request of change in that; she just wanted to point out and they are talking about increasing their operations but they cannot do it under the terms of the current permit. Someone at the applicants table wanted to speak and Commissioner Houpt stated they have already closed the public hearing.

Commissioner Samson said they could open it back up.

Chairman Martin explained they could if they had a motion and a second for clarification of what the motion was with the added information. Do you have enough to vote on the subject or do you wish to open it up for more information

Commissioner Samson wished to reopen the public hearing again. Commissioner Houpt – Second.

Chairman Martin said they needed to vote on the subject matter itself first or; well since we have a second we do not have to do that. He stated let's call for the question; all those in reference to the motion.

Commissioner Samson said he was confused.

Chairman Martin explained they needed to decide if the motion needs to be changed or not; the motion has been made, you have seconded the motion. We need to clear that from the floor if we wish to re-open the public hearing and take public testimony to clarify any other changes within a condition of approval.

Commissioner Houpt said let's set my motion aside if we are going to continue this hearing and open it back up.

She said she will withdraw it instead of voting on it and let Commissioner Samson have his questions answered.

Chairman Martin stated withdraw; is there a second accept.

Commissioner Samson replied yes.

Chairman Martin asked; do you wish to make another motion?

Commissioner Samson replied to re-open the public hearing.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson asked Deb; what you are saying is they should not be before us now because they do not have the permits necessary.

Deb said no; it was a condition of the initial approval that before they got their special use permit they had to provide the planning department all of their existing permits from other agencies. If you are going to change the special use permit that condition should apply so that all the new permits, they talked about today, should be provided before any change in this permit is in effect.

Chairman Martin said in saying that; fewer than 5, before a special use permit had been issued, these had to be complied too; otherwise, it would not have been issued. At that point, we have kind of a bookkeeping issue; we need to locate the information. It may or may not have been done but the special use permit was issued under this term therefore somewhere...

Commissioner Houpt said we need the updated one.

Ben said they would help the Board with their bookkeeping.

Chairman Martin stated the other question; number 7, the date April 15 through December 15 of each year, is that still in compliance with what you are trying to accomplish.

Ben said absolutely; they are currently putting up stockpiles for the winter sales. They will essentially put up stockpiles both in the mud and shoulder season. It is important to Steve that they minimize his impact to his operations. The bulk of Steve's commercial season is during the summer; so he thinks they did a fairly decent job of reducing their impacts this summer by stock piling a minimal amount in the spring, and putting up their major stockpiles in the fall. Next spring they will do the same thing; they will put up stockpiles up for the summer operation and try to minimize crushing and screening operations during his peak tourism season.

Chairman Martin stated; Ms. Quinn hearing that mining operations and what have you would have to cease according to what's your interpretation of this would mean December 31 and April.

Deb stated it basically says it is pretty clear; shall maintain mining and processing hours exclusive of truck hauling. From 7:00 a.m. to 5:00 p.m. Monday through Friday and shall not mine or process on Saturday or Sunday and the months of operation exclusive from truck hauling shall be from April 15 through December 15 each year.

Mike stated there is no blasting or crushing going on; that is correct. They have the product on the ground and haul at that point. A point of clarification, the permits; if they are less than 50,000 tons a lot of those permits don't have to be had. For instance, the air pollution permit, the permit with C-DOT is no longer required. So we are clear; the permits you are requesting will no longer need to be acquired.

Commissioner Houpt replied in accordance with this. Commissioner Houpt asked if they were ready to close public hearing.

Commissioner Samson stated he had no more comments; he would not be opening it again.

Commissioner Houpt – So moved.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Houpt stated she would put her motion back on the table.

Commissioner Samson replied that he had seconded it; but the problem he has is the tonnage.

Commissioner Houpt explained she did not have a problem with the tonnage, and if they brought a special use permit in front of us and asked us for 200,000-ton approval; depending on what studies and reports came in front of them, she might support that. If the background information warrants having that level of production in that location; then she would support. But she doesn't have that information in front of her and she can't tell people who live in Glenwood or other people who have to come in front of the Board for special use permits that she would have done the right thing if she had approved something that she had no information on. She stated she could not do that.

Commissioner Samson asked; how do you answer their discussion that they had that all of these air permits and all these quality has been done and taken care of and they will be monitored.

Commissioner Houpt explained these things come in front of us so we can make land use decisions and we do not have that in front of us, Mike. If we were in a state where the state government took care of all land use planning and the county didn't do very much, that would be one thing; but we have the responsibility to make sure that we

have the information in front of us that we are making decisions on, and we don't today if we end up changing the size of this project. It is huge; she cannot...

Commissioner Samson asked if she could change to 100,000 tons.

Commissioner Houpt replied no; she does not have any information in front of her to allow her to do that. Look at the location of this activity; it interfaces with a community. We have no information on what kind of impacts there may be. She really believes in the county's application process, and she believes in it because it is very comprehensive and we have an opportunity to then receive that phone call and say yes I voted for that, and let me tell you why I supported that. But she doesn't have enough information in front of her today without a new application to change the scope of the application.

All in favor: Houpt - aye Opposed – Martin and Samson - aye

Commissioner Samson said his substitute motion would be to leave all the language Commissioner Houpt had in there; but increase the tonnage to 100,000 tons.

Chairman Martin said that would be up to the company to decide if that was economically viable or not and they would have to make those adjustments.

Commissioner Samson said he does not want to pinch them economically, and he wants things to go forward so that new jobs could be created and help us as a county with business around here. He thinks Tresi's argument has substance to it, we do not have all the answers to that and making four times the amount might be a little premature. But if we were to let them operate with 100,000 tons, and they would want to come before us 6 months, a year, two years down the road and say they want to increase that to 200,000 tons, and we look at say no one has complained about air quality, water quality, traffic; everything has been worked out with Glenwood Caverns, no one is complaining about who lives up there.

Commissioner Houpt stated to Commissioner Samson that they require people, companies, to come before them with a new application for much smaller changes.

Commissioner Samson said he does not know the background on that; give him an example.

Commissioner Houpt stated; for example, someone wanted to put in a holding pond for water for fire mitigation and they had a tank in their original application, and they came back with a new application. So they look at this and say; wow, I made that change with a new application and you're letting this mining quarry double their business without having to come back with a new application.

Chairman Martin said there is a qualifier on that; one happened to be a different set of the rules and regulations that there was not an amendment process. There is an amendment process now. The new application with the change was not looked at as an amendment to it or a small change; it had to be a new application and they followed those requirements. He stated we have tried to work with the land use regulations to allow certain changes without an entire application.

Commissioner Houpt replied that is true, we have, so under today's regulations that may not have to happen; but at the same time you are setting a very difficult precedence. How are you ever going to respond to a company that now comes in front of us and wants to make a major change to their application that is in place, and they want to make that major change without having to bring a new application forward? What will you say to them? These are the rules of doing business.

Chairman Martin stated the administrator that sees that application, and makes a comment that it is a major change from the permit that is already in place, makes that determination. If there is a challenge it comes to this Board and they will make that determination and either require a new permit or to hear it and make any changes, or no changes in front of the Board.

Commissioner Houpt stated that is where you are right now, because our staff is saying...

Chairman Martin said they have changed the rules and regulations to bring this forward so we could be involved in these decisions and not just left to the letter of the law, interpretation all the rules and regulations where you have to start all over if you want some kind of change. He thinks that was unfair.

Commissioner Houpt stated there is an amendment process if staff had deemed this an amendment; but they did not.

Chairman Martin stated they have not supported the change. This board is now granted the wisdom to make that change; is it major or a minor change. Do we approve or do not approve; follow the recommendations, or make our own. He asked Commissioner Samson if he made a motion and he stated it was the same as Commissioner Houpts with the exception of increasing it to 100,000 tons.

Chairman Martin said 100,000 tons and you went on from there with a renewable if it was requested; it was without incident that they could go to a maximum of 200,000 tons after review.

Commissioner Samson said he did not think they needed to put a maximum.

Chairman Martin said not to exceed 100,000 tons; but that would have to be after a year's review. At that point, you then have your checks and balance in place if they have failed to live up to the requirements and meet everything they have to. They are stuck at 100,000 tons.

Commissioner Samson replied that it sounded good.

Chairman Martin – Second for discussion.

Commissioner Houpt said she thinks they are making a very big mistake, and that is all she will say.

Commissioner Samson stated; you are saying we are making a big mistake...

Commissioner Houpt stated procedurally.

Commissioner Samson continued; by letting people come before us and say, I don't want to go through a whole new 9 yards of a special use permit; but can we just talk about this one thing and get it changed?

Commissioner Houpt explained that this special use permit is 25 years old. It has nothing to do with what is happening in this county today, and we are tied to it because of the way it is worded. She stated that is fine, she will live with it. But to change it after 25 years has gone by without another review, and doubling the size of the activity, she thinks it is not consistent with the charge of this county. She thinks it is a huge mistake.

In favor – Martin – aye Samson – aye Opposed - Houpt

**REQUEST TO AMEND THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED,
RELATED TO AFFORDABLE HOUSING IN RURAL LAND DEVELOPMENT EXEMPTIONS BY
CREATING A NEW SECTION, SECTION 7-602 AFFORDABLE HOUSING EXEMPTION
STANDARDS – APPLICANTS; NIESLANIK INVESTMENTS, LLC AND CECILIA NIESLANIK
BYPASS TRUST – TOM VELJIC**

Deb Quinn 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 Tom Veljic submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit C – Garfield County Comprehensive Plan of 2000 as amended; Exhibit D – Application; Exhibit E – Staff memorandum; Exhibit F – Staff Powerpoint; Exhibit G – Complete Text of Proposed Amendment; Exhibit H – Letter from Geneva Powell, Garfield County Housing Authority, dated September 10, 2009; Exhibit I – E-mail from Andrew McGregor, City of Glenwood Springs, dated October 6, 2009 and Exhibit J – Draft Resolution.

Chairman Martin entered Exhibits A – J into the record.

Planner Tom Veljic explained:

The applicant is requesting a text amendment for any future land use change permit for rural land exemption plats to increase the exemption for any affordable housing requirement trigger from 5 to 6 lots. To accomplish this, the applicant is proposing the addition of specific standards to a new section in Article VII of the ULUR as listed: Per Article VIII affordable housing, Section 8-102, applicability, the requirements for affordable housing shall apply to land use change applications in Garfield County, 15% for 5 or more units in comprehensive plan areas through 5. Rural land development exemption land use change applications will be exempt from this affordable housing requirements based on meeting or exceeding the standards outlined in Section 7-601 rural land development standards and additionally:

1. The affordable housing exemption shall apply to land use change applications in Garfield County for 6 or fewer lots in comprehensive plan areas 1 through 5
2. The rural land development exemption may be used to create a cluster subdivision development on a parcel of land 100 acres or more (rather than 70-acres) in any unincorporated area of the county
3. 90% (rather than 30%) of the parcel shall be preserved perpetually (rather than for 40 years) as contiguous open space to be used as wildlife habitat, grazing land, critical natural areas, or similar uses
4. The residential density does not exceed 1 residential unit for 35-acres plus 1 lot for every 100-acres contained in the eligible property (with no additional bonus lot).

Tom went on to talk about the comprehensive plan, land use goals and objectives. He gave the housing issues and goals; open space and trails issues; agriculture issues and goals along with objectives and policies on each.

Discussion:

Commissioner Houpt asked question; what was the discussion about changing it from the proposed perpetually instead of the forty years. Why are we defining a time; in perpetuity would be wonderful. What did the planning commission have a conversation about?

Tom explained the whole discussion centered around trying to find some agency, non-profit trust, to accept anything less than forty years.

Commissioner Houpt said they changed it to a lessor amount of time

Tom stated they did; the proposal was for perpetually. The current code, in Article 7, 601 reads 40 years. The proposal was for perpetually and the planning commission thought it was too hard to make it happen so they proposed 40 years or greater. It give them the option of going longer and it is up to the applicant to find that agency or trust to monitor the land and take over the open space.

Chairman Martin said he thought you had to look at the other plans that are in place, Routt County agriculture. It's not in perpetuity; but it is in a period of 50 years or greater, 40 years or greater, and at that time they can re-establish if it is really meeting the need of the community itself instead of making it in perpetuity, they can revisit it. If it is in perpetuity, you cannot re-visit. He thinks that is what they wanted to do just in case the future changes enough, and the impacts and the needs are greater, they can re-visit after a period of time.

Commissioner Houpt thinks that many people, who put land into an easement, or an open space, want to do that perpetually in perpetuity; because they believe that land is really special and should be preserved.

Chairman Martin said the other side is they sell it because they have the ability to sell it and then the person who buys it has perpetuity. Some people can buy it, and some people will not because of that particular; you get a limited market on moving that. If you know it is forty years or greater, you have the investment and foresight to see what you want to do with it. Both have good and bad; but he thinks you should have a re-visitation and an option and agrees with the P & Z on that.

Tom explained in this case it does give the option for an extended period of time and that is part of the discussion. In forty years, you have that discussion again.

Chairman Martin said there might be mistakes you cannot undo either with in perpetuity. That was the other discussion they had; if there is something we cannot live with, something we did not see, we cannot re-visit it. But if we can re-visit it in 40 years, then they can correct the problem and go back.

Tom explained that when they looked at this they thought it was better to add a reference in the affordable housing section; because it is fairly clear that when you look at affordable housing it says 5 or more lots in Garfield County, and they added the language underlined. "Except as modified in Section 7, 602, affordable housing standards/rural land development exemption." They thought that someone would need a reference to know there is a change and what particular part of the code that deals with that number.

Doug said they support the modifications; he feels they had good interactions with the county and staff, and they support the amendment, as it has been wordsmith by a number of different entities. Exhibit A they support the changes and feel it is in the right direction.

Mark wanted to respond to Tres; he thinks that having it for a forty-year easement, people who are interested can come in and use this option. He thinks it will help the conservation program in Garfield.

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt – I make a motion we approve the amendment as requested to the Unified Land Use Resolution 2008 related to affordable housing and rural land development assumptions; Section 7 –602 affordable housing exemption standards.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

REQUEST TO AMEND THE UNIFIED LAND USE RESOLUTION OF 2009, FILE NUMBER TXTP 6010, RELATED TO GRAVEL EXTRACTION STANDARDS LISTED IN SECTION 7-840 (H), RECLAMATION/ENFORCEMENT – APPLICANT; RIVERS EDGE, LLC – TOM VELJIC

Greg Lewicki and Pete Sigmund were present.

Deb Quinn 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 Tom Veljic submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Unified Land Use Resolution of 2008, as amended; C – Garfield County Comprehensive Plan of 2000 as amended; Exhibit D – Application materials; Exhibit E – Staff memorandum; Exhibit F – Staff Power Point; Exhibit G – Letter from Jake Mall signed August 10, 2009; Exhibit H – Letter from J.T. Romatzke, Colorado Division of Wildlife, dated August 17, 2009; Exhibit I – Comment from Brian Condie on referral form, no date provided; Exhibit J – Letter from Matt Sturgeon, City of Rifle, dated September 23, 2009; Exhibit K – Letter from Gale Carmoney, Town of Silt, dated September 23, 2009; Exhibit L – E-mail from Davis Farrar, Town of New Castle, dated September 23, 2009; Exhibit M – E-mail from Will Spence, Colorado Department of Wildlife, dated October 8, 2009; Exhibit N – E-mail from Matt Sturgeon, City of Rifle, dated October 14, 2009; Exhibit O – Letter from Gale Carmoney, Town of Silt, dated November 9, 2009; Exhibit P – final draft of recommended changes of the proposed Text Amendment; Exhibit Q – Draft resolution and Exhibit R – Letter from Will Spence, Division of Wildlife, dated November 24, 2009.

Chairman Martin entered Exhibits A – Q into the record.

Planner Tom Veljic explained: The applicant has a special use permit pending for extraction, storage, processing and material handling of natural resources for a gravel pit operation on approximately 25-acres of a 93-acre property. This special use permit is a request for an expansion of an existing mining permit currently in place with the Division of Reclamation, Mining, and Safety. In addition to the State permit, Garfield County requires a special use permit. The special use permit request was presented to the planning commission on June 24, 2009 and continued to September 23, 2009 to allow the applicant adequate time to process a text amendment addressing the concerns noted in the special use permit staff report dated June 24, 2009. The special use permit was continued by the planning commission to October 28, 2009 but no hearing was held on that date. The applicant will re-advertise for the planning commission public hearing scheduled for January 27, 2010. At the September 23, 2009 public hearing of the Garfield County Planning Commission the applicant, Rivers Edge, LLC, proposed a text amendment to the ULUR of 2008 to modify certain standards of Section 7-840, additional standards applicable to gravel extraction, specifically subsection E; impacts to county road system and H, reclamation/enforcement. During the public hearing, planning staff presented the proposal and recommended denial of the changes due to confusing and vague language. Following testimony by the applicant, his representative, and other interested parties, the planning commission decided to offer an alternative text to the Board of County commissioners attempting to remove any vague and confusing language. The commission completed a revision to subsection E and continued the public hearing to the October 14, 2009 planning commission hearing date to continue the discussion on the remaining text of subsection H. Based on the discussion and direction of the planning commission, planning staff invited the applicant, his representative and county legal staff to discuss revisions to the proposed text of subsection H. This collaborative effort resulted in a draft of subsection H that is attached to their memo. The intent was to create a document that is clear and concise meeting the intent of the original text while integrating some flexibility in future development of gravel resources. Tom continued to explain the applicant's request, impacts to county road system; reclamation/enforcement; comprehensive plan land use goals and objectives.

Recommended Findings to the Board of County Commissioners:

1. The hearings before the planning commission and the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard.
2. The application has met the public notice and public hearing requirements of the Garfield County Unified Land Use Resolution of 2008, as amended.
3. The proposed text amendment can be determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County
4. Proposed text amendment is consistent with applicable standards of the Unified Land Use Resolution of 2008, as amended, and complies with the Garfield County Comprehensive Plan of 2000, as amended
5. The proposed text amendment does not conflict with State statutory provisions regulating land use

Recommendation:

Tom explained that during the first public hearing they had recommended denial. The planning commission wanted to offer alternative language to the Board. They would rather come forward with something that may work for the Board rather than recommend denial. They completed a revision of 7-840E 3 and 4; these deal with traffic impacts. It is very difficult to write code during a public hearing and it was very time consuming. They continued the public hearing October 14, 2009, to revise the remainder of the proposed amendment. The planning staff brought all the players together including legal staff. They went through the basic text and try to figure out what was the intent. The planning commission is recommending approval of the proposed text amendment to the Unified Land Use Resolution of 2008, as amended with the recommended planning staff and planning commission changes. The changes to item 3 and 4, 7840E, the applicant shall submit evidence of insurance for a minimum of \$1 million dollars to cover any damages to public property and Garfield County shall be named as an additional insured. If the applicant demonstrates that its operation will not require a Garfield County access permit, this insurance shall not be required. Again, the strike through is a removal and the underlined is the addition. Number 4; expected haul routes from the mine will be upgraded to withstand the additional traffic. If determined by the traffic study or recommendation by the County Engineer and the permittee will prevent road damage and mitigate dust under the supervision of the road and bridge director. He explained those two items were changed during public hearing and pretty much kept verbatim. In October they added or the recommendation by the county engineer.

Discussion:

Chairman Martin wanted some clarification; asked where does it go. Even though it is from the mine, where does it go too?

Tom said it may stay internally or it may go directly to a state highway.

Chairman Martin asked at which time, do you have to upgrade the state highway too.

Tom said the only changes you see are underlined and he thinks that would stay in place. If there is an access to the state highway system, they are public road, they would not require a permit from the State, and you would be hearing that from the State at a public hearing.

Chairman Martin said that is kind of an open ended; if it goes two different directions and it is a haul route, you have to upgrade both directions. It maybe more than one road you are requesting that upgrade; that is understood in this text and Tom replied that was understood.

Commissioner Houpt said later in the paragraph it says the permittee would prevent road damage; will they have to mitigate road damage if it cannot be prevented, or just prevented.

Tom explained it would be based on the recommendations; of course, the traffic study would be required, and then the county engineer would review that, so any impacts identified in the traffic study or recommendations from the county engineer, may require either upgrading or significant improvement to a particular county road that is used. Commissioner Houpt asked if that was before or after the use.

Tom explained it would be during the application process for the gravel mine.

Commissioner Houpt asked; if they upgraded and it is damaged during use, it talks about preventing road damage; but it does not talk about mitigating road damage. Is that the intent of that?

Fred explained they wrestled with this quite a bit. During the approval process, you will get a traffic study that may say the route that is going to represent your haul route needs to be upgraded to whatever, because they know what the tonnage is that you will put on that road, and you are going to bang up this road pretty badly. So they need to upgrade the road and that would be a condition of approval by this Board. Then you are off and running and hopefully, those improvements have been made.

Tom said; and they have insurance for \$1 million dollars to cover that damage.

Fred stated exactly and in theory, that is what that bonding is supposed to help cover, mitigate.

Commissioner Houpt said her question goes to the second part of the sentence; they will prevent road damage and mitigate dust; but what if it their use tears the road that they have improved.

Fred said it depend on how you read the word prevent. Prevent allows you also to say "Hey operator you got an approval two years ago; but your banging up the county road, can you come out and fix, at the direction of the road bridge director."

Commissioner Houpt stated that is what she was asking; if that was your intent.

Fred explained that word is something you as a Board might want to work with.

Chairman Martin explained that is the standard practice right now; it is just not in written form.

Tom stated that was the original language.

Tom stated this next part is pretty much all rewritten. He added this in so they could refer back to what they are trying to do. This is a purpose statement, if you will for 7-840 (H) reclamation enforcement. He thinks the key word is the esthetically pleasing sight or reclaimed area. It talks about how you do that and what is effective. We refer to this section numerous times. On slopes, item H number 1 ...

Commissioner Samson said he had a general question; for example, the COGCC is responsible for issuing permits, and the rules, the regulations, the enforcements etc; is the Colorado State Division of Reclamation responsible for all reclamation activity of gravel pits or mining in the State of Colorado.

Tom stated as far as he understands they are.

Commissioner Samson asked; do we as a county, if someone calls us and says this gravel pit is tearing the heck out of things and they were supposed to do this; we report that to the State and the State has to take care of it, just like the COGCC has to take care of the other.

Tom said they are required to obtain a permit through Garfield County, so we have that authority based on their permit for extraction.

Commissioner Samson asked; we have the authority to inspect and enforce and Fred answered yes.

Tom explained that our regulations go beyond what the state requires especially when you are looking at reclamation for slope. You will see with this code amendment; we deal with the wetland and the dry land slopes and vegetation, and it goes beyond what the State requires.

Commissioner Samson asked if it was just for slopes or anything and they all replied all. Commissioner Samson then stated; all reclamation goes through us first and Fred replied it is in addition to. Commissioner Samson asked who does that for us.

Fred said we do the code enforcement.

Chairman Martin explained with the recommendation of Mr. Anthony and other experts, they may or may not.

Fred said it is no different from any other special use permit that you might issue. The county; through his department has that person on staff to make sure that whatever business or operation running, follow those conditions of approval. You have the land use authority to do that.

Chairman Martin explained they also use the soil conservation folks. All of this is discussed at the permitting process and all on the recommendation of approval.

Commissioner Samson asked if they had anyone on staff who is an expert on reclamation.

Fred stated they do Molly Orkild-Larson who is a senior planner in the Rifle office.

Tom stated they also have a staff civil engineer who is very knowledgeable. Number 2 defines what a wetland slope is three feet above, three feet below. The lake level will vary over time and it covers a 6-foot spread of what a wetland slope is. It will be included under number 3. Number 4 is the flexibility part that the applicant is hoping for. In that flexibility, it talks about some reasons why they can ask for modification or changes and it goes down to 4 D other special needs or uses. That is where the applicant can come to the Board and say we have this and what do you think; they would like to modify a standard based on this particular case for each particular property.

Number 5 is the standard language you will see throughout this text amendment. We refer back to the purpose statement; and require additional findings, why you have modified the standards. Compared to the original language proposed by the applicant; they think this is easier to enforce, much more clear, and spells out specific standards they have to meet and allows them some flexibility to modifying those standards, as long as they can prove to the Board they are justified. Dry land areas are very similar; talks about slopes number 1, number 2 defines what a dry

land slope is number 3 is an area where they can have some modification of the standard. Again, the applicant can give that pitch to the Board. The last, number 4 is that same language that refers back to the purpose statement and also requires separate findings to be approved. He showed a graphic prepared by the applicant. It shows the wetland slope area at 6 foot 3 above 3 below. It shows the standard slope 5 to 1; below lake level we do not care, it shows 2 to 1. The standard maximum slope, by State Statute, 3 to 1 slopes. This is very detailed and it would remove the existing graphic and replace it. (The existing graphic is in the staff memo) Vegetation; there is a criteria for wetland and dry land. Under wetland, they added some things that are consistent with the code; they required some type of landscape plan, prepared by a professional. He explained lake filling and how the vegetation will happen with the size of trees and scrubs. He also explained irrigation. The planning commission has recommended approval and the standard findings for this change.

Commissioner Houpt appreciates the time that obviously went into this. It is a great illustration on how our regulations can evolve.

Greg wants the Commissioners to feel comfortable as someone who permits in just about all the counties of the State of Colorado that these regulations, although they now have some allowance for exceptions, are still about as strict as any place in the State. The general intent of the requirements for slopes is there. A good case has to be made for an exception. Those are really strict slopes; 5 to 1 slopes, the State has allowed 2 to 1 slopes in the past and they are trying to move toward 3 to 1, we are saying 5 to 1. The requirements on the re-vegetation are really good. When you make pit lakes you have to have a wetland plan; you have to have a good plan for the dry land above it. You have to have trees, they have to have so much diameter; this is a really good reclamation plan and allows for variances of certain conditions. One example on slopes; we have always thought of this carter between Rifle and Silt as the main sensitive carter and most pits; actually all of them are wet pits that are pretty much in the flood plain. There are other pits that are on higher terraces that don't have water in them and never will. We have said 5 to 1 slopes in these areas like you can see from I-70; they want it to blend in. There could be other areas that do not have water, and we have some gravel deposits, the existing slope is a 3 to 1, so how would you put back a 5 to 1. Its thinks like that; the allowances for some variances for good cause that now make these regulations really well done. They still are very strict; but they could allow for some exceptions due to certain circumstances.

Tom wanted to note that the original letter from the Wildlife and some of the central cities in the central city corridor were opposed, and once with the re-write there was a great deal of support.

Deb thanked the applicant and those other member s of the audience who participated in the rewrite. It was truly a joint effort.

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing.

In favor: Houpt – aye Martin – aye Samson – Absent

Commissioner Samson – I move we grant the request to amend the Unified Land Use Resolution of 2008, file number TXTP 6010, relating to gravel inspection standards, listed in Section 7-840.

Commissioner Houpt – Second.

Chairman Martin stated the other two items that are also inclusive for 11 and 12 on the scrivener's errors etc.

In favor: Houpt – aye Martin – aye Samson – Absent

Executive Session:

Deb stated there are two items

Chairman Martin stated those are code enforcement and Deb stated yes.

Commissioner Houpt stated we are also continuing this hearing until tomorrow.

Chairman Martin stated it is a special meeting.

Chairman Martin asked for a motion for executive session on the code enforcement items posed by Mr. DeFord.

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to go into executive session.

In favor: Houpt – aye Martin – aye Samson – aye

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to come out of executive session. In favor: Houpt – aye Martin – aye Samson – aye

Action Taken:

Deb stated that legal staff would like direction from the Board to pursue an injunctive action as well as civil penalties in connection with a land use in the county in which a barn has been converted to residential units four units without getting proper permits.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson wanted to make sure that both Chairman Martin and Commissioner Houpt are committed for the Feb 1, 2010.

Chairman Martin stated he is not committed to that yet; he may or may not appear.

Commissioner Houpt - stated yes.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD

DECEMBER 14, 2009

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on December 14, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Jean Alberico Clerk & Recorder.

Commissioner Samson arrived late due to the weather.

CALL TO ORDER

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

COUNTY MANAGER UPDATE: ED GREEN

STAFF RECOMMENDATION TO AWARD A FIRM, FIXED PRICE CONTRACT TO CARNATION BUILDING SERVICES, INC. IN THE AMOUNT OF \$114,708.00 FOR COUNTY WIDE JANITORIAL SERVICES FOR FISCAL YEAR 2010 – KENT LONG

Kent Long presented the 2010 Countywide Janitorial Services Contract stating that Carnation Building Services, Inc. was selected as the top bidder for the services in the amount of \$114,708.00 for the fiscal year 2010.

Kent had two conversations with the owner and they did a walk-through before bidding. Carnation also won the Mesa County bid; Carnation informed me they could live with that price. They are from the Front Range but all employees will be local. Their office is in Aurora, Colorado. They plan to hire a superintendent.

Commissioner Houpt – Wants to have this monitored very closely.

Commissioner Houpt made a motion that we approve the award to Carnation Building Services, Inc for the fiscal year 2010 countywide janitorial services in the not to exceed amount of \$114,708.00.

Commissioner Martin – Second. In favor: Houpt – aye Martin – aye Samson – late

STAFF RECOMMENDATION TO AWARD A FIRM, FIXED PRICE CONTRACT TO WASTE MANAGEMENT OF COLORADO, INC. IN THE AMOUNT OF \$23,973.00 FOR COUNTY WIDE TRASH AND RECYCLING SERVICES FOR FISCAL YEAR 2010 - KENT LONG

Kent Long submitted the 2010 Countywide Trash Removal Services Contract stating that Waste Management Services of Colorado, Inc. was selected as the top bidder for the services in the amount of \$23,973.00.

Ed – Had a group formed and they ran into some problems as far as logistics.

Commissioner Houpt wanted it in strategic positions in the office.

Ed – Kent will look into it.

We are doing a great job with paper but there is no excuse for us not recycling mixed products as well.

Commissioner Houpt made a motion that we approve the award to Waste Management Services of Colorado, Inc. for fiscal year 2010 for countywide trash removal services in the amount of \$23,973.00.

Commissioner Martin – Second. In favor: Houpt – aye Martin – aye Samson – late

STAFF RECOMMENDATION TO APPROVE FOR SIGNATURE BY THE CHAIR CONTRACT RENEWAL LETTER #1 WITH COLORADO ANIMAL RESCUE, INC. IN THE AMOUNT OF \$400,000.00 TO PROVIDE COUNTY WIDE ANIMAL SERVICES FOR FISCAL YEAR 2010 – KENT LONG

Kent Long submitted the 2010 Contract Renewal Letter #1 for Stray Animal Care Services to Colorado Animal Rescue, Inc. in the not to exceed amount of \$400,000 a one-year term beginning January 1, 2010 through December 31, 2010.

Commissioner Houpt made a motion that we approve the contract renewal letter #1 for stray animal care services to Colorado Animal Rescue, Inc. (CARE) in the not to exceed amount of \$400,000.

Commissioner Martin – Second.

Don asked if the spay and neuter was separate.

Commissioner Houpt – That information is separate and whatever is approved will be consistent.

Don – The contract last year did not include the spay and neuter. That was in addition to this contract.

Commissioner Houpt – This is not changing whatever is in place.

Chairman Martin – This goes back to the original contract for the care of placement of the animals. There is an additional contract for spay and neuter portion.

Commissioner Houpt – This is the animal care contract renewal letter for \$400,000.

In favor: Houpt – aye Samson – late Martin - aye

STAFF RECOMMENDATION TO APPROVE FOR SIGNATURE BY THE CHAIR CONTRACT RENEWAL LETTER #2 WITH MARTINDALE CONSULTANTS, INC. IN THE AMOUNT \$200,000.00 FOR OIL AND GAS LEASE AUDIT SERVICES FOR FISCAL YEAR 2010 – KENT LONG

Kent Long submitted the Contract Renewal Letter #2 for Audit Services of Locally Assessed Oil and Gas Production to Martindale Consultants, Inc. in the amount of \$200,000.00 for oil and gas lease audit services for fiscal year 2010.

Deb Quinn has a concern about the scope of work. Kent would like to work with John Gorman and Deb Quinn and asked to hold this over for a week. Deb's concern was the money left over. She was uncertain as to the additional \$200,000 as there was no scope of work attached.

APPROVAL OF COLORADO HISTORIC SOCIETY GRANT CONTRACT – JEFF NELSON AND

SATANK BRIDGE PROJECT BUDGET APPROVAL AND DIRECTION TO MOVE FORWARD WITH PROJECT TO THE CONSTRUCTION PHASE – JEFF NELSON

Ed presented the status report for the Colorado Historic Society Grant Contract project 2009-02-043 for the Sutank Bridge Historical Rehabilitation project in the grant guarantee amount of \$297,500.00.

Jeff asked the authority of the Board to sign the grant in order that it may be activated. He added that he would like to request a directive to continue the project through the construction and rehabilitations phase. The bridge is currently unsafe for vehicles and pedestrians to travel across. The bridge was constructed in 1900 at a cost of \$2,335 by the Pueblo Bridge Company. It is the only standing Platte thru truss bridge in the State of Colorado and recognized as a historical bridge by the Colorado Historical Society.

Currently the engineering and construction plans are 98% complete. The project is scheduled to be completed by July 1, 2010. We are estimating the cost of the total project completion to come in under the current budgeted amount. Funding for the project has been a joint partnership between Colorado Historical Society and Garfield County.

Don included this in the executive session notes and did not know if the Board wanted to discuss this in that session. It is important if you are going to authorize the Chair to sign this. The most significant issue is that we will never hold fee title and he has asked them to alter the agreement. This is up to the Board.

Chairman Martin – The State Historical Society is not following the statutes as well. It is a risk but the bridge we are saving is an historical site.

Don – If we make any change in the agreement, they will reject it.

John Hoffman – The reason I came down here was to present an award. The fee title is cumbersome and after it sits for a long time, it is difficult.

Chairman Martin – Do we take the risk that this easement is going to stay permanent? We have asked for adjustments but they refuse to make any adjustments. We are at the point to whether or not we proceed.

Jeff has made the recommendation to go forward with the construction phase. We will go through the natural process for out to bid.

Chairman Martin – Do we take the risk or not, that is the question.

Jeff – They use different terms such as rehabilitation versus construction in their grant.

Commissioner Houpt – Appreciates the comments by Don DeFord.

Commissioner Houpt made a motion that the Chair be authorized to sign the grant guarantee of \$297,500.00 from the Colorado Historical Society Project 2009-02-043 and to direct the engineering staff to continue the project through construction and the rehabilitation phase. Commissioner Samson – Second.

Commissioner Samson arrived at the meeting late.

Jeff – When we went into the grant, we asked that they do a 50/50. For budget purposes, we are under the budget from a year ago. We are going out to bid, he will address it later, and he usually keeps it quiet until the bids are in his office. Jeff - What we have is construction engineering, monitoring for structurally and environmentally and possibly some redesign similar to an older house. That total amount comes up to \$800,000 and that was budgeted. He has used \$80,000 of that already.

In favor: Houpt – aye Samson – absent Martin – aye

Direction on bid was to proceed. Commissioner Houpt – So moved. Commissioner Samson – Second.

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

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Don stated he would like an executive session to discuss and receive direction on the following items and some may relate to items on the agenda: Statutory tax credit and exemptions, Board of County Commissioner scope of Land Use Code, Rock Gardens, Williams in Battlement Mesa and IRNW; legal advice and methodology for application for a public improvement district and Williams preemption.

He estimated it would take one hour to cover all the items and then there would be public action at 10:15 and 1:15.

Commissioner Samson made a motion that we go into an Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

Commissioner Samson made a motion that we come out of Executive Session.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

ACTION TAKEN:

None

IRNW – INFORMATION AND UPDATE

Tim Thulson – The applicant wishes to withdraw. We are in district court right now.

Cassie stated that what Tim said is correct. No objections to withdrawal.

Commissioner Samson so moved. Commissioner Houpt second.

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

COMMISSIONER REPORT:

Chairman Martin – No report

Commissioner Samson – February 1, 2010 - CMC Transportation meeting; come at 6:00 pm for food and 6:45 pm for the meeting to be held in CMC in Rifle; I have been asked to serve on a committee formed by the City of Glenwood for the 125th anniversary and will meet tomorrow from 9:30 – 10:30 am at US Bank. He will represent the west end of the County to help with the celebration. Mike will be representing those born in Glenwood. We have the Rifle meeting back before us on January 18, 2010. That public information needs to be sent out so people will attend.

Jean – We were under the impression that we would be able to record but that is not the case, IT has record equipment they can patch together but no speakers and we will not be on TV. Jean asked if we could have that meeting at the Rifle City Council. Abe said he could get a system for around \$13,000 to \$15,000. Jim Bell may be able to record on TV. Ed will check. It will be a hassle to have the meetings other than Glenwood. Fred will attempt to plan ahead and gives a place in the notice. Thus far, he does not think there are any public hearings. Jean informed the Board it will be a hassle no matter where the meeting is held. Jim Bell will not be able to put this meeting on TV.

Fred stated that the public hearings that have gone out give a place proper and that has already gone out but he did not think there was any scheduled for January 18. If so, they would show the DHS building as the location.

Commissioner Samson – On January 5, 2010 at 4:00 pm I will be attending the permittee meetings at the Fairgrounds with the Colorado Oil Drillers, Cattlemen Association, Forest Service and BLM.

Commissioner Houpt – I-70 Coalition meeting last week and we are rolling out a website called GO-I-70. It will be a great real source for people traveling along the corridor. The goal is to reach real time conditions throughout the corridor so people will, and if you sign up to be a part of this system, you can get text even to be updated. It will also be on line and you can plan your trip along the I-70 corridor; there will be information on every community along the way and in Garfield County. So if you have been skiing at Sunlight and you need to get back to Denver and you see that it is a mess on I-70 you can pull up resources what restaurants or other facilities are in Glenwood or beyond. You will know where the jam is located and it should be a real neat thing. It not only focuses on the conditions along the corridor but it will help people who are visiting Colorado to figure out what is in the various communities. She invited people to go to the site. The official day rollout will be right before the President's Day weekend, but it is on-line right now. Ruedi Power and Authority meeting on Thursday evening and there is a great deal of statewide discussion in terms of water and we as a commission should have a Work Session and discuss how we want to be represented on all of these various boards. It has really become known and I ran into Louis Meyer and he like to be involved in talking to folks; it will open up impacts to Ruedi because off all of the water is being looked at in terms of diversion and future use. We have been asked to participate in these discussions. The first Work Session for January will be held on January 5 on the first Tuesday at 8:00 am and she would like us to discuss the water issue. Ed said the other topic was cost information on RFTA. River Bridge had a Christmas celebration on Friday morning, their program is well used, and they are talking to other counties because they are being recognized. Rio Blanco and Moffat are in discussion with them on how to meet the needs that is in their areas as well. This is a need to be addressed on a long-term basis. Rocky Mountain Rail Authority meeting with the consultant at the next meeting and still questions about things to look at. Federal Rail Authority were meeting with the consultants at our next meeting and there still question about whether they looked at the things we asked them to look into. The Federal Rail

Authority still looks at traditional rail instead of high-speed rail so we need to look to the change at the federal government level to start looking at an advanced guide way systems so we can understand feasibility throughout the country on high-speed rail instead of trying to nurse along the slower mode of travel. We have a train we can take to Denver but it takes several hours.

Ed – Work Sessions on February 2, 2010, there will be three things: 1) Discussion on landfill rates concern is that the revenue stream is not meeting the needs of that enterprise fund; 2) Discussion of pit liner cell and by that time we will have further definition of costs and feasibility; 3) Cost of Administration Building here in Glenwood Springs.

Commissioner Samson – We could have Work Sessions in Carbondale and Rifle.

CONSENT AGENDA:

- a. Approve Bills
- b. Wire Transfers
- c. Inter-Fund Transfers
- d. Changes to Prior Warrant List
- e. Authorize the Chairman to sign a resolution approving a one-year time extension for the Preliminary Plan for Quicksilver Court Subdivision until December 8, 2010. Applicant is Jody Daniels and Greg Hasenberg – Tom Veljic
- f. Authorize the Chairman to sign a resolution amending the Unified Land Use Resolution of 2008 in Section 7-840 E, Impacts to County Road System and 7-840 H, Reclamation/Enforcement. Applicant is Rivers Edge, LLC. – Tom Veljic
- g. Authorize the Chairman to sign a resolution amending the Unified Land Use Resolution of 2008 adding Section 7-602, Affordable Housing Standards/Rural Land Development Exemption and adding additional language to Section 8-102, Applicability. Applicant is Nieslanik Investments, LLC and the Cecilia Nieslanik Bypass Trust – Tom Veljic
- h. To authorize the Chairman to sign the Resolution approving a 1-year extension for the Preliminary Plan for the Strong Subdivision. Applicants are George and Leslie Strong - Fred Jarman

Commissioner Samson made a motion that we approve the Consent Agenda items a – h.

Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye

BOARD OF HEALTH:

ENVIRONMENTAL HEALTH UPDATE – JIM RADA AND PAUL REASER

Mary submitted the situational report dated December 14, 2009 on the HINI Influenza. This is for your information only. We have given about 12,000 HINI vaccinations. In January, Mary will submit a complete report and Jim's report will be included. This has been a very successful year, goals have been reached, and she thanked the Board for their support.

Mary Meisner, Jim Rada and Paul Reaser presented their report to the Board. This is a comprehensive report covering all the efforts in the community-based Air Quality Management Plan. The community impacted by oil and gas have concerns and have reported health concerns that are believed to be associated with the energy development activities in the area. Concerns about odor, dust, and the environment have been on the rise with industry and community growth. In Garfield County, the majority of particulate matter sources are estimated to come from road dust, oil and gas activities, construction and wood burning. Natural emissions like forest fires also contribute to levels of particulate matter. Particulate emissions have increased with increased natural gas development activities, which may include grading and leveling of well pads, construction of facilities, construction of access roads to well pads and subsequent vehicle traffic.

In 2009 pollutants monitored in Garfield County included particulate matter (PM), ozone (O3) and Volatile Organic Compounds (VOCs), including some Hazardous Air Pollutants (HAPs). Air quality monitoring sites also track meteorological conditions (temperature, relative humidity, barometric pressure, winds, and precipitation) associated with pollutant levels.

Jim reported that his information would be included in the Public Health report and thanked the Board, administration, staff and our industry community partners that have worked with us all year. We have had a very successful year in accomplishing a number of important environmental health goals. Today's focus is on three specific areas updating the Commissioners on some areas that were requested. Paul will update the Commissioners on the Regional Geographic Initiative Grant project and then the possibilities of the creation of some sort of air quality advisory committee in Garfield County as well as updating on information on how we might proceed on odor management.

Paul – Last September, an important outreach called **Citizens Guide to Air Quality Management in Garfield County**, which was included in the packet. This guide was funded through our Regional Geographic Initiative Grant and designed to communicate some of the key points presented in the assessment report. This included trans impacts to people and air quality values in Garfield County as well as what we know about air quality and human health issues. We are in the process of widely distributing the guide to a target list of organizations, community groups and making them citizens, libraries, city halls and other public offices. We have also completed a smaller fax sheet, which he also included, which is based on the Citizens Guide. These will be mailed directly to Garfield County residents. Additionally, I presented the results of from our grants to the Towns of Parachute, the cities of Rifle and Glenwood Springs thus far and will be presenting to the Town of New Castle and the Battlement Mesa Kiwanis Club tomorrow. Paul is working on being on the agendas in Silt and Carbondale. The feedback from meeting from the various town boards is positive and has results in some level of kudos for the program and potential champions to achieving objectives, leading citizens to our website, shared information on the website. Paul displayed on the screen the website and explained what was included.

Jim – The goal is to use the website to empower citizens about environmental health. Give information how they can change behaviors and improving air quality in the County with tips and information so the citizenry would be empowered.

Air Quality Advisory Committee – We are taking a slow approach to this idea, it is part of our long range planning process and in the assessment in the IRA grants. Paul did some research into the Mesa County Air Quality planning committee, which has been around for a number of years and he is looking at some other models around the country. What they do, how they function, how they are organized, how they operate and so on. Paul has been meeting individually with some of the community boards and we are using this opportunity to learn about air quality issues

are of importance to our local communities. We are hearing things like wood smoke from old stoves, open burning, cars and trucks idling, and other localized issues. We have been working with folks into the coming year in developing approaches and cooperating with them and even developing approaches that might be spread Countywide in which case we might need to have some kind of a Countywide body to help guide that type of process. In 2010, we will continue to do research and participate in local efforts, look at opportunities to expand specific programs community wide and help to identify champions across the community. It is interesting when you start talking about environmental health issues that people with specific interest in environmental topics start to float to the surface and then we start to develop those opportunities to bring folks on board. With all that, we hope that we will be able to define the function and organization structure of an organizational structure of an advisory board and bring that to the Commissioners.

Odor Management – In October, we discussed somewhat about odor management. Some citizens had come to the Board with concerns about odors particularly in the oil and gas operations. We have taken time to look into this issue and we have taken and a couple of different approaches such as the technical approach to identifying odors. Then perhaps the management of odors as well as another approach might be to look at effective communication responses and complaint responses looking at when someone identifies an odor, then how can we effectively respond to get that resolved quickly. With odors, it is a very challenging issue because we have some people more sensitive than others and we know then is taking courses in odor certification courses. The nature of odors, some things do not bother people and the same odor might bother many people. We have had fewer complaints over the last several months due to the lessening of operation and/or new regulations and/or the oil and gas companies. We have looked at appropriate of equipment and monitoring. We are not sure of the right place to put these monitors. It is very expensive to put equipment out and do expensive sampling when you may not find what you are looking for. We took the next step and looked at effective complaint response and we looked at a model being used in Denver metropolitan area, specifically Commerce City. We met individually with the Tri-County Health and the Department of State Health folks to discuss the approach they use. Their approach utilizes limited technology, primarily meteorological to identify wind direction and speed so they can identify the most likely sources in that vicinity. Beyond the technology they developed a robust communication system between the free agencies, Denver Health, Tri-County Health and the State Health Department as well as industries odor producing factories to be able to receive the complaint, wind direction and then get the information to the correct industry that is creating the odor. This has been very effective and has afforded the industry to respond quickly and deal with what might be causing the odor emissions. We have looked at this model and discussion Garfield County oil and gas department with them on how they have been dealing with these issues and it is very comparable to the Denver metro area. They are not doing any monitoring but new GIS tools they are able to quickly identify per address, who and what is operating around what parcel and rapidly provide input and information to the outrigger in the area and identify the source of the order and mitigate. Working well and Judy has said the odors they deal with are site specific and related to what types of operations are going on in the area, so at this time we are suggesting to the Board that we allow the oil and gas department to utilize their tools and continue to monitor oil and gas related odors. We will continue to provide support; we will continue to have our staff certified in odor detection and we could invest in the equipment necessary to do field-testing and confirm if a violation of state regulations has occurred. That would be our recommendation at this point.

Commissioner Samson – We have been working on a grant with Battlement Mesa and Parachute, so how is that going.

Jim – We have been working with them; the PEW Charitable Trust and the Robert Johnson Foundation on this new program to do grants for what they call impact assessments. There are multiple players looking at this and how it might fit. My understanding is they require more of a demo project and they want to have projects involving an assessment before decision-making body makes the decision. Essentially, when you look at health assessment there is a lot of various things you could be looking at. We will be talking more about this at the Work Session on Wednesday. We have a process underway and understand submittals by Antero by their Special Use Permit as well as their comprehensive drilling plan. Can we do a health assessment in a short time that is consistent with the planning process and get it done so that the Board would have all that information available to you by the final decision and can we get the health assessment completed by that time. We do not even have a grant project identified and no scope of work identified or a cost.

Commissioner Houpt – Question, does the Public Health Department have this information and should it be in front of us before we make a final decision? This is important information for us in order to make well-founded decisions. However, I do not want process to get in the way of sound decision-making.

Jim – We have talking extensive with state department and they might play a role in the assessment. Bringing it all together is not easy. To leave you with a couple of observations from this year, I will say it is interesting with air quality and some discussions in the past about the effects of distant pollution sources on Garfield County have been as follows: I made a couple of observations sitting on my patio on a nice day after Thanksgiving and it was calm and warm and saw these dust clouds coming off some of the access roads across the valley and was able to work with the operator and get the dust situation under control. Then there was a burn across from my house and it was zero degrees, no wind, I saw the plumb and a few hours later and the entire valley was full of smoke. Thinking about the issue of distant sources of pollution, we have many localized sources of air pollution in our community. If I lived next to that fire or dust cloud and I had COPD or asthma, I would be upset if not sick from having to deal with those issues. The point of that is to let you know that the work we are doing is very significant to this community. The work over the next year or two will bring attention to some of these issues and we hope to come up with some creative means of addressing them that will have minimal impact on the citizens but major impact on the health of the citizens. One of the major environmental health issues we are working on at this point is the health of our citizens. Through our CARE grant, we will find that air quality is on the front of the radar screen with many of citizens.

Chairman Martin – One comment on air pollution, without humans on the planet it would be better. However, air pollution kills species for millions of years even though humans were not here. We do add to it, you do need to take care of it, and even when we are gone, it will still be there.

Paul – We have air pollution from coalmines, etc.

Chairman Martin - We do contribute but we are not the only factor and wanted Jim to keep this in perspective.

EAB UPDATE – BETSY SUERTH

Judy Jordan and Betsy Suerth, Town of Silt Administrator and Chair of the Energy Advisory Board report. A report was submitted as follows: As required in Resolution No. 48, Series of 2009, the EAB will inform the BOCC, on an ongoing basis, of progress towards its goals, objectives and issues related to the development of oil and gas resources within the County. This update is to summarize for the BOCC the EAB activities during 2009.

One of the most important parts of the EAB's mission is to provide a forum for the oil and gas industry, the public, impacted landowners and local government to minimize conflict associated with energy development. Attached is a tool developed in 2009 to assist with the tracking of issues raised during EAB meetings. This is a spreadsheet that summarizes complaints with pertinent information and actions taken to address the issues raised at the EAB. This tool has not only provided information to help the members recall complaints and issues from the past, but has also provided the group with a more specific record of our ability to fulfill this part of the EAB mission.

The EAB has sponsored many valuable educational sessions, some of which had enough public interest to be reported on in detail in local papers. A list of those presentations was presented to the BOCC in their packet.

Also completed in 2009 was an examination of the resolution that formed the EAB in 2004. This reexamination of our mission resulted from members' agreement that due to changes in oil and gas development technology, the state regulatory climate, the activity level in the county and other factors, certain aspects of the original resolution were no longer appropriate. The outcome of that process was a new resolution that clarified the EAB mission and more specifically delineated the citizen representative areas across the county. The new resolution was adopted by the BOCC on June 15, 2009.

The EAB also established a more defined process for the recommendation of citizen representatives for appointment by the BOCC. That process consists of the Oil and Gas Liaison facilitating interviews of the candidates with a committee established by the EAB. The new process was first practiced in the spring to fill several EAB member vacancies. The process was successful and is currently being utilized to fill new citizen area representative positions in response to the new mapping and June resolution.

The Oil and Gas Liaison office and the EAB chair collaborate to create agendas that cover pertinent topics for the EAB members and public. Often times we arrange for reports on certain subjects in response to an issue that was raised at a prior meeting. This past year's presentations included reports on the Garfield County Sheriff Patrol programs, air-monitoring programs conducted by the County, the COGCC process for a Notice of Alleged Violation (NOAV), the new USGS water quality database, the Colorado State Patrol's ticketing and accident report protocol and the regulatory role of the county for noxious weeds and stormwater issues.

The EAB members continue to believe that our service fulfills a vital function for the County. We acknowledge that we can improve in our ability to resolve conflict and to provide more frequent and informative reports to the County Commissioners. EAB members have directed the Oil and Gas Liaison to investigate the cost of conflict resolution training for the EAB and ask that the BOCC consider approving a reasonable budget for such training in 2010. We strive to serve the county with the EAB mission as our guide.

Commissioner Houpt appreciated the wonderful report and both Judy and Betsy spent a lot of time and effort on the EAB board.

Commissioner Samson – Question, would it not be possible to take money out of the Energy Mitigation Fund and as a side note, could we not tap those funds also if we needed money for air quality material and equipment in Battlement Mesa.

Commissioner Houpt and Chairman Martin agreed.

Don – Caution the Board as in the past that you have to make a finding that on-going revenues are not adequate before you make withdrawals from the Oil and Gas Mitigation Fund or change the Resolution.

Judy – I doubt the training would be more than \$2,000. The Board is only asking someone to come in and give one session on conflict management and it should not be a huge process. Judy will come back for a supplement.

REQUEST FOR GARFIELD COUNTY PARTICIPATION IN GARFIELD NEW ENERGY COMMUNITIES INITIATIVE REBATE PROGRAM – HEATHER MCGREGOR

Jim Rada and Heather McGregor presented the request for Garfield County for a partner interest form by Tuesday, December 15 followed by development of a contract in January 2010. At this contract stage, Garfield County could determine whether rebate funds should be allocated or commingled.

The proposal is a \$25,000 cash match from Garfield County, to be matched 1:1 or better by the Governor's Energy Office to cover this specific gap for rural Garfield County homeowners. Heather included a list of the energy efficiency measure this \$25,000 would buy. It is a program for rural residents to achieve parity in home energy efficiency incentives for all County residents. Under the Governor's Energy Office Partnership Model, state contractors will handle the rebate program, including advertising and outreach, a call center and website, rebate processing and issuing checks. The local match could be allocated to specific energy efficiency measures, or could be commingled for more flexibility.

The City of Glenwood Springs partnership includes \$150,000 total for residential weatherization for all electric homes, kicker for clothes washers, dishwashers and refrigerators and solar PV rebates.

The City of Rifle partnership includes \$10,000 total for clothes washers and dishwashers.

Heather circulated a newer version of the Energy Efficiency Rebates for Rural Homeowners. Difference appliance rebates are not part of the partnership model so they have been taken them out and focused on a program that would give a package of home energy efficient improvements to folks in the rural parts of Garfield County who rely on propane for their home heating fuel. She settled on a program of 30 rebate packages that would include a home energy audit, insulation and air sealing, duct sealing, and an actual upgrade to high efficiency. It is an attractive package. The Governor's Energy office for 2010 has revised their rebates schedule so it is a more attractive offer this year than in 2009. Between the higher level of rebates, 40% instead of 20% and this package approach we can probably have been intake in this effort. Once again, the governor's handles all the rebate applications, the processing of the rebates and will cut a check with a dual logo on it so we have Garfield County/NECI and State logo. In trying to sell the program to propane customers this year, we did some preliminary research and just using the Assessor's on-line tool and knowing where some propane reliant neighborhoods are located within 2 -3 hours of research we were able to put together a list of more than 200 names. This list is nowhere near a comprehensive of all the households in the County that are far enough up the County roads that they do need to have propane. There are plenty of people out there who could benefit from this program. This is a one-time change for a one to one match, dollar for dollar from the Governor's Energy office. This will be in the category of insulation and furnace upgrades the match is even more attractive from the state. This will give people a real good chance at making energy efficiency improvements. Heather submitted some numbers on how it turns out for customers depending upon the actual cost of their measure. The rebate rate is going to higher for people with small homes and lower cost jobs. This may be an incentive for people who are living in older homes, perhaps elderly or lower income folks. People who have higher cost jobs in larger homes, the rebate is enough to give them an incentive to make a more, but a lot of money would come out of their pocket as a very worthwhile home investment.

Commissioner Houpt asked if Heather came up with the number of rebates from experience that the municipalities and energy companies have experienced and is there a ratio or equation to come up with 30 instead of more.

Heather – We believe that we could actually have response to that reasonable amount. This year there were only eight who availed themselves of the rebate program. That was just for insulation, there was no furnace component to that, and it will make it more attractive.

Commissioner Hought – If there are 30 rebates then our match would be \$17,250 and if there were 15 rebates then that would cut our match in half.

Heather – The way this is being presented, Garfield County could actually write a check to the Governor's Energy office at the beginning of the year and then they would draw from County money and their own fund to issue these rebate checks. If we did not get full uptake and did not sell rebates in each category, then the money would be remitted at the end of the year and any unclaimed money would be returned.

Carolyn asked about the paperwork.

Heather – They are going to want to develop a contract with each local partner in January 2010 and presume there will be a template for that because they will be doing that with many local partners.

Carolyn – How does GEO check to see people actually did these improvements before they hand out a rebate?

Heather – They have an established verification program, for one they need to see an invoice from all of the contractors showing all the work was done and that the bill has been paid. Additionally they have random verification where they will be sending folks out into the field and visiting the sites.

Chairman Martin – It would be easy because they would need a building permits to do such and local inspectors to see if that issue was permitted and has been completed in a satisfactory manner.

Jim – We would be verifying permits and an inspection on solar rebates.

Carolyn – The state will do all this paperwork; this will not be a Garfield County tax like last time around.

Heather – No, some workload in negotiating that contract but then Garfield County writes a check, they handle the entire process, and they are interacting with their customers. The Governor office will know who is being targeted with this offer and GNECI will provide some additional public outreach to let these folks know.

Commissioner Hought – At the GNECI meeting, we have the funds available for this support.

Ed – Yes we do.

Commissioner Samson – Where do the funds come from? Ed – The Commissioners slush fund.

Commissioner Hought thinks everyone knows that she supports the GNECI partner in this program. It is another way to work on home energy efficiencies and education and help those people who are less able to accomplish this to move forward and there are more people who have the ability to do this than not without County support but there are those people with propane in rural areas who do not qualify for the rebate programs that are other people who are on natural gas. GNECI is trying to fill that gap and I am going to put a motion on the table to approve participation in the Governor's Energy Office Partnership Program for Rural Propane Consumers; and that we commit a match of an amount of \$17,250 for this program and authorize staff to work with the Governor's Energy office to put a contract together.

Commissioner Samson – Second. Ed – The check is to be cut in 2010.

Chairman Martin – I think the program is great, the initiative is great but it is still coming from the Reinvestment portion of federal government to the State of Colorado as well as the Energy Development Funds from the Governor and I do not think this County needs to be a bank, do rebates, etc. I do not think the State of Colorado should do this either. It is on the private enterprise and the taxpayer dollars should not be going in there to entice those who have money to get this work done and leave those who do not have the money to get it done high and dry. That is what we are doing. This is only good if you can afford the entire project. The people that need this do not have the money to do the other 2/3rds. So I oppose.

Commissioner Hought – They have the sliding scale so those people who have less income will receive a larger rebate.

Chairman Martin – Only if they spend the money and it bothers me.

Commissioner Hought – It makes it a personal option.

Chairman Martin – We have about 62,000 people in Garfield County and the percentage is low for those who can participate.

In favor: Hought – aye Samson – aye Opposed: Martin - aye

PROPOSAL FOR TAX CREDIT AND SENIOR EXEMPTION – JOHN MARTIN

Chairman Martin presented the proposal, which includes the following:

1. Senior Exemption
 - a) This would cost approximately \$400,000 dependent upon:
 - i. Number of seniors
 - ii. New assessed values
 - iii. 2010 mill levies
 - b) Garfield pays the entire exemption
 - i. The State has done this in the past
 - ii. Would cover all the taxing entities
 - c) Payment would be made from the Oil and Gas Mitigation Fund
 - i. Current resolution is attached
 - ii. 2009 year end fund balance projected to be \$17.5 million
2. Tax Credit
 - a. Approximately 32,000 property tax payers in Garfield County
 - b. Maximum payment up to \$100 tax credit
 - c. Approximate cost to Garfield County would be \$3 million

Chairman Martin – Understanding that hard times are falling on the taxpayers from Garfield County plus those taxpayers are property owners and we have verification in reference to this is not applicable on tax money that we are trying to rebate back to the folks who pay property tax. This is from the Energy Development that has taken place in the form of leasing, that account is about \$26 million dollars, and I feel a portion needs to go back in Garfield County. I proposed that we give the seniors who are entitled and have registered and worked with the Assessor's office and actually have records, to be able to write them a check and say thank you very much for being a senior and paying taxes as long you have and since the state is not backfilling these taxes, we are going to go ahead and send you a check for the amount that you have earned on your primary residency. I think that is about \$395,000 to the seniors so Garfield County needs to do this.

The other one was to give tax dollars back however, we are not under Tabor and even if we did, under the excess revenue that we collected, 82% will go back to the energy companies. I think those folks who are seriously struggling that need help that would like to have some rebate should also receive a check of up to \$100 back. They can use that to either pay their taxes or use it for whatever they need to do because the energy development has raised the property taxes up and production and we have seen tremendous increase of valuation however we have seen mill levies freeze. These mill levies are not going up and down, as they should. We have received again excess revenue of \$12 billion dollars beyond what had been predicted in reference in our tax levy and a portion of that needs to go back to the taxpayers that deserve it the most. Therefore, my proposal was to put into the budget the amount that would give \$100 back to all parcel owners and the total amount that would go to the senior exemptions which is actually under \$3.8 million total and both of those programs would actually be checks in the mail to the taxpayers of Garfield County. That is my proposal and again, we would have to look at the Resolution in reference to Energy Mitigation Funds, it is \$26.6 million dollars that we would have to revisit. However, it is not time sensitive because we are not using the state statutes to do it and we are not Tabor to do it; it is the money that we need to decide if we are going to give back to our taxpayers or not and or seniors so I would say that we sit down, hammer out the details and make a decision and send it out or not.

Commissioner Houpt wanted to hear from the Treasurer, Assessor, and others who might weigh in as well.

John Gorman – Assessor and Georgia Chamberlain, Treasurer presented.

John Gorman – I think there are a couple of issues of possible inequities in returning monies before just deciding to hand out money. I like the idea of using the Energy Impact Funds to relieve the impact of those that have been impacted. In my neighborhood I really have not been impacted and I do not think in Georgia's neighborhood she has been impacted. The folks who have been impacted are those who are living in the gas patch. You heard a bit today about some of the ways in which they have been impacted with dust, fires, chemicals, pollution, noise, light but I have escaped all of it just because of my location. In addition, some of the other aspects that have been hit in the gas patch were real impacts. Some people have perceived health impacts. Another thing that has been happening in the gas patch is that values have been definitely going up. In looking at this history of the mill levies, they have been depreciating to the point where many properties actually have real dollar taxes that have not been appreciated. Their value goes up but the mill levy goes down. The reason for that is that there has been so much assessed valuation represented by the oil and gas value that many of the taxing authorities have lower their mill levies because they were able to fund their purposes with a lower mill levy. That has occurred because they had such a greater assessed valuation and that impacted a lot of homeowners by keeping their taxes leveled or in some cases actually lowering their year ad valorem property tax. On one hand, they could really use some mitigation; on the other hand, they have received some tax relief compared to the rest of the County because of the activity that is taking place in their neighborhood. In places like Carbondale where Georgia lives and in Glenwood Springs we have seen an increase in valuation and a proportional increase in our tax levels. There have been a few taxing entities that have lowered their mill levies could be used. They have received some tax relieve due to the rest of the County. Carbondale and Glenwood Springs has seen an increase in valuation and a proportional increase in tax bills.

One of the major ones has not been able, due to mandates, odd mix and impacts that all of us have had. We can say Glenwood Springs and Carbondale deserve some relieve as not impacted and not given a mill levy relieve as the rest of the county. Any citizens like receiving back from the County. At the same time, we know what the future holds in ad valorem tax revenue reductions. The County needs to be retrospective in looking at spending any money, not just on giving money back and the way we spend every penny. The County will receive less revenue. I am especially concerned about seniors who have had a few years if senior exemption and who live on fixed income and who have seen their values go up and hence their tax bills go way up and hate to see them lose the small amount of relief they get from the senior exemption. If there were a way to extend that relief to them I believe it would be a worthy purpose. County look at what will this will cost in total and whether the County can continue to give that kind of relief based on the future.

Georgia – I am uncomfortable trying to rush something through and make it happen with the tax bills that are to be sent out at the beginning of January. Anything on the tax bill would take more than a month to make it happen with the computer software. I think it is important to consider the cost of implementing the program. Checks could be mailed out to people, what is the cost to that versus the relief to people who would benefit versus using programs that are already in place that would help a broad range of people in that are suffering from the boom and bust economy plus the economy as it is globally. County has money now but we may funnel towards more needy people. All of those are complicated ideas that we need to look at from how much it would cost to implement, who are the most worthy people and those most needy and our County as a whole would benefit from distributing this money.

Chairman Martin – The idea was to find a way to make it happen instead of how many ways that we can stop it. It amount to that we need to take a good look at this and give these folks into 2011 and 2012 and to assist them but we still have the overall projection of three to five years that we will actually gain in fund balances and not overall lose in fund balances. This is the time these folks need it the most. We will be the only ones able to give some money back. The State of Colorado froze the mill levies to the schools. 60 to 70% of your tax bill is frozen based on these new valuations and we need to give some relief to the 13.6 mills that run Garfield County back to those people that have been paying that forever.

Commissioner Houpt – I have a few concerns about this and thanked both John and Georgia for responding. I agree with the Assessor that there is not a single person in Garfield County who would like to receive some kind of check in the mail but the reality is it could range from \$2 to \$100 cap. Would those people who have multiple rentals be the people who are receiving thousands of dollars in rebates because they own more property than a person who actually could benefit from this type of program? If you attach it to property ownership, I am not sure that is an equitable way of administering this type of program if your intent is actually to help people in Garfield County who are being impacted by the economic downturn in the economy. The cost of implementing the program when you are looking at that differentiation in reimbursement is a good question. Will it cost more to send a check to someone than the actual value of that check would be and what value will that have on the citizens of Garfield County. Over the past several years this commission has been very conservative in budgeting some people have been happy about that and some think that we are trying to conserve too much. I think when our County relies on energy development and know the economy and resources will be going up and down need to think about how you plan for the long-term. We as a County have planned frugally over the years, we do have a reserve, and we do have moneys to look into the future if there are impacts that need to be address because of not only a downturn but also impacts from

energy development. Some things may occur later on that we are not aware of today. We are in a position right now, if we continue along the line of budgeting as we have in the past, we will not have to shorten hours of service, close doors of certain days or lay people off because we have a reserve that we are anticipating that will carry us through the downturn will occur in 2011. It is very difficult for me who has to make the decision with public funds to start negotiating in a public session on how we tweak things to give money back to people and what has been presented today in terms of a potential tax credit does not make a great deal of sense. If we were to support the senior exemption we know the structure of that; we know who have been served in the past and we know it is not in place because the state budget is in a very difficult stage and they cannot afford to accommodate the seniors in the exemption that was put in place previously. That to me would be a program I could support because we would be serving people who are on fixed incomes. We would be serving them through an equation that is established and we would be able to predict and understand. I think if we look at a general tax credit program I would throw out of different ideas that we are not able to respond to today. I would want to see some number on how we can reach a broader community, not just those people who were fortunate enough to move to Garfield County when you could still purchase property but those people who are struggling to stay here and do not own property. There are a lot of questions and discussions that we as a Board need to have in terms of a program where you want to reach as many people as you can. Then the question needs to be we afford it. Our budget looks good right now but we are planning for the future and it may not look good in a couple of years. We know that almost every county across the state is laying people off, freezing salaries, or slowing services down. I do not want us to intentionally move Garfield County into that situation.

John Gorman - 2011 is no problem whatsoever. However, to make predictions about 2012 through 2017 that is more challenging. In April I told you what I thought would be reduction approximately in property tax revenue for 2011 but I did not know what it might going out further. County has an adequate reserve to run through 2011. Since April in the news, other places we see that there are cheaper, shorter and faster ways to access natural gas reserves than can be done in Garfield County. As long as the economy is in the state it is now the development of natural gas will be in those places that are less expensive to get. That is a simple business decision. In addition, we are going to start to get in the United States deliveries of liquefied natural gas and those will support a market that is less high that required re-stimulating exploration and development in Garfield County. 2012 – 2017, I have real question about how quickly we will be able to establish the kind of production and value levels in this County that we saw last year. It may be more in line with some of the economist predictions of a slow recovery rather than something that happens very quickly. I would think we need to be cautious in any sort of return in the kind of oil and natural gas tax revenue streams that we have seen in the past.

Chairman Martin – That also goes with the national economy in reference to importing natural resources, and less here. We have said we are going to be more self-sufficient but we are farther away from that concept that we have ever been. However, the other issue is it is a one-time dollar back to the citizens, it is not a program over all and it is to take care of one issue and one year. We are not making a final decision today and we will continue to work on it and bring it back.

Commissioner Samson – I do not think there would be any problem with the senior exemption; we could pass that right now. Nevertheless, Georgia has said she is nervous about doing that so quickly, however, for the press' favor, we could say the three of us agrees for the senior exemption. The tax credit, I have some real concerns about it and we need to work some things out about it. When are we thinking of passing the senior exemption?

Chairman Martin – At that point I want everyone to be comfortable, identify the sources of money and have it on the agenda to proceed to discuss and take action.

Georgia – It is the Assessor and Treasurer and whatever is passed, I think we need to specifically have the name for it, I do not think we can use the senior exemption. I think because we cannot just say according to the Colorado Statute that gives the money, I think we will have to specific identify what the qualifications are for the seniors.

Don – Debbie has looked into this and both of us are not very comfortable literally saying we are applying the senior exemption because that is a specific statutory criteria and tax exemption that applies statewide based upon rules and regulations from the state. You can use that statutory criteria as a measure for the amount of money you want to return but it has to be identified from a specific source and it would not be an actual tax exemption. Right now, it exempts certain properties from valuation and hence functions in the same tax exemption. You cannot put in place what the state has refused to do but you can backfill someone with a payment for monies they have paid as taxes perhaps and that is what I think what you really need to focus on.

Commissioner Samson – So we need to focus the staff on that and bring it back.

Chairman Martin – When everyone is comfortable and satisfied with that then we can bring it back to the Board as an agenda item for discussion and position. I still think it has a lot of merit and I believe we should take care of our seniors.

John – Some call it the senior tax bill benefit.

Georgia – There needs to be discussion on mechanics, there is one of the things to be discussed is the state has in place the tax deferral that seniors can qualify and in which the state will pay their taxes for them. It is like a loan and that loan does not need to be paid back until the ownership of the property changes. Therefore, this senior exemption would need to be identified how it would interact with that senior tax deferral. This can be done every year. It is a very low interest rate of 2% to 3% to help them be independent and paying their own bills. Seniors want their independence. Some look at it as a loan on the property that is escalates and others look at it as a way to pay own bill and be independent from their family. It needs to be addressed if the County is going to be paying part of the taxes.

Don – That is another reason why we need to step away from the tax cuts and treat this as a benefit concept.

Chairman Martin – It is not a tax issue it is revenue we have that is not ad valorem tax and needs to assist the senior taxpayer.

Georgia wanted the finance department to be present as well.

John Gorman – We can call it something like that but to have it function and even if the senior is making use of the tax deferral, they are technically incurring debt and we can still help them out with this benefit. To take a look at those who have qualified for the state senior exemption because it really is an exemption as part of that individual is concerned, but the County still collects every penny of tax, not all of it from the individual taxpayer but the state has provided that money and that is not an issue. The money has to be paid to Georgia but what this Board does to give

some benefit for a senior is what you are considering and I think it is a wonderful idea. Implementing it is going to be a squeal.

Chairman Martin – Some of the seniors I have talked to think it is nice but I do not want you to pay our bills. We have that in front of us as well so we need to be delicate in how we present this. We also have Mr. DeFord's concerns about fair and equity in receivers of money. I understand all of that but I think we need to find a way of doing it instead of finding so many ways that it is not possible and it is frustrating. We can always throw up obstacles.

John Gorman - Anyone who does not want the money can send it back or destroy up the check.

Commissioner Samson – I would like to direct staff to bring this back to use the second week in January and put it on the agenda, the Senior Benefit Program. Just draft some stuff, bring it back to us, and get it done. The other one, the tax credit, we will need a Work Session.

Don – Those involved would be Ed, Lisa, Theresa, John Gorman, Georgia, and legal.

Citizens

Dr. Law – 1610 Cooper, a resident and taxpayer since 1957. Any illness I have incurred has been result not from gas issues. The idea is very intriguing and if there were a way to produce from reduction and pain from taxation I would be in favor of it. I have probably as much money in my billfold for walk-around change as it would mean to me but that is totally beside the point. The revenue that is available to spend on reduction on our taxes for housing was raised by deducting that same amount of stockholders and totally recovery organization. In effect if there is any such thing outside of Washington, DC, it is free money. Moreover, if the Board decides to give some of it back to those you raised it, you will receive some accolades from the taxpayers instead of the usual comments that you get in letters.

REQUEST FOR LETTER OF SUPPORT FOR GLENWOOD SPRINGS ASSOCIATION OF REALTORS – SUE THORSTEINSON

Sue Thorsteinson presented the request for program support/loan limits to support the Glenwood Springs Association of Realtors effort to raise the FHA Conforming Loan Limits here in Garfield County. We hereby request that the FHA maximum conforming loan limit for Garfield County, Colorado be increased to the maximum \$729,750 level from the current level of \$425,000.

Adjusting loan limits in Garfield County will assist in the housing market making a comeback countywide and create jobs here; because housing in the eastern part of the County is an integral part of the resort economy, so important to the people of Garfield County.

Ken Williams of Design Associates a realtor in Carbondale was also present. Sue and Ken gave reasons for the program support and said the deadline is next week. In comparison with the oil shale bust on 1981 in terms of confidence now than we had at that time I think we all realize that the Roaring Fork and the Grand River valley are integrated, are resort areas. They provide many jobs and economic stimulus in our County comes from that interface that takes place at El Jebel, Carbondale and in Glenwood Springs. The issue of the loan limit is that all areas should have the ability to follow natural economic patterns, which traditionally the eastern portion of the County has come from proximity to the resort areas. The resort areas are the drivers and traditionally the further away you get the lower the prices are of the homes. If you stick an artificial impediment in the middle of that natural economic regression, you start to get distortions. I believe that is occurring now and the statistics prove it. We have obtained information from title companies that will support our application over loan limits. This is part of rationalizing our economy Countywide. It is a start but not the final answer to many of our economic issues that appear in the valley, some of which have been accumulating for many years. Affordability for instance where does the loan limit tie into this? It has to do with mobility. When you have a situation where the need entry-level housing and how to people climb the ownership ladder. Edwards is a metropolitan area, Silverthorne, Canon City etc are metropolitan areas. The other areas of the state have seen some advantage from this and closed with the fact that the loan limit are not granted uniformly across the state. There are counties that have lower median prices than Garfield County with higher loan limits and not sure why. These are areas as a citizen of Garfield County we need to look at. Are we getting a fair shake as a County; this is part of this issue.

Sue is asking for a letter of support from this County indicating the need for a higher loan limit and backing up our arguments from this morning for a metropolitan area. Our request is to increase the loan limits for Garfield County for the full \$729,750 level. The Glenwood City Council and the Carbondale Town Trustees have given us support and we have a large support from Senator Bennet, State Representative Kathleen Curry and Congressman Salazar. Commissioner Houpt made a motion that we approve the signing by the Chair of the letter to the US Department of Housing and Urban Development on the FAA Conforming Loan appeal for Garfield County as presented to us today. Commissioner Samson – Second. My main concern with this is, as I understand it, one of the main reason why the United States is in a financial mess right now is because of the Savings and Loan and the mortgage and all of that. That gives me concern that these people are going to borrowing almost double the amount of money, three quarter million dollars to buy homes. I hope that the rules, laws and regulations are there to make sure those people are not getting over their head, because that is what got us in part of the mess we are in right now.

Sue – With the FHA, their loan limit and regulation on loaning limits have tightened significantly, actually Congress is dealing with them right now on their capital reserves are very low and they caught some loan levels they should have caught, so because of that their regulations are tightening and they do not loan to just anyone.

Chairman Martin – Sell those group mortgages etc, nothing down, no income, no anything and get a half a million-dollar loan that is what caused a lot of problems. If they do make it where they have to put 10 to 20 percent down, have a job, credit ratings and afford what you buy. If you cannot do it then you should not qualify for the loan. In favor: Houpt – aye Samson – aye Martin - aye

PRESENTATION OF FINAL 2010 GARFIELD COUNTY BUDGET FOR APPROVAL AND ADOPTION – THERESA WAGENMAN

Lisa Dawson and Theresa Wagenman presented the Garfield County Budget for 2010 and requested approval and adoption. Theresa stated this was noticed in the newspaper.

Don verified the public was noticed and has a copy of the actual notice that did occur.

Chairman Martin – Accepted the notice in the record and swore in the speakers.

Theresa went over the budget books and gave some account of the changes.

Lisa stated this would require two motions, one to approve the budget and the second to request adoption of the budget as of today, December 21, 2009.

This budget does not have the 2% - it comes from the pay and compensation plan. Whatever is paid will be paid out of the budget. It has not been allocated out of it.

Chairman Martin stated he had one disagreement, which was the \$63,000 to the Human Services grants. He feels this should be discussed further in length; it is one of those issues that will cause problems in the future.

Commissioner Houpt commented the Human Services Commission came in front of us and we gave our opinion.

Chairman Martin – This is a grant program and he feels the entire fund balance should have been awarded.

Don asked for clarification if the action set out today for the authority of the Chair to sign the resolution to adopt the budget, does the budget today include the changes set forth in the memo and should they be included.

Theresa clarified that the changes are in the budget book and all the numbers are included.

Don asked that the Board act of the Resolution first and then go to the certification of the mill levies, politically certifies and certify the mill levy and next Monday, levy taxes for self and other entities on the County. Discussion in terms of the salary issue and pay increase. Wednesday is a workshop and we cannot take action on Wednesday if there is an alternation so this would be set on the agenda for Monday.

Don - Adoption of budget is not a contract to spend the money put the money and must proceed with that contract to spend the money.

Commissioner Houpt moved to close the public hearing. Commissioner Samson – Second.

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

Adoption of the Budget

Commissioner Houpt - I will make a motion that we adopt the annual operating and capital budget for fiscal year 2010 and authorize the Chair to sign the Resolution for the Budget.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Certification of the Mill Levies

Commissioner Houpt made a motion that we certify the mill levy for 2010 as budgeted.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

Excellence in Annual Reporting

Ed announced that the finance department received the Governor's award for Excellence in Annual Reporting for Comprehensive Annual Financial Report however, the auditor, Paul Backus will be present to present that award next Monday.

TRAVELERS HIGHLAND PID – PATRICIA FREDRICK

Patti presented the public notice and information pertaining to the Travelers Highlands Private Improvement District. Karl submitted a packet previously on this issue.

Public notice was accomplished and photographs of the three postings within the statute as well as the posted notice in the Courthouse as required by statute were complete.

Jean verified the posting in the Courthouse.

Chairman Martin swore in speakers.

Patti stated there are two items before the Board as the Board of Directors of the Improvement District. The most important is the recommendation to this Board of County Commissioners to be made by this Board of Directors concerning the mill levy for 2010. This Board of Directors must make a recommendation to the Board of County Commissioners by tomorrow statutorily concerning the mill levy for 2010. It is up to the Board of County Commissioners to certify the mill levy, accrue that mill levy, and send it onto the Assessor for assessment in 2010. It has been proposed that the mill levy continue as stated in the Issue 1B in the election of November 4, 2008 that the mill levy be set at 50 mills that would result in an estimated income for 2010 in the amount of approximately \$45,000. Under Issue 1B that was approved by the Directors of the District, 50 mills is the maximum mill levy that can be imposed. Karl Hanlon could confirm that expenses, including the expenses forming the district have exceeded that \$45,000 already. The one action that is most necessary today is for the Board of Directors to certify that the mill levy to the Board of County Commissioners in the amount of 50 mills of every dollar of valuation for assessment of taxable property within the district during County fiscal year 2010. The second issue, which we need direction from the Board of Directors on is the issue how now we are going to determine what costs are costs that ought to be reimbursed out of the District's finances; the mechanism for that cost reimbursement; and the Board of Directors would like our department to work with in coming up with By-laws or direction concerning those matters. Would this be Mr. Hanlon and his client or the question is whether it would be our Road and Bridge Department or our Planning Department, at any point we are looking for direction from the Board on that issue.

Mill levy: Karl said the numbers were based on 2007 assessments; the incomes may be slightly higher in the assessment for 2008 but clearly, there are on-going maintenance issues between \$500 and \$1000 per month for road maintenance, snowplowing and things like that. There is also the larger issue, which is CR 300 and the work that has already been completed. I hate to see money spent for things other than on the ground but availing yourself of special district council would not be the worst thing in the world as staff has a lot going on as well. Bob Cole of Collins, Cochran and Cole represents the Town of Gypsum and is up here quite a bit. Bob's firm is a solid special district firm and in creating By-Laws for a special district like this, their boiler plate will be created faster than what your legal staff could do. I am happy to help out, but I represent property owners in the district.

Don said he knows Mr. Cochran and most of his work is done pertinent to special districts, not this type of special district. That is up to this Board. Of immediate concern is establishing the mill levy. You do need to actually assemble as the Board of Directors of this District because at the end of the discussion today, you will need to take action as the Board to the District certifying to the County Commissioners a mill levy.

Commissioner Houpt made a motion that we go into session as the Board of Directors for Travelers Highlands PID. Commissioner Samson seconded.

Chairman Martin – This is still in the public hearing.

In favor: Houpt – aye Samson – aye Martin – aye

Don – In that context, you do need to establish some policy issues concerning such things as

Maintenance of improvement, construction of improvements and if you are considering bonding improvements for this district you certainly need bond counsel for that purpose. These are the types of things you need to discuss as the Board. You will need some substantial information in terms of costs, appropriateness of the activity and that is why Patti said what she did about involving other members of your staff. It may reach a point where you will need to retain counsel for the district, but I do not think we are there yet. I think we need to make some preliminary

decisions first of all on administration of this district and how to administer this district and whether or not your administrative staff can act as advisors for that purpose. Right now, it seems as if they can do that.

Chairman Martin – That would include an engineer, administration and finance in reference to the permitting and I would pose that question for this Board to go ahead and review all the criteria, expenditures and all the information we need to make those decisions as the governing body of the special district. Include those with our staff and set up a special district meeting, get that information and actually convene that in a public hearing session and make some decisions, making that recommendation back to the Board of County Commissioners.

Commissioner Houpt – It is important to include Mr. Hicks and anyone else who you deem appropriate. I would not want to work on this in a vacuum.

Don – The past expenditures justify the position of the maximum permitted mill level at this point. It seems obvious that the revenue generated by that mill levy will be expended and if not immediately depending upon the policies of the Board, for instance establish a reserve, future expenditures would justify that as well. As long as there is some evidence in front of this Board at this hearing that past obligations and future expenditures would justify the anticipated revenue for 2010. For that purpose, we may need testimony from Karl Hanlon.

Karl Hanlon – The necessity for today is to certify the mill levy cut and the revenues to be expended by statute specifically be organizational costs are around \$12,000 to \$15,000. There were some costs in anticipation that were incurred that exceed the balance of the anticipated revenue of \$30,000 to improvements to the subdivision and CR 300 and the on-going maintenance that has occurred in the last year since the formation of the district on an on-going basis that has been covered by property owner primarily Mr. Hicks. For purposes of certifying the mill levy we ask that you certify the mill at 50 mills and the Board of County Commissioners be levied in 2010.

Karl – Suggested the Board sitting as the Board of Directors of the Special District, direct whichever administrative staff members, it may be more efficiency as to who we need to talk to and we can get together first before we sit down with you.

Don stated that you would need to have administrative staff that would assist you in administering the district; the function will be to prepare the appropriate documents.

Commissioner Houpt – Do we not have to have staff come together and figure out what we are supposed to do here. We have nothing in front of us. I would like staff including Patti to bring to us a process that we need to go through so when we meet as the Board next time we know what decisions we need to make.

Don – Patti should be included but I am looking for direction on who is going to be involved for sustentative issues.

Chairman Martin – We include our administrative staff, engineer and our finance department, planner and one representative from this Board to be on that committee so we can go ahead and relay that information to the appropriate places.

Ed said Bob Prendergast would make the most sense.

Commissioner Samson – I will second the motion but I need to get some background. Is there any precedence for this? I am lost as we as a Board are now the Board of a Public Improvement District, is this the only one we are the Board of?

Don – For this type of district, the answer is yes.

Commissioner Samson – Is this a common thing?

Don – It has not been in this county. There are different types if improvement districts and it can include this type but more commonly, it includes different statutory provisions, when you set up districts to be financing tools. This district was set up so that it would function not only for financing purposes but also for on-going maintenance and administration purposes and that type of district is unique in this county.

Commissioner Samson asked why it was formed.

Don – The election was made and I do not know want to look at Karl because it was a joint decision by this Board and others that there were maintenance and on-going issues in this area that required we follow this specific set of statutes.

Commisioner Houpt stated we looked at other options to accomplish what needed to be done in this particular area and this was the tool that made the most sense. It is so foreign to us that we are not sure what we are being asked to do today.

Don – If you go back in history, this was a pre-1962 non-conforming subdivision, which means it was formed without the approval of the County Commissioners at the outset as a subdivision. Because of that, there was the usual ability to address things such as street improvement, security to assure street improvements or maybe most importantly, a Homeowners Association or property owners association that would exist to conduct some of the ongoing maintenance issues that today we make those associations do. Because it was not originally formed under a County authority, the streets and roads were not accepted as part of the County road system. There was an argument that they were public and the Board eventually accepted them as public roads but they were not part of the county street system. Therefore, from that perspective that was not a legal mechanism to maintain the roads and improvements in the subdivision. So we had to come up with a mechanism that would not only construct improvements but then maintain then once they were built and this particularly statutorily scheme gave the County and the property owners the ability to do that.

Chairman Martin noted a motion and second on the floor to identify the governing board to make the decisions and recommendations to the Board of County Commissioners and that included administration, finance, engineer and planning departments and a member of this Board. It was determined that this was in Commissioner Samson's district.

Chairman Martin – Move forward and put information and bring it back to make recommendation to make expenditures.

Karl asked who would be the point person. Fred Jarman is the one to contact.

Don stated, you need to certify the mill levy as the Board of Directors. You can come out of the public hearing as the Board of Directors for the District and then make a motion to certify the mill levy.

Commissioner Houpt made a motion to come out of the Public Hearing. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt made a motion that we certified the mill levy for Travelers Highland PID for 2010 in the amount of 50 mills to be levied in 2010. Commissioner Samson – second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt made a motion that we come of the Board of Directors for Travelers Highlands.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye
Chairman Martin asked Patti if any funds have been collected from the special district.
Karl stated not until 2010 – this is the first cycle.

TRANSCARE AMBULANCE LICENSURE AND PERMITTING. APPLICANT IS ALLEN HUGHES – DALE HANCOCK

Carolyn stated the only notice required under the regulations was to the applicant and they waived formal notice when he was in front of you last week.

Carolyn Dahlgren, Dale Hancock, Allen Hughes of Transcare Ambulance Service, Marty Winston Chief Executive officer from Grand River Hospital and Deborah Weckling officer for Valley View Hospital were present.

Dale Hancock stated that he believes the County's Licensing and Permit application for ambulances owned and operated by TransCare Inc are complete, and in compliance with the requirements identified in County Resolution 2008-59, a resolution concerned with amendment, repeal and re-enactment of the Garfield County Emergency Medical Services Resolution. He would therefore recommend the licensure of TransCare Ambulance Inc and the permitting of ambulances designated as Med 6 and Med 7 be approved. These documents were submitted by the Garfield County Emergency Trauma Advisory Committee designated ambulance inspector on November 17, 2009. Dale finds that the application and certifications are complete and in compliance with the requirements identified in Exhibit A. Dale asked that the ambulances as designated as Med 6 and Med 7 operated by Transcare Ambulance be licensed and the business of TransCare be licensed to operate ambulances in Garfield County.

Allen Hughes submitted paperwork of TransCare of what and how we do and what we would like to do along with references and with the facilities spoke about the importance of inter-facility transports.

Deborah – We are here both Grand River Medical Center and Valley View Hospital in support of the licensure for TransCare Ambulance. We began meeting both hospitals in June of 2008 and have had multiple meetings through that year and into 2009. Those meetings we had were with Western Eagle County Ambulance, Glenwood Fire Department and Rifle. We then had a proposal for Western Eagle County Ambulance for the cost that would be for the service. Not all of the proposals we had did guarantee 24/7 coverage. We supported West Care Ambulance Service in the Town of Silt for both hospitals for about \$120,000 per year. In 2009, we received a letter from the Town of Silt stating that West Care Ambulance would no longer be in business effective January 1, 2010; with that we had a meeting in the fall with TransCare who gave us a proposal and we felt based on our criteria that we needed both Grand River medical Center and Valley View Hospital supported TransCare and the authority to transport.

Marty – The criteria used in order to evaluate inter-facility transport options were safe, prompt and cost effective service to provide transportation between facilities at the higher level of care for our patients. As we put our criteria together, the first think was the availability of 24/7 services for all inter-facility transport including nursing home, psychiatric transfers and detox transfers. We wanted the prioritizing of those services to be equivalent to 911 prioritizing. The best possible situation that we identified was one in which inter-facility transport did not complete with a 911 call that might be going on at the same time or a fire call that might be coming on at the same time. The other thing we were looking for was advanced life transport training on the part of the crew and we ideally identified a need for registered nurses to ride on certain calls. We were looking for a cost effective solution, we had been supporting West Care at the rate of about \$120,000 per year for some time and it ideal to stay within that range. We wanted an experienced transporter with references that we could check and a positive track record of inter-facility transports in rural communities. With that entry of Transcare in the market, we believe we have found a provider that can meet that nitch and I think an important thing to stress is that we do recognize that there is much to be done in the way of a countywide transportation plan for patients. With the entry of TransCare finally filling the inter-facility nitch in a way that can be relied upon we think that we are currently positioned to begin conversations with fire departments, the County and anyone else who wants to participate in discussion about a plan that encompasses all types of patient transport.

Public Discussion:

Mike Morgan Fire Chief at Rifle Protection District said, I am here to learn and getting most of the information from the newspapers and it is good to hear if it is inter-facility a couple of things for clarification. There has been some misperceptions with the fire service is not, we do not believe we are the right people to take over inter-facility transport especially in those non-emergent situations and also think we need to look at this as a systems approach and utilization of ambulances to take people to detox maybe overkill. Over time that requires some partnerships on everyone's part to think along those lines. If it is true that an inter-facility transport registered nurse availability and if we can adapt that into o a Countywide EMS system to provide quality patient care, I think from my perspective is the bottom-line. We have to make decisions based upon what the patient needs and if that means diverting a 911 ambulance to the appropriate medical facility and we can build a system that does that, those are some of the comments and asked if there were any questions for him. One of the additional confusion that occurred was the letter from EMTAC that we all need to sit down and talk and he would like to see that happen.

Sam Potter – President of the Board of Directors of the Grand River Hospital District said this is one of these situations where we have an independent private contractor that can fill the nitch with requiring the least amount of public funds to provide service a very needy service for our constituencies.

Commissioner Samson moved to close the public hearing. Commissioner Houpt seconded. Motion carried.
Commissioner Samson moved that we would grant the licensure of TransCare Ambulance Incorporated and the permitting of ambulances designed as Med 6 and Med 7. Commissioner Houpt – Second.

In favor: Houpt – aye Samson – aye Martin – aye

REQUEST TO MAKE A TAKINGS DETERMINATION UNDER SECTION 12-107 OF THE UNIFIED LAND USE RESOLUTION OF 2008. THE PROPERTY OWNER IS IRMW, LLC, TIM THULSON, REPRESENTATIVE – TOM VELJIC

Cassie Coleman, Deb Quinn and Tim Thulson were present.

Deb stated it was her understanding that the applicant wishes to withdraw the request for a takings determination.

Tim Thulson, representing IRMW, LLC was present and confirmed. Tim stated we are in district court at present but we have worked out a screening plan that we believe is acceptable both to the applicant and the County staff and believe it is a good plan and we will incorporate it there. The other previously notified violated uses have been removed or stopped all together.

Cassie Coleman representing the County confirmed that what Tim stated was correct and in line with what was discussed earlier.

The Board had no objections to withdrawal.

Commissioner Samson – So moved. Commissioner Houtp – Second.

In favor: Houtp – aye Samson – aye Martin – aye

CONSIDER AN APPEAL TO DIRECTOR DETERMINATION REGARDING SUBSTANTIAL CHANGE RELATED TO A REQUEST TO ADD “ROPES CHALLENGE COURSE” TO THE CAMPER PARK/COMMERCIAL RECREATION ZONE DISTRICT WITHIN THE ROCK GARDENS PUD. APPLICANT IS ROCK GARDENS MOBILE HOME PARK AND CAMPGROUND (KEVIN AND KATHLEEN SCHNEIDER) – KATHY EASTLEY

Deb Quinn, Kevin Schneider owner of the Rock Garden Mobile Home, Campground and Resort, Kathy Eastley, Ron Liston with Land Design Partnership and Michael Sawyer with Leavenworth & Karp were present.

Deb Quinn reviewed the notice and publications and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.

Tom submitted the following exhibits:

Exhibit A –Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application; Exhibit E – Staff Presentation; Exhibit F –Letter dated December 8, 2009 from Eric Mangeot; Exhibit G - . Chairman Martin submitted Exhibits A – F into the record.

Exhibit G – Folder provided by the applicant regarding notice to all property owners within 200 feet, pictures of the notice sign, proof of publication, and green cards and returned receipts.

Chairman Martin – submitted exhibits – A – G.

Kathy stated this is an appeal of a Director Determination regarding Rock Gardens PUD access off CR 129 in No Name.

The Rock Gardens PUD was approved in Resolution 2004-69 by the Board of County Commissioners. The zoning restrictions for the site are contained within Exhibit B to that Resolution. This site is located in Glenwood Canyon at the No Name exit off Interstate 70. Adjacent uses to the site include I-70 to the north, a Colorado Department of Transportation (CDOT) facility to the east, the No Name rest area to the east, and a residential community to the west.

The area of Planned Unit Development occurs from the north side of the Colorado River, including the river and a portion on the south side of the river. The PUD area on the south side of the river is adjacent to the McKeel property. The PUD zoning for Rock Gardens is divided into two separate sub-zone districts – “Camper Park and Commercial Recreation District” (CPCRD) and “Open Space District” (OSD) with the latter comprised of a majority of the Colorado River and the south side of the river.

Camper Park and Commercial Recreation District This zone district includes allowance for camping, recreational vehicles and park trailers, and camping cabins, as well as administration and service buildings. Other permitted uses include retail sales (primarily to serve the users of the development with convenience items such as cameras, souvenirs and snack foods); sales, administration and operation of outdoor adventure tours...and indoor recreation services.

Open Space District Permitted uses in this zone are limited to open space, Ropes Challenge Course, and primitive trails.

Rock Gardens currently provide a variety of accommodations that range from tent camping to RV sites and cabins as shown in the adjacent photographs.

Recreational activities include rafting, kayaking, jeep tours, bike rentals, fishing and cave tours.

The development is currently in design/building permit process to construct a multi-purpose building to serve the users. Activities would include a grill and a deck overlooking the river. The adjacent photo was taken from the future building location (looking west) with the photo below from the same location but facing south.

The fenced area shown in the photo below contains the northern terminus of a “tram” that provides access to the McKeel property, adjacent owners on the south side of the river.

The proposal requests allowance for Ropes Challenge Course, already a permitted use on the south side of the river, to be allowed to occur within the Camper Park / Commercial Recreation District of the PUD.

I. REVIEW STANDARDS & STAFF COMMENTS

The Director review of this proposal, to allow Ropes Challenge Course to occur on the north side of the river, resulted in a Determination of Substantial Change. The applicant is appealing the Determination of Substantial Change.

Definition of Substantial Change

Substantial Change. A change to and existing approved land use resulting in one or more of the following.

1. A change in land use category.
2. A change in site design, which increases
 - a. The number of dwelling units.
 - b. the maximum square footage of structures less than 10,000 sq. ft. over 100% and structures over 10,000 sq. ft. by 10%, if a maximum has been specified in a permit or approval.
 - c. projected traffic such that a highway access permit or an amendment to a highway access permit is required as a result of the change
 - d. 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 use.

Director Determination

The Director determined that the addition of “Ropes Challenge Course” in the Camper Park / Commercial Recreation District would be considered a Substantial Change due to the following:

1. The addition of would result in a change in land use category because Ropes Challenge course was specifically included as a permitted use in the Open Space District and it was not specifically included as a permitted use in the Camper Park / Commercial Recreation District. The Applicant argues that Ropes Challenge Course is ‘commercial recreation’ but they seek to add that specific use to the Camper Park / Commercial Recreation District.

2. The addition of Ropes Challenge Course to Camper Park / Commercial Recreation District would result in a change in land use, which creates or increases the incompatibility of the use.

The applicant appealed and today the decision is to uphold the director’s decision or to go forward with the change.

Commissioner Samson requested information on the changes.

Kathy Eastley and Fred Jarman explained the proposed changes and their reasons behind the decision that this should be a major change to the current uses granted in the original PUD.

Applicant:

Michael Sawyer, representing the Schneider has thanked Kathy for this careful review of this application and the feedback given to us. It has been helpful to see something from an opposing perspective and she has done a nice job. We are in front of the Board for a matter in what is a new provision of new Land Use Code. The prior code did not have an administrative mechanism for making small changes for PUD. Rather anytime an applicant needed a small modification, there was a full application hearing in front of P & Z and it took a hearing in front of the BOCC. Oftentimes it meant the documents had additional items that one might consider no brainers, very small changes to try and accommodate the implementation of a land use from the conceptual that is the approval to oh, we are actually building this now and here is a small issue that has come up that we would like to get clarified in the governing document. Those small clarifications are beneficial both the applicant and for the County. For the applicant as it allows the applicant to make necessary investments with the security of what they are doing is in accordance with their approvals and for the County because it provides additional information in the PUD documents that the County can gauge compliance. When Mr. Schneider came in to my firm and we had our initial discussion about this particular change, my initial reaction was you do not have to do nothing at all. A zip line is not something that requires a building permit, you open space zone district specifically calls out a ropes challenge course and as the name for the zone district on the north side of the river implies, commercial recreation, this is merely an element of commercial recreation that you are choosing to add onto your site. After additional discussions with Mr. Schneider I think his sincere desire to make sure he was doing everything in strict compliance with what the County expected, we decided to take advantage of this new provision in the code that allows for administrative approvals of small amendments to existing PUDs. Because this is the first time this code provision is interpreted by staff and being brought before you as the governing board, I think how I view the denial is when the administratively staff side of the County is all of a sudden given a new authority, there is some desire to flush out what those ramifications. Therefore, this that is one of the reasons we are in front of you today. This is a matter of first impression and it makes a lot of sense as the Commissioners to have an opportunity to give input on what you see as a substantial change and/or acceptable matter for the staff to handle under the new land use code. We think that this is an idea example of a small change to an existing PUD that should not be handled administratively. As Kathy pointed out there is a three prong standard, I do not believe staff or the applicant believes the second prong applies as that deals with several things that do not come into play in this situation. We have two questions: 1) is it a change in land use category and 2) is there a substantial increase in incompatibility of use. The change in land use category I do not think that a fair reading of the existing PUD shows that there is any change in land use category. We are not seeking to change anything about the open space district, rock challenge course, including zip lines as a component of the ropes challenge course is already approved in that zone district. On the north side, it is commercial recreation. This is an element in of commercial recreation; Mr. Schneider operates a destination commercial recreation amenity at that location, which includes camping, rafting tours, opportunities for bicycling up and down the trail, fishing on the river, it will eventually include a community building with some additional amenities, all of those are elements of commercial recreation and by having some elements of a ropes course and a zip line that starts within the commercial recreational zone district does not change the intent of what it was that the Commissioners approved with the prior PUD. The second question is one of impacts and whether or not having the ropes challenge course included on the north side in the commercial recreational district creates an incompatibility of use. I would disagree slightly with Fred that the focus needs to be on incompatibility with the zoning of neighboring properties. As previously indicated, I do not think there is any incompatibility between the ropes challenge course in the open space district and extending that into a commercial recreation district. We believe the question of compatibility as between a ropes challenge course and the neighboring properties and there is residential, there is also the rest areas as Ms. Eastley pointed out, that question was really dealt with at the prior PUD hearing. A ropes challenge course already has been approved for this site. I would like Mr. Liston, who looks at this from the vantage point of a land use planner and landscape architect to flush out our thoughts on the compatibility of uses with neighboring properties.

Ron Liston – First a comment on the land use category and in my understanding from my experiences, a change of land use category on an extreme level would be if we were trying to change that commercial recreation district to a totally different type of use for the entire district. That would be a change of land use category. We are simply requesting that we add a compatible use to that existing commercial recreational district. I do not disagree; however, we are not requesting anything that would represent a change of the basic land use category for that area. The most important thing if of compatibility is this use compatible with the area and clearly, we will start with the property itself. The actual request is to add the ropes course as a use by right in a commercial recreation campground district. As Kathy's points out we had listed as many of the recreational uses we could think about at the time. It clearly defines that district as exactly that it is about commercial recreation and the ropes challenge course, even though we did not think to add it to the site at that time, is clearly a commercial recreation type use. I do not know what else I could call it except that. Therefore, we are adding a commercial recreation use to what has already been defined and approved by the original PUD as a commercial recreation zone district. Within that arena, we are clearly compatible. We can step out and look as the project is very nearly built out. We have the Community Building and the activities out there reflect the intent and purposes of that original PUD. If we reach beyond that, even though I think Mike's point is true that the overall compatibility of this land use site at large was identified with the original PUD, very valid and very appropriate point to make. Let's take a look at this very specific addition of the ropes course to the commercial recreation district. To the north of us, first off, this whole Colorado River corridor is a recreation corridor coming down through there and there are all kinds of recreational activities occurring there. There is even the rest area to the north is close to recreational use as anything and people that stand on the overview about the point that Kathy was taking pictures can stand there and look down river over to the open space site where we are already approved to build out ropes course. Kathy's photographs point that out. They will see the easterly portion of the zip lines, part of the ropes course construction that we are requesting. The actual towers that the leave from and then there is a separate tower that you come back to a little bit lower, we do not even think those will be seen from the observation point. If it is, it will be just maybe the tops of the posts or something like that. It really sits down on the lower terrace and on the rear of the community building which has a berm to the north of it. From that

area, yes, the people participating there, people walking on the trail leaving the rest area and going up the Colorado River they will be able to look down river and see the approved ropes course and see the zip line going across. However, these are recreationists participating in recreation activities in this corridor and I do see the capability of that type of activity. This is a new recreational use to an area that is already predominantly used for recreational purposes. It is not like we were going into a pristine wilderness area of a river and adding a man created activity that has never been in that area before. We have activities going there, we have rafters going down the river, we have fishermen going down the river and we do not see any incompatibility with those uses. If anything, the raft guides will have another thing to tell wild stories about in terms of something going across the river. We already have the cable cars even though that cable car may have limited use today there is a cable across the river and quite close to the river as compared to as our plan shows. The zip line comp on it will be at least 30 something feet in that area above the river level depending upon the elevation of the river and the sighting in the zip line; it is well above the river and will not interfere with the fishing activities or rafting activities in those areas. If there is a direct impact on anyone, it is on the campground activities of the Rock Gardens itself. From the residential standpoint of the key property to the east, which has very limited access obviously and that property owner was noticed and was part of the original PUD process when that ropes course was approved. The addition of the ropes course on the opposite side of the river from that, it does not add any new incompatibility for them. If you go to the west of the project where you have a large residential neighborhood, again, they were part of that review process which identified the uses. The addition of the ropes challenge course into the commercial zone district as we are proposing it is far over away from that area along the easterly side of the river and to that point, we brought it up. We would be happy to work with staff to limit the location of our ropes challenge course within the commercial recreation district to that easterly part so there is no question about it ever being occurring in a location that could even be seen from the neighbors to the west. We believe that the compatibility questions was addressed once but here sensitive to the location and we have no intention of building a ropes course on the westerly part of the commercial recreation zone district. That is no purpose, no intent, why would we wipe out campground facilities etc. to accommodate it. We cannot see that we are going to have an incompatibility question with anyone there in the region, in the area either within our own project previously approved uses or within the surrounding uses to the project.

Kevin – This is a continuation of what we do out there, it is a tours and recreational business and this is an extension of what we do out there right now.

Mike – Members of public that are here to talk about their belief in terms of compatibility of this minor change in the zone text with adjacent land uses, I believe there is an adjoining neighbor and someone from the rafting industry. Mike also submitted a letter from Jeff Dysart of Roaring Fork Anglers discussing his opinion that the proposed amendment to the PUD text will not result in an adverse impact on commercial fishing and fishing in general in that section of the river.

Chairman Martin entered the letter from Jeff Dysart as Exhibit H.

Mike Sawyer – There was one letter received by staff from another neighboring landowner of the items raised in the letter that are germane to the application before you, as Ron mentioned it was a request or comment about limiting the scope of where ropes course facilities might be placed within the commercial zone district. We are certainly amenable to working with staff to include that language in the PUD text amendment. Furthermore, I believe staff has indicated they would like to see some definition of what a ropes challenge course is and there is some industry literature that has some definitions. We would be willing to work with staff to see that those definitions are included in the PUD text as well. I guess just to recap the Commissioners made a choice when you adopted the new land use code that staff would be vested with the power to approve minor text amendments to PUDs. In addition, I hope that means something. As I indicated, there is a benefit both for the applicant in terms of saving money, saving time and having the comfort of knowing that if you are going to invest in your property that your use is adequately defined in the zone text. The benefit for the County is that it allows the County to make sure that adequate information is in the zone text to make sure that enforcement is possible. I believe that the administrative process benefits both sides and that this is a clear example of a situation where you have a land use that was previously approved, the impacts were previously considered, the compatibility in the neighborhood we previously assessed and there is a request to make a minor modification as to the scope of where that use can occur within an adjoining zone district. I think it is exactly the reason this provision was included in the new version of the land use code. We hope that you will agree with us and overturn the director's decision and allow us to work with staff in implementing this proposal within the context of the administrative zone text amendment process.

Chairman Martin – Again this is to see if there is a minor or major change; if there is a major change we are requested to uphold the decision of the director, if it is a minor change we find grounds and then can go forward and say that it is just that, a minor change.

Gary Hanson with Blue Ski Ventures in Glenwood Canyon Rafting stated this would be our 35th year of outfitting in the Canyon so we have been around for a while. To speak on any adverse conditions that the zip line would cause us as far as the rafting company through the canyon and especially in the area where we are looking at I would like to say that we already have a rest area on the right and a ranch on the left. We have a campground right there and I do not see any adverse problems to our companies at all. In fact, we are an outdoor recreation area and I think this will just add to it as rafters will go under it, it will be a neat thing. Therefore, I support the project as stated here.

Mary Ann Virgili – President and CEO of the Glenwood Springs Chamber Resort Association. I represent 650 members of the business community. Of course, especially during this economic time we applaud any tourism business that is seeking to improve their offerings to tourists. Our experience with this type of offering with a business that is well established and has member a member of our community for many years as Glenwood Canyon Resort has been, that it enhances the tourist experience and would increase the length of stay maybe by another day. We of course encourage that effort.

Brian Vandermark – I am representing the property owner directly adjacent to this, Joseph McKeel, he cannot be here; he is in active military at the present. Joe stands on the whole situation is he approves what Mr. Schneider would like to do however, he wants some type of assurance that the access to his property be in cable car and the location of the tower is going to be will not impend or approach on the easement to the property. According to Joe even though he has been approached on this, that would be a major change as Joe sees it on the land use. If Joe had some assurance to his access to his easement and his property where this tower is being placed, he is all for it and will help as a good neighbor.

Applicant

Ron Liston – McKeel's requests – Kevin has had conversations with him, we have absolutely no intentions of doing anything that would interrupt that easement, its function, purpose, and we will not alter his ability to use that access easement in any way. He and his father have been good neighbors and we anticipate that to continue.

Mike asked Kathy to put on the screen the photo that shows the fencing where the tram (cable car) was located.

Kevin Schneider – Briefly described the locations of your proposed activities, the fencing area and that tram.

Ron Liston – The cable car is essentially on the southern edge. Our activities involve crossing the river would occur to the left like over the top of the picnic tables and a little further to the left as will the activities on the other side. In this photo, you are standing on the west side of the river looking across to the south and the southerly side of the river. We may have some other ropes course activities like the swings things occurring around that but we will not interrupt the easement that gets them across the river and extends on to his property line to legally give him access to the property.

Chairman Martin – That facility is between the railroad right of way as well as the river.

Ron Liston – Correct.

Commissioner Houpt made some comments before we close the hearing; I am very conflicted with this because when this application came forward it was very controversial with the neighbors and that is why we were so specific with the uses on both sides of the river. So to say that somebody unintentionally left out a use is not representative of what happened in that hearing at the time. I am guessing that the director was feeling that discomfort as well and wanted to make sure that the residents in the area had an opportunity to come to a hearing. That is the one very important issue when you draw the line between a major and a minor change. Are you looking at something that will create additional use that may impact people who will be living with that as neighbors. I think zip lines were not anticipated or discussed in the hearing previously and we had many negotiations going on with neighbors with this use. I am not judging this use, it sounds like a lot of fun but if I were the director of the planning department, I probably would have said, this warrants a hearing so that people have an opportunity to respond to it and better understand it as the process moves forward. There is no judging today on whether this is good for the economy or if recreational opportunities but it is a question of how great the impact is if this change is made and you do a use by right and you can go anywhere with it. I really think I understand the director's recommendation.

Mike – You have raised a couple of valid points and it was in light of thinking similar to yours that we decided to over notice as opposed to under notice this hearing to provide people an opportunity and a comment letter was received with one point that we think was germane to the specific matter that is before the Commissioners. It is a comment that is valid and we agree it is something that can be worked out at the staff level in terms of designating where on the commercial recreation zone district side ropes course activities are appropriate. Mike asked Ron to comment, as he has been on the site quite a bit in terms of the other type of impact that one might see well this was not contemplated at the original hearing, it is visual and I think the answer is the visual impact from the neighbor's property to where these facilities are going to be located is non-existent.

Ron – That is correct and that is why I think the location is valid but at this location the visual impact may be if someone had a second story residential location and leaves off the trees they might see the top of the tower near the community building but that would be the extent of it. No one can see this use. General impacts as we said we are not adding or expanding the use, we are just facilitating the use that was already approved.

Chairman Martin – We are not okaying either, we are just saying that this is either a minor or a major change. I do have clarification in reference to the director's finding under Exhibit B, page 3 in reference to the original approval, which was of August 20, 2004, 4.01.01. Uses by Right in the open space area, again, highlighted rope challenge course permitted trail that is in there. I think the issue is the zip line or the transportation to and from, does that really make a change. That is the heart of the issue.

Kathy – The zip line is of itself is compatible with the ropes challenge course even though it does impact access to the other side of the river for additional activities. That is the crux of the matter.

Chairman Martin – Like I said, in that open space it does say a use by right and it is open space, ropes challenge course and permitted trail.

Commissioner Houpt asked if this was for that one site.

Chairman Martin – Yes that is what it amounts to on that open space side and that is where the ropes challenge course is supposed to go. We are not approving the design or anything else but it is a use by right. The other one I am reading in reference to the size of the community building I understand in reading that you already have a permit that you are attempting to get a permit.

Ron – Yes, there is a permit with the County currently.

Chairman Martin – That is the community building that is replacing the old office and everything else that used to be down there.

Ron Liston – No, this is a community building that goes at the easterly end right above the ropes challenge area with the zip line basis. There is no existing structure there today. The check-in area, the photo on the right, just behind this photo would be the check-in building, the administrative building and...

Chairman Martin – The only point is that we are staying within the approval process here in reference to the building that would be relocated, etc on the north side. Everything is within the size of the building, the approved process and it is in the permitting process for approval.

Mike – Staff has the opportunity to proof all that over as part of their building permit.

Chairman Martin – The other issue is that you are not asking to change any requirement in reference to parking because it is a requirement of so many people you have to have a parking space, handicap, etc.

Mike – Staff has the ability.

Fred – A couple of final comments from our side, the provision you have that allows this action to take place in front of you. We are very pleased about it because regardless of how you come down on whether you uphold the director's decision or not; I think it provides a good venue to at least vet some of these issues rather than have them wholesale off my desk out of our department. Therefore, it does provide a valuable format for you. In fact, out of consistency to give you some more background on why we chose to go this route, it has to do with other commercial recreation operation, which is the caverns, the trams scenario up on top of the hill behind us. In that scenario you will recall the owner/applicant in that case came back to you I think three or four times through public hearings to make very minor changes because that was the only recourse available to make those changes. Some were minor and some were significant. In each one, you had people come and comment on those issues. However, each time the Board agreed that was the process that they needed to go through to look at those issues because of the impacts. Site

planning is an interesting thing within PUDs; you have a site plan that was approved back in 2004, which is a very specific thing so that is why it is called site-specific development within the confines of the state statutes. In any event, you have a site plan and picture. You look at that and any neighbor can say today well gosh, I know what is happening out there on the ground because I went to those public hearings. I can see that the cabins were going to be over here, the wastewater treatment facility, which was hotly contested was going to be up to the north. The open space was clearly on the south side of the river and everyone knew that the three uses or the two uses that the applicant outlined for the open space that was fine. In fact, the only time that the river was ever discussed had nothing to do with ropes challenge because it was not even contemplated. I know that because I was the planner at the time and did the review and wrote the resolution. Therefore, the zip line was never contemplated within the PUD. A ropes challenge course and the river and whether or not there was a potential impact to the railroad and that was a comment that Chairman Martin had raised during that time. That was the only comment that was it. I just pursued those minutes just before I walked down to this hearing this afternoon to verify that. There was no discussion on where these things would go. What is important to know though it a site plan within a PUD is very important because people rely on the picture they see to say okay where is going here and what is going there. I assure you if a zip line had been proposed you would have had that discussion during those public hearings from one zone district to another. I wanted to make that last final comment on well, that is the PUD on the screen and what you also do not have is a definition of either one of the zone districts. You have this name of a zone district but during the planning period, the applicant never defined what those were. Just some things for you to think about as you move forward with this. Is this type of land use change and category everything you see on the left of that screen or the north side of the river was really done in some sense to verify what was already there, as you will remember during that public hearing. There were a lot of things said but in many cases it was basically to verify uses that were non-conforming to make them conforming. That was what a large part of the exercise was for Rock Gardens. What is not showing up is the terminus of this ropes course. I assure you we would have had that discussion had that been the case. Interestingly enough in the same breath I will say we never really talked about access from one side to the other with any seriousness. How one goes from one side to go play on the ropes course on the other side of the river, we never really talked about that even though that was a use that was contemplated. In all fairness, I would put that on the table as well. I hope these comments can help.

Commissioner Samson – That was one of the questions that I was going to ask and you have your permit here and it says open space district ropes challenge course. As you were making the plans for this, was the intent that everybody was going to use the little cable car to get over there for the ropes challenge course.

Ron Liston – At the time since their rafting operation was there, the thinking was the rafts would be used.

Commissioner Houpt – I think that was mentioned in the hearing.

Mike – I guess that being said, we think there is a good argument as to why an ariel means of transport is better than rafts going perpendicular to the very slow of rafting traffic in the summer time going down river. Nevertheless, more importantly to get back to what Fred has said, this Board approved a ropes challenge course in the open space zone district. The impacts and compatibility of having a ropes challenge course was considered at some level at that time. As your planner has told you, a zip line is a component of a ropes challenge course, it is not a separate kind of recreational land use, it is a part and parcel of a ropes challenge course and the text amendment that we are asking for is to have the ropes challenge added specifically to the zone text in the commercial recreation district, which is wholly consistent with the concept of commercial recreation. Again, I am glad to hear that Fred is positive about having this provision in the land use code and certainly this opportunity for his office to weigh in with input and then for the opportunity of the applicant to get in front of the Commissioners does strike something of a balance. It provides for these smaller land use changes that will inevitable occur over time an opportunity both to get in front of staff and when staff will use it perhaps there is something more out there to get in front of the Commissioners and through notice to provide the public with an opportunity to provide comments. I feel very comfortable that what we are proposing is not inconsistent with the original approval. Second of all that in terms by adding a small element of the ropes challenge course to the north side of the river that there is not going to be any increased impacts whether incompatibility with neighbors or visual impacts, that are inconsistent with the existing PUD.

Commissioner Houpt asked staff, why did you attach these letters to the packet?

Kathy – That was attached to the letter from Eric Mangeot and that was information passed around to the residents in No Name regarding the community building. He had attached that to his letter and he asked it be forwarded to you. Chairman Martin referenced this as Exhibit F.

Commissioner Samson moved to close the public hearing. Commissioner Houpt – Second. Motion carried.

Commissioner Houpt made the following comment and then I would like to make a motion. It is true that there is a use that was allowed in this PUD and it represents this PUD but it is not an island. When a larger use is put forward I think we need to better understand the impacts not only to the neighborhood but also environmentally and a zip line, what you are talking about not just one zip line across the river, we are talking six zip lines and I am going to agree with staff on this one.

Commissioner Samson – Before you make a motion, I would like to hear from both you and John. I was not involved in this. I want both of you have to say on the original intent on ropes course and recreation. You made the comment that when this was originally approved in 2004 that there were many people that gave a lot of public testimony and that you as a Commission were very specific in detailing exactly what was going to be put here.

Commissioner Houpt – It was also what was requested too specifically from the applicant. There were concerns from the neighbors about activity and noise and numbers of people and old concerns that had been had and why I was drawn to the attachment that was in our packet because this is a newer letter with concerns. I do not want to judge this opportunity as potentially a real neat opportunity but I can understand why the director really believed it is something that needed more opportunity for hearings because there is a potential for a large impact. They are proposing three zip lines going each way so that is a large operation and that will as Mary Ann said, that will be a draw and attract many people. It is not a bad thing but we need to better understand the impacts of that and assess them so that the proper mitigation can be put in place.

Commissioner Samson – So what you are wanting is to deny or to say this is a substantial change and we do need to open it up to more public comment from those people that will be affected by such.

Commissioner Houpt – That is my leaning on this one.

Chairman Martin – I think it was a highly emotional issue because you took 37 trailers that were for low income housing and turned it into a recreational issue, after we got over all of that and looked at actual application for

recreation and it would enhance the facilities it is what it is. It is a recreational site next to a rest area and next to a neighborhood. Rafting uses it, tourists use it and local folks have to put up with it. I understand that. I do not think that the ropes course is still what is at issue is making is a major change. I think the ropes course is a nice amenity. It will enhance the recreational issue; everybody has to stay within what the approval process was and the other buildings; that is why I brought that up. I am reading a letter, which is attached to the protest is because they read something in the paper that there is going to be other amenities, which is outside the scope of the approval process. That is why I asked the questions I did. You are going to have to stay within the building confines, stay within what it says and you are not asking to change any of that. If you were, that would be a major change to me. Putting the ropes across the river, keeping it out of the visual corridor from the neighbors, and trying to work with them I do not think it is a major change.

Commissioner Samson – Even though it was six lines?

Chairman Martin – Again, 36 different trailers were relocated that was more emotional than six lines across the river. In response to Commissioner Samson's inquiry, Chairman Martin gave the history of the Rock Gardens Trailer Park saying it was there for many years and was used for temporary housing, rentals, mobile homes, campsites, etc. Ms. Schneider used to be down there all the time. I think she was about 10 or 12 years old when she was running the entire place taking in \$6 or \$8 per camping spot in the summertime. Folks did it, there were a few problems out there in fact the current Chief of Police used to live out there as well and his trailer is gone now from there. That is old history, times change and that use by the property owner was replaced with recreational activities again looking at tourism, bringing in revenue and changing the face of No Name. There are some people who accepted it; some people who have still not accepted it. We are going to have to live with that issue, it has been approved and it is in place. They approved the roadway, the entranceway, the electrical, sewer, water treatment facility etc.

Commissioner Houpt – I think when you look at the extension of the use with this zip line, it is important to understand the capacity and all of this would happen through administrative process too. If this was not in a residential neighborhood, if it were more consistent with the PUD that had been approved, if I really agreed that a zip line across the river is a component with this ropes course, then I would not see it as major but I do. I have not seen any evidence that would lead me away from supporting the director's decision.

Chairman Marti – This is the same argument we had in reference to the zip line and the roller coaster that went through the Caverns, the swing, the horseback riding and all those other amenities that were added after the approval of the restaurant and the Caverns central operations. Those came afterwards, it came with financing; it came with interest; it came with need to expand your facility and what have you. It is on a visual corridor was one of them that is why the site was chosen. It was a major issue to many folks in West Glenwood; it was a major issue to the Claudon's on the other side because of traffic, the swing and the noise overlooking Glenwood tunnels as they went through. It is going to affect someone and we cannot make everyone happy. We have to find is this a major change or a minor change. If it is a major change, the applicant then has to go ahead and do a new application and takes it to Planning Department, Planning and Zoning, public review, etc and makes its way back here for us to make that decision. That is the process; or, the process is that it is not a major change but they still have to go through the application process and go through the building permits and the entire review process. We need to find out if the lines across the river are a minor or major change.

Commissioner Houpt – I am going to make a motion to deny the appeal to the director's determination regarding substantial change related to add the ropes challenge course to the Camper Park Recreational Zone District within the Rock Gardens PUD and uphold the director's determination.

Chairman Martin – Second for discussion.

Chairman Martin – I think it is one of those issues that we have to make a determination on to give staff an idea on where the Board sits and it also gives the public an idea and the applicant an idea. The furtherance thing I want to do is to destroy a neighborhood or to deny someone a use by right, so let's put that on our shoulders and make that determination if it is a minor or major change and the motion is to deny and uphold the director's finding. We need to live through it.

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

Chairman Martin – There are only two motions we can make, either to uphold the director or we do not uphold the director. At that point, it will be up to the applicant and to the director and the building department to satisfy the request, building codes, etc and uphold the resolution on approval.

Commissioner Samson – I think it would be appropriate for you to make the motion on this since you are involved in it.

Chairman Martin – Then there is only one choice that I have and that is to overturn the director and the findings that have been presented are not a major change, it may not have been identified specifically but it does not make a major change to the PUD or the zoning within the PUD. Commissioner Samson – I am really torn on this one; I can see good arguments on both sides of this but I need to make a decision so I will go with the motion. Commissioner Samson – Second.

Chairman Martin – Remember that we are not approving anything outside the original PUD; we are not again trying to impact negatively the neighborhood, we are just trying to make a determination so our staff has the boundaries to work in.

Commissioner Houpt – Well, I think what we need to remember is that we are not making a determination today, the only determination is whether it comes to a public hearing or it goes back to staff who had recommended that it go through the public process. That is the decision we are making today.

Chairman Martin – There is a process in reference to notification to the adjoining owners and the affected people in reference to how the director makes his decision and timeline as well. Notification should go out. It is not what we are overriding Fred and telling him what to do, it is just that we disagree with him at this point.

In favor: Samson – aye Martin – Aye Opposed: Houpt – Aye

Chairman Martin – It is determined that we overturn the director and it is not a major change to the PUD and it needs to go forward on that basis.

Mike Sawyer said we appreciate your time and look forward to working with staff on furthering this application.

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT TO ALLOW FOR EXTRACTION AND PROCESSING OF NATURAL GAS ON WELL PAD GV 82-5. THIS SITE IS LOCATED WITHIN THE BATTLEMENT MESA PUD, WHICH REQUIRES A SPECIAL USE PERMIT FOR SUCH ACTIVITIES.

APPLICANTS ARE BATTLEMENT MESA LAND INVESTMENT PARTNERS AND WILLIAMS PRODUCTION RMT COMPANY – KATHY EASTLEY AND

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT TO ALLOW FOR EXTRACTION AND PROCESSING OF NATURAL GAS ON WELL PAD PA 41-9. THIS SITE IS LOCATED WITHIN THE BATTLEMENT MESA PUD, WHICH REQUIRES A SPECIAL USE PERMIT FOR SUCH ACTIVITIES. APPLICANTS ARE BATTLEMENT MESA LAND INVESTMENT PARTNERS AND WILLIAMS PRODUCTION RMT COMPANY – KATHY EASTLEY

Chairman Martin stated we would hear both of these applications together as notice was also combined.

Deb Quinn, Kathy Eastley, Battlement Mesa Land Investment Partners represented by Chris Cole of Balcomb and Green and Williams Productions RMT Company represented by Jim Morgel of Holland and Hart in Denver, Ann Lane senior counsel with Williams Productions RMT and Dasa Bryan and administration with Williams.

Dasa Bryan answered the notification requirements.

Deb stated in connection with these two items they were the result of a takings hearing that occurred in August 2009 and at that time the Board set the date for this hearing before the Commissioners and also required the Planning Commission to set a hearing date that has subsequently been done. Because it came up in that fashion and because of the proximity of the two dates and the huge overload on our local post offices that resulted from this public notice, we made the determination that the two notices could be done together. Both the Planning Commission and this hearing before the Board of County Commissioners were included in the public notice that was sent. In connection with that before the Planning Commission on November 18, we did go through the public notice provisions as well as the adjacent property and mineral property owner notifications and it was determined at that and I can report to this Board that all of the adjacent property owners around the land subject to these two applications since it is the same surface owner parcel were notified and were determined in accordance with the records of the Clerk and Recorder and the Assessor in our County. Those notifications were mailed, Ms. Brian will tell you how many there were and how they were accomplished but in connection with that, we did make a determination and I can represent to you today that they did satisfy our code requirements in connection with those by publication and notice to adjacent property owners. One question for Ms. Brian in connection with the posting of notice, that is when were the signs posted and where were they posted in connection with these hearings. Dasa stated the signs were posted at several locations around and we made sure we went to the access points and intersections of both locations; we did one for the golf course another view down on the rig and actually posted four signs for that and provided copies of the signs and maps to Deb.

Deb added these photographs as Exhibit CC and DD, which is the book of returned receipts, the public notice and the notice by publication. The public roads involved are CR 301 and CR 309.

Dasa stated that in order to send out the public notices, she drew from the County Assessor's site of the parcel associated with where the rig locations are within the PUD and we determined a 250 foot radius around that parcel to include all of those landowners and the mineral owners under each subject area. It was over 1300 notices and we were able to combine so the grant total number was around 1600. We combined notice with people who owned multiple parcels. We sent a letter out that stated that they owned these parcels and these notices were for these hearings.

Chairman Martin accepted notification and swore in the speakers. The purpose of today's hearing is to see if a land use permit is to be issued or not. It is not that there is an alleged violation or anything else, we need to stay within the parameters, which are a requirement of Resolution 82-121 also, the Land Use Code at that particular time and that is not our present day Land Use Code, and it is under the old code.

Kathy submitted the following exhibits: Exhibit A – Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit B – Garfield County Zoning Resolution of 1978; Exhibit C – Garfield County Resolution 79-132 (Amendment to Zoning Resolution of 1979); Exhibit D – Garfield County Resolution 82-121 (Battlement Mesa PUD); Exhibit E– Application; Exhibit F – Staff Memorandum; Exhibit G – Staff Presentation; Exhibit H– Proposed Haul Route; Exhibit I – Exhibit B to Barrett Surface Use Agreement (recorded Book 1139 at Page 121); Exhibit J – Exhibit B to Williams Surface Use Agreement (dated October 17, 2007); Exhibit K – Exhibit C to Resolution 82-21; Exhibit L – Return response from Sheriff's Department; Exhibit M – Letter dated October 20, 2009 from Jake Mall, Road and Bridge; Exhibit N – Letter dated October 29, 2009 from Williams responding to R & B comments; Exhibit O – Memo dated November 5, 2009 from Steve Anthony, County Vegetation (PA41-98); Exhibit P – Letter dated November 9, 2009 from Williams responding to PA 41-9 comments; Exhibit Q – Memo dated November 5, 2009 from Steve Anthony responding to GV 82-5 comments; Exhibit R – Letter dated November 9, 2009 from Williams responding to GV 82-5 comments; Exhibit S – Email dated November 9, 2009 from Jim Rada, Environmental Health Manager; Exhibit T – Velda Tomlinson, dated October 29, 2009; Exhibit U – Mable Sanders, dated November 1, 2009; Exhibit V – Austin Cowan, dated October 27, 2009; Exhibit W – Mable Yeatts, dated October 23, 2009; Exhibit X – William Bakke, dated October 21, 2009; Exhibit Y – Marion Gargiulo, dated October 21, 2009; Exhibit Z – Sandy Getter, received November 10, 2009; Exhibit AA – Thomas and Janell Terrall, dated November 4, 2009; Exhibit BB – Dave DeVaney, dated November 11, 2009; Exhibit CC – Proof of Public Notice publication; Exhibit DD – Proof of Mailing/Receipts of public notices; Exhibit EE – Letter dated 11-17-2009 from Battlement Concerned Citizens; Exhibit FF – Letter dated 11-18-09 from Ronald and Mary Galterio; Exhibit GG – Letter dated 11-14-09 from Rick Matar – Williams Air Quality Lead; Exhibit HH – Williams response to staff comments; Exhibit II – Surface Use Agreement – Amended Agreement dated November 12, 2009; Exhibit JJ – Photos from Charles Bucans (Presented at the PC Hearing o November 18, 2009); Exhibit KK – Letter dated 11-18-09 from Robert Arrington; Exhibit LL – Email dated December 3, 2009 regarding removal of Rig and Temporary Employee Housing from Well Pad GV 82-5. The applicant stated they did receive all of the exhibits.

Chairman Martin submitted Exhibits A – LL into the record. Two new exhibits provided just before the hearing: This is in connection with ownership of the property because there were some discrepancies between what the Assessor's office shows and what the deeds provided with the application. I have what I am marking as Exhibit MM, which is a combined statement of conversion and Articles of Organization that shows that Battlement Mesa Partners and Colorado General Partnership became Battlement Mesa Partners LLC a Colorado Limited Liability Company, which is currently the owner of the property where these two well sites are located. Additionally, I have what has been marked as Exhibit NN a Special Warranty Deed from Battlement Mesa Partners LLC, Battlement Mesa Investments LLC from December 31, 2007, which is the document which the Assessor used to show that these

two parcels from the two sites that we are considering today were included in the land conveyed to Battlement Mesa Investments LLC; but that determination by the Assessor apparently is not correct. Those particular portions of this parcel are still owned by Battlement Mesa Partners LLC. We will straighten out those issues with the Assessor's office later, the purpose of these exhibits is to clarify the record that it is Battlement Mesa Partners LLC a Colorado Limited Liability Company, which owns the land in question.

Chairman Martin – Which Holland and Hart has the right to go ahead, defend and present in their honor.

Chairman Martin – Exhibits MM and NN were submitted.

Kathy presented the following in her staff report: The Applicant requests approval of Special Use Permits for "Extraction and Processing of Natural Resources" for natural gas extraction at two sites within the Battlement Mesa Planned Unit Development. This review is required pursuant to Resolution 82-121.

Specifically, the Applicant is requesting review, approval and issuance of Special Use Permits for two well pads, GV 82-5 and PA 41-9. Separate applications have been submitted for each site; however, this single staff report contains a comprehensive review of activity at both sites.

GV 82-5: This well pad is located in the northern area of the PUD as indicated on the map below. The site sits below County Road 309 (Rulison-Parachute Road) adjacent to the Colorado River. The 14th and 15th fairways of the Battlement Mesa Golf Course are located south of the site, however at a higher elevation. The top of the derrick is visible from the golf course as shown above.

Sixteen additional wells have been approved by the COGCC for drilling, and the site has six (6) existing wells (four (4) of which were drilled in early 2008 by Williams). Temporary Employee Housing for four (4) on-site employees/contractors is also proposed.

The anticipated timeframe for drilling and completion for the 16 wells is September 2009 to March 2010.

PA 41-9: Located on County Road 301 the PA 41-9 well pad is in the northeastern portion of the PUD which is somewhat separated from the currently developed areas within Battlement Mesa.

This site contains two wells (as shown below), one drilled in 1999 and the other drilled in 2006. Drilling and completion are no longer active on the site and the wells are in production. Production equipment on the site includes piping from the wellheads to the separators; dehydrators; and above ground condensate and produced water tanks. Williams is seeking retroactive approval for Extraction and Processing at this site, but has no plans at this time to drill additional wells at this location.

BACKGROUND / HISTORY (SURFACE)

The Board of County Commissioners initially approved the Battlement Mesa Planned Unit Development in 1975, but the basic guidelines and zone districts were established by a PUD modification in 1981, Resolution 82-121, which contained the PUD zoning restrictions for the 3,200-acre area. The zoning restrictions included locating permitted uses and "special uses" within the PUD area. The restrictions provided for a variety of residential densities and commercial areas to support the residents as well as related open space and recreation.

Extraction and processing were listed as "special uses" within all zones of the PUD. Although there have been amendments to the PUD since 1982, extraction and processing remain "special uses" in all zone districts within the PUD.

Today Battlement Mesa exists as a comprehensively planned community, which includes residential areas ranging from low density to mobile home park density, commercial development to support community needs, and a significant recreational and open space component. The community continues to develop and currently includes a variety of residential communities, a championship 18-hole golf course and clubhouse, a recreation center, and City Market Plaza, which contains retail establishments, a grocery store and the Battlement Mesa Medical Center.

BACKGROUND / HISTORY (SUB-SURFACE/MINERALS)

Exxon was one of the original owners of both the surface and sub-surface of lands in and around Battlement Mesa. Exxon transferred its interest in the surface land to Battlement Mesa Inc., a Delaware Corporation in 1981, reserving the oil, gas and other minerals it owned. Battlement Mesa Inc. conveyed its interest to Battlement Mesa Partners, a Colorado general partnership, in December 1989, which deed included as proof of ownership in the applications. Prior to that conveyance, Battlement Mesa Partners and Exxon signed a letter agreement dated December 12, 1989 concerning the development of oil and gas (the "Exxon Agreement") and identifying specific drill site locations. In 1990, Battlement Mesa Partners and Battlement Mesa Realty Partners entered into a Surface Use Agreement with Williams' predecessor in interest, Barrett Resources Corporation (the "Barrett SUA"). Exxon entered into oil and gas lease agreements with Barrett Resources Corporation in 1991. Battlement Mesa Land Investment, LLC is listed as the current surface owner in the application.

The first well to be drilled on the GV 82-5 well pad was permitted by the Colorado Oil and Gas Conservation Commission (COGCC) in October of 1990. Barrett Resources Corporation was the operator. Williams Production RMT (Williams) was successor to Barrett Resources and subsequent plans to drill additional wells on GV 82-5 were agreed upon in a Surface Use Agreement with Battlement Mesa Partners, LLC, as surface owner, effective October 16, 2007 (with amendments)(the "Williams SUA"). The Williams SUA is specific to the 21 wells on GV 82-5; however, the parties included provisions requiring compliance with the Exxon Agreement and the Barrett SUA including restrictions within the area of Battlement Mesa (the area of inclusion was defined in the agreement and may not be consistent with the boundaries of the PUD).

Barrett Resources drilled a second well on the site in 1994. Williams drilled four (4) wells on GV 82-5 in early 2008. None of these extraction activities obtained special use permits from Garfield County resulting in the Garfield County Code Enforcement Officer issuing a Notice of Anticipated Enforcement (NOAE) on August 7, 2009. The NOAE was issued to Williams Production RMT Company, as the mineral lessee/operator, and Battlement Mesa Land Investments, as the surface owner, for Extraction and Processing on two natural gas well pads, GV 82-5 and PA 41-9, located in the Battlement Mesa PUD. That action resulted in a "Takings Hearing" with the Board of County Commissioner on August 17, 2009. At that time, the BOCC directed Williams to obtain required County land use permits for the activity. The Board stated that the activity could continue during the review process, as long as Williams met several deadlines, including a requirement for issuance of permits prior to January 1, 2010. The drilling of the 16 additional wells on the site is ongoing.

GENERAL DESCRIPTION – EXTRACTION OF NATURAL GAS

Natural gas extraction occurs in several distinct phases, each utilizing specific equipment and processes thereby resulting in different impacts, issues and mitigation measures over the life of the activity.

Prior to applying code requirement and standards to the applications, it was necessary to understand the operations in order to determine the potential impacts of each phase of the process. Williams provided detailed descriptions of the operations to educate staff in the extraction process. A synopsis of that information is outlined below:

DRILLING

Drilling operations consist of a drill rig along with necessary material and equipment including drilling mud tanks, electrical generators, generator diesel fuel tank, bulk storage tanks and fire protection water tanks. A drill bit bores through the earth to a depth thousands of feet below the surface to reach the geologic strata containing the natural gas. In this area, the typical depth is 7,000 to 10,000 with drilling taking up to 15 days to reach that depth.

The drill bit displaces the rock and soil (drill cuttings) which are then brought to the surface by circulating drilling mud into the well bore. Drilling mud consists of a combination of fresh water, biodegradable polymer soap, bentonite clay and non-toxic additives. The cuttings are transported to the surface through a process of hydrostatically counteracting well bore pressure.

The drilling mud brought back to the surface is then processed via screening and settling of cutting materials and re-used in the drilling process. The drill cuttings are tested for contaminants and if the cuttings meet certain COGCC standards they are transported for storage in an on-site ‘cuttings’ pit or trench (if standards are not met the cuttings are required to be disposed of off-site). The cuttings pit on GV 82-5 is lined with a synthetic material. Each well may produce up to 500 cubic yards of cuttings, resulting in as much as 8,000 cy of material. The pit is not large enough to hold all of this material so Williams has been removing some of the cuttings from the site.

Produced crude oil and / or condensate may also be brought to the surface during the drilling process, if so it is transported to and stored in on-site tanks.

All wells on the GV 82-5 pad will be drilled using directional drilling technology with maximum horizontal distances of 3,000 feet. This drilling method requires special tools that transmit magnetic and spatial data to the surface from inside of the bore. That data is used to calculate the wellbore path and position at any given point. The increase of the angle of the drilling is no more than 3.5 degrees per 100 foot of depth, yet over the course of several hundred feet, the wellbore can achieve the targeted location. The end result is to reverse the process and decrease the angle so that the wellbore is brought to a vertical position where the wellbores will remain through the production interval.

A. COMPLETION

Completion operations are those processes that are applied to the well bore after drilling has finished. These operations include running casing, perforating the casing and fracture stimulation (fracing). These steps maximize the production of hydrocarbons from the well. Wikipedia defines hydrocarbons as an organic compound, the majority of which are found naturally occurring in crude oil. Wikipedia also states that hydrocarbons can be [gases](#) (e.g. [methane](#) and [propane](#)), [liquids](#) (e.g. [hexane](#) and [benzene](#)), waxes or low melting [solids](#) (e.g. [paraffin wax](#) and [naphthalene](#)) or [polymers](#) (e.g. [polyethylene](#), [polypropylene](#) and [polystyrene](#)).

Steel casing is installed to provide structural integrity to the well. The casing is then perforated (blasted by charges) in zones to provide access to natural gas formations. A perforating “gun” is lowered to an appropriate depth and then armed with explosive charges that cause 3/8” holes in the steel casing. Those fractures may extend into the rock by as much as two to three feet. Plugs are then set to isolate the zone and plugs are set in the wellbore, which is then ready for fracing.

Fracture stimulation (fracing) is a process that increases production of oil, gas and other fluids from the rock formation next to the well bore. This process commences once the steel casing is perforated and isolation plugs set, when a water and proppant (sand) mixture is pumped into the well at high pressure. The high rate and pressure used for the water flow results in this mixture flowing into the rock intervals caused by the perforations. Natural gas is found within these rock intervals so when the water “produces back” to the surface the sand material is left behind to keep the small fracture open and the gas flows through it. The produced water can then be recycled and used again, trucked to evaporation ponds or treatment facilities, or injected into wells that no longer produce gas. Condensate produced would be stored on-site and sold.

The fracing process requires approximately 504,000 gallons of water **per well**, the source for which is recycled produced water from Williams’s wells around the valley. This process requires a substantial area for pumping equipment, sand trucks and produced water tanks, all of which is typically kept on-site of the well pad. Given the reduced area for the GV 82-5 well pad Williams proposes to use an off-site location to conduct this process, pumping the frac fluid to the site via pipelines that will flow 1,600 feet west from the GV 64-5 well pad. Two high-strength steel 4.5-inch diameter pipes will convey the water and proppant to the site.

Once fracing is complete in a particular zone, a mobile service rig is used to drill out the plugs, clean out the wellbore, and install the production tubing that transports the natural gas and other fluids to the surface.

This process continues - perforating, plugging and fracing – in numerous zones that may exist in that particular well. The chemicals included in the fracing fluid are listed in the submittal documentation in Section 3. Narrative of Project. COGCC has rules regarding the chemicals by well site for both storage and down hole use.

Completion operations are expected to average 35 days per 4 wells, which includes all of the time to frac each zone, drill out the plugs and install the production tubing.

B. PRODUCTION

Equipment used in this phase of the operation includes piping from the wellheads to the separator; three-phase separators, dehydrator, above ground condensate and produced water tanks, meters and cathodic protection equipment. The PA 41-9 site is currently in this stage of the process.

The design and installation of these facilities are used to:

- 1) Separate well stream fluids into manageable product such as gas, condensate and water. Each well is individually managed for accountability;
- 2) Delivery of the product – natural gas to a pipeline, condensate to a pipeline or truck for later sale, water to a pipeline or truck for recycling or transportation to a treatment facility;
- 3) Meter the volume of gas and condensate from each well/lease to assure mineral interest owners receive

correct value for the products.

Once the well is in the production phase it is monitored remotely by transmitting the data from each well to a computer system at Williams Parachute offices allowing for review and control of the wells. Minimal on-site activities are necessary at this stage but do include on-site inspections and hauling off condensate and water from the tanks.

Additional Technology

Williams will utilize a technology known as SIMOPS, which, allows for simultaneous operations of drilling and completion on GV 82-5. This technology will shorten the length of time due to a process that allows for completion of the first set of drilled wells while the second set of wells are drilled. This process continues through drilling and completion of all wells.

OTHER RESTRICTIONS/REQUIREMENTS AND PERMITS

In addition to the Special Use Permit requirement for land use activity in the Battlement Mesa PUD, various State and local authorities have permit/plan requirements related to the proposed activity as listed below. The Surface Use Agreement, a private contractual obligation, also contains restrictions related to the use:

- A. Colorado Oil and Gas Conservation Commission (COGCC), Department of Natural Resources State of Colorado – Well Permits;
- B. Garfield County Temporary Employee Housing Permit, including ISDS and Building Permits (for GV 82-5 only);
- C. Garfield County Road and Bridge Driveway Permit;
- D. State of Colorado Department of Public Health and Environment – Stormwater Management, Air Emission Permits
- E. Surface Use Agreement(s) (SUA) – It is critical to note that several Surface Use Agreements exist – some of which are applicable to the Battlement Mesa area, and others that may be specific to certain well pad sites:
 1. Exxon – Agreement effective 12-12-89 and is applicable to surface lands in “Battlement Mesa”. The definition of Battlement Mesa does not necessarily include all of the PUD.
 2. Barrett SUA effective 8-6-90. This agreement specifically includes the Exxon Agreement and other restrictions/modifications to be applicable to all surface lands in “Battlement Mesa”.
 3. Williams SUA effective 10-16-2007. This SUA is specific to Well Pad GV 82-5; however, it also specifically incorporated the Exxon Agreement and the Barrett SUA into this SUA (except for modifications agreed to by all parties).

BATLEMENT MESA PLANNED UNIT DEVELOPMENT GUIDELINES

The regulatory document for land use activity within the Battlement Mesa PUD zone district is attached as Exhibit B to Resolution 82-121. That document contains use, density, and development standards applicable to specific sub districts, and is to be used in conjunction with the map of the PUD which indicates the location of the sub district ‘zones’.

The GV 82-5 well pad is located within the Public, Semi-Public and Recreation Zone, identified specifically as Community Open Space and the PA 41-9 well pad is located within the Rural Density Residential zone. Both of these districts identify “Extraction and Processing of Natural Resources” as special uses. Section 10 of the PUD states that when standards are not included reference shall be made to “the officially adopted Garfield County Zoning Resolution of January 2, 1979, including the zoning amended, adopted October 15 1979...” These documents provide the **review criteria** necessary to issue “Special Use Permits” within the PUD. It is important to note that the **process** being utilized is codified in the Unified Land Use Resolution of 2008, as amended.

SURFACE USE AGREEMENT(S)

Williams is the current lessee of mineral rights underlying Battlement Mesa, with Barrett Resources as predecessor to those rights and Exxon as the lessor. The Williams SUA contains provisions specific to well pad GV 82-5, as well as agreeing to the terms of the Exxon Agreement and the Barrett SUA (unless expressly amended to exclude provisions within those agreements). The PA 41-9 site is subject only to the Exxon Agreement and the Barrett SUA. The Barrett SUA stated, *“The drilling and operation of gas and/or oil wells within Battlement Mesa will need to be accomplished in a carefully considered manner to preserve the aesthetics of the community and preserve the quality of the use and enjoyment of the property of the Surface Owners and by residents of the community.”*

A sampling of the restrictions in the documents includes (for an inclusive list of SUA restrictions, refer to section 4.1 of GV 82-5 submittal):

- A. SUA term of 33 years, plus as long as production remains in commercial quantities;
- B. Operator to provide surface owners with a copy of all applications for Special Use Permits for operations within Battlement Mesa or within one-half mile of the boundary thereof, when such applications are filed in Garfield County;
- C. Drilling dates on well pad GV 82-5 may occur any time prior to September, 2009 with drilling to be completed by March, 2010;
- D. Drilling operations restricted to the months of October through March for any wells located within 2,000 feet of an existing occupied residence;
- E. Well pad size is restricted to 200’ x 300’ (1.377 acres) during drilling, completion and production and said site to be reduced to 1 acre upon completion of drilling;
- F. Pipelines are to be buried at least forty-eight inches (48”) underground;
- G. Well locations and areas specifically prohibited from extraction activity;
- H. Drilling prohibition within two hundred (200) feet of an existing structure;
- I. Use of public and private roads within Battlement Mesa may be subject to regulation including load limits, frequency of use and time of use;
- J. No compression stations are permitted;

- K. Pipelines must be located within open space or public dedicated easements;
- L. All operating wells must have chain link fences and locked gates.

REVIEW CRITERIA

The following information is provided regarding the various restrictions and standards for Extraction and Processing within Battlement Mesa. These restrictions differ for the two well pads under consideration; however, each site will be commented upon individually regarding required compliance and/or mitigation to a particular standard.

Garfield County Zoning Resolution of 1979 and Amendment 79-132

5.03 Conditional and Special Uses

As listed under the Zone District Regulations, conditional and special uses shall conform to all requirements listed thereunder and elsewhere in this Resolution plus the following requirements:

- (1) Utilities adequate to provide water and sanitation service based on accepted engineering standards and approved by the Environmental Health Officer and the Colorado State Department of Health shall either be in place or shall be constructed in conjunction with the proposed use;

Staff Response GV 82-5:

Potable water will be brought to the site by Down Valley Septic in sufficient supply to serve the well pad and the temporary employee housing units. The water will be purchased from the Town of Silt and stored in above ground tanks on the well pad. Sanitation will be in the form of porta-potties for the well pad and vault and haul for the temporary employee housing units. A septic permit has been submitted for the vault and haul and disposal will occur at the Silt Wastewater Treatment Facility.

Water necessary for both fire protection and for use in the drilling process will be diverted from the Colorado River in the amount of 16.57 acre-feet. The water is considered “free river water” meaning that the basin is not over-appropriated so use of the water is permitted as long as there is not an administrative river call. If a call would occur, the Applicant has a Colorado River Water Conservancy District (CRWCD) contract that will release sufficient supply to allow ongoing use.

Frac water demand is estimated to be 24.75 acre-foot and will be provided from “water obtained or produced from natural gas well pads”.

Water is not required for the production process, and there are no permanent on-site employees in this phase, which would require potable water. However, water is produced during this phase and stored in on-site tanks. Trucks retrieve this water on a regular basis and transport it for recycled use or to a treatment facility.

Staff Response PA 41-9:

This site is currently in the production stage and therefore water will not be necessary for on-site use. Water will be produced and, as stated above, stored on-site for later transport.

It appears that adequate utilities to provide water and sanitation to both GV 82-5 and PA 41-9 are in place or will be available when needed.

- (2) Street improvements adequate to accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use shall either be in place or shall be constructed in conjunction with the proposed use;

Staff Response GV 82-5:

Project generated traffic will fluctuate depending upon the phase of operation. Focus is placed on the drilling and completion activities since it is those timeframes that typically result in significant traffic volume:

***Drilling:** The application states that the anticipated site generated traffic, during drilling operations, will be 17 trips per day. This number is fairly low due to the fact that water necessary for the drilling operations is available on-site from the Colorado River. The caveat to the trip generation figure provided by Drexel, Barrell & Co. is that traffic will be significantly higher during those periods when drilling rigs are being moved. These numbers are not included in the 17 trips per day.*

*The 17 trips per day is derived from a calculation of trips over the life of the drilling operations – 2,724 **one-way** trips will result over a time period of 160 days.*

***Completion:** The completion process is typically the most traffic intensive due to the necessity of large amounts of water for fracing. The GV 82-5 site will be fraced from a remote location thereby reducing the traffic during this stage of the extraction. Completion operations will result in 13 trips per day. Once again, the trips per day are derived from an expected total generation of 2,048 trips over an additional 160 days.*

***Haul Route** The site access and haul route is County Road 309 (Rulison-Parachute Road) which connects to County Road 323 in Rulison. This road then provides access to Interstate 70, Exit 81.*

CR 309 is a two-lane road that provides connection to Battlement Mesa via Rulison and is considered as a Garfield County Preferred Haul Route.

Williams funded substantial improvements to CR 309 including re-paving the length of road (from Rulison to CR 301). Access to the GV 82-5 well pad is through an adjacent property driveway, which was improved to the well pad site.

Jake Mall, County Road and Bridge, responded to the application (EXHIBIT M) stating that driveway permits have been issued for the sites and that the driveway aprons should be paved. Due to the season, it was acceptable that Williams demonstrate that they would pave the aprons in the 2010 season. Jake also confirmed that both locations are on a designated haul route and that all vehicles requiring oversize/overweight permits must obtain such from Road and Bridge. Williams submitted a response letter (EXHIBIT N) agreeing to the paving.

The combined restrictions, prohibiting utilization of Battlement Mesa roads, use of the designated haul route, and a reduction in the overall traffic generation due to remote technology, will minimize the traffic generation from this use thereby demonstrating that the existing roadway system is adequate to provide safe and convenient access for the proposed use.

Staff Response PA 41-9:

Access to this site is from CR 301 (Morrisiana Mesa Road) with the haul route designated limiting access to CR 301 from CR 309. (This is the same haul route that passes by the GV 82-5 well pad). This route prevents vehicles from utilizing roads within the PUD.

Two wells are in production stages on this well pad, therefore minimal traffic is generated. Currently it would appear that adequate and safe access is possible from the existing roadway system. An amendment would be required if future, additional, wells would be proposed on this site.

(3) Design of the proposed use is organized to minimize impact on and from adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot and by location of intensively utilized area, access points, lighting and signs in such a manner as to protect established neighborhood character;

Staff Comment GV 82-5

Several measures have been implemented that minimize the impact on adjacent land, to the extent possible. The limit on well pad size to 200' x 300', the off-site fracing, and utilization of a designated haul route all minimize the impact to adjacent properties. The location of the site sits significantly below the golf course screening visibility. The top of the derrick is visible from the golf course, no mitigation is possible. The extraction and completion processes are anticipated to be done in March 2009 therefore the derrick will be removed prior to or concurrent with the golf season.

The site is screened from the roadway by existing vegetation.

Staff Comment PA 41-9

The well pad appears to have been reclaimed to a certain extent, primarily with grasses. The two wells and production equipment that exist on the site are not screened but the equipment is painted so that it blends with the site vegetation.

The Applicant has minimized some of the impacts from GV 82-5 and PA 41-9. The remaining impacts cannot be mitigated - such as the visibility of the derrick due its height or due to for safety issues (related to the necessity of lighting).

Additional specific requirements and prerequisites for certain uses are as follows:

5.03.07 Industrial Operations: Industrial Operations, including extraction, processing, fabrication, industrial support facilities, water impoundments, mineral waste disposal, storage sanitary land-fill, salvage yard, access routes and utility lines, shall be permitted, provided:

(1) The applicant for a permit for industrial operations shall prepare and submit to the Planning Director two (2) copies of an impact statement on the proposed use prescribing its location, scope, design and construction schedule, including an explanation of its operational characteristics. One (1) copy of the impact statement shall be filed with the County Commissioners by the Planning Director. The County Commissioners shall review the impact statement to determine whether the proposed industrial operation complies with the requirements of this Section and shall notify the Planning Director of its decision in this regard, in writing, within thirty (30) days from the date on which the impact statement is filed with the Planning Director. The impact statement shall show that the use shall be designed and operated in compliance with all applicable laws and regulations of the County, State and Federal Governments, and will not have a significant adverse effect upon:

(a) Existing lawful use of water through depletion or pollution of surface run-off, stream flow or ground water;

Staff Comment GV 82-5

This standard requires demonstration that water resources are adequately protected from pollution. The Applicant has submitted several documents related to this standard:

Spill Prevention and Control Countermeasures

The Parachute Integrated Spill Prevention and Control Countermeasures (SPCC) plan is in effect for Williams operations and includes specific information regarding GV 82-5. The plan states that the potential volume capacity at this site is 37,800 gallons and that:

The SPCC provides guidance on action that must be performed to assure compliance with the Plan. Those actions include annual site inspections, preventative maintenance of equipment, secondary containment systems, discharge prevention systems, employee training, reporting requirements for spills, review of the plan once every 5 years, and amendment to the plan when there is a change in the facility.

Protective measures include secondary containment structures (oil, produced water/oil mixtures, storage tanks and separators) in the form of both earthen berm and lined walled structures.

The adjacent layout diagram is provided which indicates location and function of tanks on-site and flow of drainage across the site.

The submittal documents also include a Spill Prevention and Response Plan.

Stormwater Management plan

A Construction Field Wide Stormwater Management Plan, prepared by Habitat Management, Inc. lists controls such as Best Management Practices for Stormwater Pollution Prevention and Erosion and Sediment Control, as well as material handling and spill prevention. General information regarding requirements is included in the plan, which then includes information specific to GV 82-5.

The site-specific plan contains information unique to the site such as the area of disturbance (2.77 acres), soil types (Wann Sandy Loam and Potts-Oldefonso), vegetation (riparian woodland). A map is also included, which shows location of berms and placement of straw bale barriers. This map is used in site inspections to assure protective measure remain in place.

Staff Comment PA 41-9

The same plans and permits, identified above, are applicable to this site and include specific measures for PA 41-9.

(b) Use of adjacent land through generation of vapor, dust, smoke, noise, glare or vibration, or other emanations;

Staff Comment GV 82-5

A Fugitive Dust Plan is in place to prevent visible emissions from exceeding opacity regulations, prevent public nuisance, and in general to prevent dust from leaving the site. Measures include watering and/or application of chemical suppressants on unpaved roads and disturbed surface areas.

A Vibration Study was provided which calculated vibrations at a distance of fifty feet (50'), one-hundred fifty feet (150') and at two-hundred fifty feet (250') from the wellhead. The study includes many calculations and graphs, but does not contain a summary of the findings. Therefore, it is not possible to state, at this time, that site vibrations will not impact adjacent properties.

Staff Comment PA 41-9

Due to the process of piping the extracted materials, the site does not currently emit vapor, smoke, noise, glare or vibration, or other emanations. Dust control is the only potential issue and only relative to the road access. The paving of the apron onto CR 301 may help, but necessity for dust suppression measures on the access road should be closely monitored.

(c) Wildlife and domestic animals through creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions;

Staff Comment GV 82-5

Williams has a field wide level list of Best Management Practices (BMP) related to wildlife mitigation along with site specific BMP's for GV 82-5. The BMP's are adequate to mitigate impacts to wildlife and it appears that application of some of the BMP's have occurred. Those would include the use of centralized grading, combining roads and utilities to minimize disturbance, utilizing directional drilling to decrease area of disturbance, etc. The general goal is to minimize surface disturbance and prevent spills in order to preserve habitat.

Staff Comment PA 41-9

Again, the intent in the plan is to minimize surface disturbance and prevent spills to preserve habitat.

(2) Truck and automobile traffic to and from such uses shall not create hazards or nuisance to areas elsewhere in the County;

Staff Comment GV 82-5

The site access is limited to a specified haul route, compliant with county referred haul routes. Access to the site is from the I-70 Rulison Exit via CR 323 and CR 309.

Staff Comment PA 41-9

The site access to PA 41-9 is limited to a specified haul route, compliant with county referred haul routes. Access to the site is from the I-70 Rulison Exit via CR 323, CR 309 and CR 301.

(3) Sufficient distances shall separate such use from abutting property, which might otherwise be damaged by operations of the proposed uses;

Staff Comment GV 82-5

The Battlement Mesa Golf Course is located within 300 feet of the well pad, and the nearest home appears to be within 1,000 feet of the pad. The fact that the golf course is sited atop a ridge to the west of the site may mitigate the lineal distance of separation. The nearest home is located on the other side of the golf course fairway but from the adjacent photo, it would appear to look straight out to the 135' derrick.

Staff Comment PA 41-9

This site is sufficiently distant from abutting property that may be damaged by operations.

(4) In the event the County Commissioners or Planning Director determine that the impact of a proposed industrial operation is such that information in addition to the impact statement or other information submitted is necessary for the informed evaluation of such impact, such additional information may be required. ~~At the discretion of the County Commissioners additional information supplementing the impact statement may be required. Such request for additional information shall be in writing and shall be given to the applicant not later than forty five (45) days after the filing of the impact statement.~~ (Amended by Resolution 79-132). The County Commissioners shall then have an additional forty-five (45) days from the date of submission of such additional information within which to notify the Planning Director of their decision in respect to said impact statement;

An application for permit for industrial operation shall be subject to the provisions under Section 8.01 in addition to the required impact statement. Any provisions of Section 8.01 to the contrary notwithstanding, the Building Official shall have a period of ten (10) days from notification by the County Commissioners to their decision as hereinabove provided, within which to act upon such application;

(5) Permits shall be granted for those uses only with the provisions that a satisfactory rehabilitation plan for the affected land be submitted prior to commencement of such use;

(a) The plan for site rehabilitation shall be submitted to the Planning Director with the impact statement, and must be approved by the County Commissioners before a permit for conditional or special use will be issued;

(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, or bond, or 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;

Staff Comment GV 82-5

There appears to be some discrepancy in the delineation of regulatory requirements. The COGCC-approved well pad reclamation plan has a designated area of 1.27 acres; however, the disturbed area is 1.77 acres. There does not appear to be a reclamation plan for that area under COGCC purview, nor has the applicant submitted sufficient information for the County to review and approve a reclamation plan (and provide sufficient security) for that .5-acres.

The plan submitted appears satisfactory, interim reclamation will occur post-drilling and completion thereby reducing the area of disturbance for the production phase.

Steve Anthony, Vegetation Manager, commented on the application (EXHIBIT Q). He had concerns that have since been addressed by the Applicant (EXHIBIT R).

Staff Comment PA 41-9

Interim reclamation of this site has occurred, however comments from Steve Anthony (EXHIBIT O) identified some concerns. The Applicant has since addressed the concerns (EXHIBIT P).

(6) The Planning Director may, upon the preliminary determination that an industrial operation related solely to the extraction of oil and gas from the ground through conventional use of drilling and pumping, and the extraction of sand and gravel affecting not more than ten acres has limited impact, waive the requirement for the above-described impact statement, upon the submittal of such information as the Planning Director requires for the evaluation of the impact of such an extractive operation. If the determination is later made that additional information is required, subsection (4) of this section shall apply. (Added by Resolution 79-132)

Staff Comment GV 82-5

Waiver was not requested.

Staff Comment PA 41-9

Waiver was not requested.

5.03.08 Industrial Performance Standards: All industrial operations in Garfield County shall comply with applicable County, State, and Federal regulation 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:

(1) Volume of the sound generated: every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed ninety (90) decibels, with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one hour, at any point of any boundary line of the property on which the use is located.

Staff Comment GV 82-5

The COGCC regulates noise related to the Oil & Gas Industry. Those regulations provide maximum noise levels based upon the use of the adjacent property (with higher noise levels permitted for industrial uses, lower levels for residential areas). However, the Applicant is demonstrating compliance with industrial noise levels due to a provision in the COGCC regulations that allow use of the industrial standard for "Operations involving ...use of a drilling rig, completion rig, work over rig, or stimulation..."

The Zoning Resolution of 1979 permits maximum noise levels not to exceed ninety (90) decibels.

Staff Comment PA 41-9

The applicant provided the following statement regarding noise at the PA 41-9 site:

(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;

Staff Comment GV 82-5

The Applicant provided a Vibration Study however; findings or conclusions were not included in the report.

Staff Comment PA 41-9

The Applicant responded to this standard with the following statement:

(3) Emissions of smoke and particulate matter: every use shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards;

Staff Comment GV 82-5

Jim Rada, Environmental Health Manager, responded to the referral request (EXHIBIT S) with several comments. In particular, the concerns are emissions, such as VOC's, and odors. In order to alleviate exposure concerns and potential odor issues some operators have a voluntary policy regarding installation of VOC emission controls on well pad facilities near residential areas – even when emissions are below regulated levels. The County could ask for this consideration as a condition of approval.

Staff Comment PA 41-9

I assume that the above comments from Environmental Health also apply to this site.

(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 the 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;

Staff Comment GV 82-5

This standard appears to have been met.

The Applicant has stated that existing pipeline infrastructure in the area will minimize the necessity for flaring of gases.

Staff Comment PA 41-9

This standard appears to have been met.

(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 Fire Code;

(b) At the discretion of the County Commissioners all outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence 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 reasonable foreseeable natural causes or forces;

(d) All materials or wastes which might constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors in accordance with applicable State Board of Health Regulation;

Staff Comment GV 82-5

(a) The storage of gases is in accordance with accepted standards and laws. This application was referred to the Grand Valley Fire District however; no comments were submitted regarding this site. The Temporary Employee Housing information submitted did include letters that were provided to both the sheriff and fire district regarding use of this location.

(b) This site does not comply with subsection (b) above as the fuel, materials and products are not concealed. The Board has the ability to waive this requirement and staff would recommend that they so because of the site. The site sits well below the PUD and is visible from the ridge therefore a fence or wall will not conceal the activities from the adjacent property. Oil & Gas activity is occurring on the adjacent property to the east.

(c) It appears that adequate protective measures are in place (including the SWMP, SPCC, fugitive dust plan) to minimize the possibility of transfer of materials or wastes from the property.

(d) A bear-proof trash container is on-site to prevent wildlife, rodent and insect attraction. Material and wastes are subject to COGCC and state standards.

Staff Comment PA 41-9

(a) The storage of gases appears to be in accordance with accepted standards and laws. This application was referred to the Grand Valley Fire District however; no comments were submitted regarding this site.

(b) This site does not comply with subsection (b) above as the fuel, materials and products are not concealed. The Board has the ability to waive this requirement which may be appropriate at this location as it is somewhat concealed by the slope of the land as well as the painting of the tanks to blend with the environment.

(c) It appears that adequate protective measures are in place (including fencing, SWMP, SPCC, fugitive dust plan) to minimize the possibility of transfer of materials or wastes from the property.

(d) There will be no trash generated by this site. Material and wastes related to the gas production are subject to COGCC and state standards.

(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.

Staff Comment GV 82-5

This site is subject to a Stormwater Management Plan and Spill Prevent and Control Countermeasures Plan that requires safeguards compliant with COGCC standards.

Staff Comment PA 41-9

This site is subject to a Stormwater Management Plan and Spill Prevent and Control Countermeasures Plan that requires safeguards compliant with COGCC standards.

5.03.10 Approval of Conditional or Special Uses: Uses listed as conditional under the appropriate Zone District Regulation shall be permitted based on compliance with the requirements listed herein; where uses are listed as Special Uses they shall be permitted only:

(1) Based on compliance with all requirements listed herein, and;

(2) Approval by the County Commissioners which Board may impose additional restriction on the lot area, floor area, coverage, setback and height of proposed uses or require additional off-street parking, screening, fences and landscaping, or any other restriction or provision it deems necessary to protect the health, safety and welfare of the population and uses of the neighborhood or zone district as a condition of granting the special use.

5.03.11 Denial of Special Use: The County Commissioners may deny any request for special use based on the lack of physical separation in terms of distance from similar uses on the same or other lots, the impact on traffic volume and safety or on utilities or any impact of the special use which it deems injurious to the established character of the neighborhood or zone district in which such special use is proposed to be located.

5.03.12 Access Routes: All conditional and special uses must be provided with access routes of adequate design to accommodate traffic volume generated by the proposed use and to provide safe, convenient access for the use constructed in conjunction to the proposed use. The minimum design standards shall be the Garfield County Road Specifications.

Staff Comment GV 82-5 and PA 41-9

As seen in the required Haul Route above access to and from both sites is on a County Preferred Haul Route. Further prohibitions are in place regarding use of roads with the Battlement Mesa PUD.

9.03 PERMIT – SPECIAL USE

9.03.01 Application: Shall consist of all information required of an application for a permit and subject to all administrative procedures thereof plus the following:

(1) Supporting information, plans, letters of approval from responsible agencies and other information to satisfy requirements listed under Conditional and Special Uses in the Supplementary Regulations;

(2) A vicinity map drawn to scale depicting the subject property, location of roads providing access to the subject property, location and use of buildings and structures on adjacent lots and the names of owners of record of such lots;

(3) A letter to the County Commissioners from the applicant explaining in detail the nature and character of the Special Use requested.

9.03.02 Fee

9.03.03 Action by Planning Director: The Planning Director shall utilize services of Environmental Health Officer, Building Official and any other county or state officials or agencies to arrive at a determination that the proposed building, structure or use is in compliance with all applicable zoning, subdivision, building, health and sanitation regulations except for approval by the County Commissioners as a Special Use; and if the proposed building, facility, structure or use are in compliance except for Board approval, shall forward the application along with his report to the Board.

9.03.04 Action by the County Commissioners: An application for Special Use Permit shall be approved or denied by the County Commissioners after holding a public hearing thereon in conformance with all provisions of this Resolution. Such hearing shall be held no later than thirty (30) days following the receipt of the Special Use Permit application and the recommendation of the Planning Director; provided, however, that if they deem it appropriate, the County Commissioners may refer a request for a Special Use Permit to the County Planning Commission for its review and recommendation, in which case said public hearing must be held within sixty (60) days of the application. Notice of hearings held in regard to an application for a Special Use Permit shall be the sole responsibility, and at the expense, of the applicant, and except as otherwise provided shall be given as follows:

(1) Notice by publication, including the name of the applicant, description of the subject lot, a description of the proposed Special Use and the time and place for the hearing shall be given once in a newspaper of general circulation in that portion of the County in which the subject property is located at least fifteen (15) days prior to the date of such hearing and Proof of Publication shall be presented at hearing by the applicant.

(2) Notice by mail, containing information as described under paragraph (1), above, shall be mailed to all owners of record of lots adjacent to the subject lot at least five (5) days prior to such hearing time by Certified Return Receipt mail, and Receipts shall be presented at the hearing by the applicant.

The concurring vote of the majority of the County Commissioners shall be necessary to decide in favor of the applicant. The County Commissioners shall approve or deny the permit application and notify the applicant of their decision, in writing, within fifteen (15) days following the Public Hearing. The decision shall state specific findings of fact relevant to all essential issues. If the permit is denied, such decision shall include reasons for denial.

9.03.05 Periodic Review: 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.

STAFF COMMENTS

Based on the review of the applicable Special Use Permit requirement, as well as the referral comments from various local and State agencies, the following issues have been identified:

A. Area of Disturbance, Reclamation and Bonding

There appears to be either a discrepancy in area or in definition of that area under permit by various agencies. The COGCC-approved reclamation area is 2.27 acres, the SUA limits the well pad area to 200 x 300' (1.377 acres), and the Stormwater Management Plan indicates 2.77 acres of disturbance. If any extraction and processing activity, or related accessory uses, occurs off the COGCC-approved well pad area the County has land use review including requirements for reclamation and security. Staff recommends a condition of approval that the Applicant provide a revised site plan, which clearly indicates all site improvements and activities including limits of the COGCC-approved well pad.

B. Environmental Protections

- a. E&P Waste Disposal – Fluid conveyance
 - i. Pipeline and legal means of conveyance
- b. Cumulative impact on air and water

C. Roads

Access to the site from I-70 follows a prescribed County Haul Route that prevents any use of roads within the Battlement Mesa PUD. The staff concern is not specifically related to this site, but to off-site activities that will be supporting this well pad, in particular the fracing activity. Fracing is known to be the highest traffic generating activity associated with extraction and processing, however no information has been provided since the fracing is occurring from an adjacent parcel outside of the PUD.

D. Future Development

GV 82-5 This site is located within the Public, Semi-Public and Recreation (PSR) District within the PUD and further designated as Community Open Space. An example of some of the permitted uses within PSR include school sites, governmental offices, police and fire stations, churches, and open space including active and passive recreation. The issuance of Special Use Permits on a portion of a site does not preclude other permitted uses from occurring, either simultaneously or after the Special Use ceases activity. That leads to the question of what is allowed to be “left” on-site after the extraction and processing activity ceases.

PA 41-9 This site is located within the Rural Density Residential (RDR) District within the PUD. Permitted uses include detached single-family dwellings and customary accessory uses. Density in this zone is limited to a maximum of 1 dwelling unit per gross acre.

The COGCC does allow for certain Oil & Gas-related materials to be buried on-site (utilized in, and part of, the reclamation of the well pads). Minimum standards must be met in order for the material to be buried on-site.

Pits are utilized on well pads for containment of certain materials that result from the extraction activity. Some pits are required to be lined, while others are not. Further, if lined, the COGCC requires that liners be removed and disposed of in proper facilities. However, materials contained by the liner may be permitted to be buried on-site.

GV 82-5 has an on-site pit for drill cuttings, which the Applicant has lined, though this liner was not required by the COGCC. The interim reclamation plan submitted does not indicate what will happen with either the liner or the cuttings. Where will the liner and the cuttings be disposed of? Staff recommends that the Special Use Permits include a condition that materials resulting from the extraction and processing activity shall not be left on-site except for temporary storage purposes.

If excess fluids and/or solids are buried on these sites there is potential that future development will unearth the materials.

E. County Regulatory Ability

“Garfield County requires a very thorough review of Special Use Permits. The scope of the review involves the coordination of permits and review by Local, State and Federal agencies that have authority over certain activities, with the County granting land use approval. The County review process functions to determine the appropriateness of the use at the particular location, as well as to ensure a comprehensive review of all aspects of the proposal including operational, potential impacts and proposed mitigation”.

Staff reports for other extraction activities including sand, gravel and limestone have commonly included this language. The review process for Oil & Gas Extraction and Processing differs substantially due to the fact that the subsurface minerals are considered the dominant estate, thus the County cannot prevent the owner from gaining access to their “property”. In this instance, the County land use review functions to determine potential impacts related to the activity and assure that adequate mitigation measures are in place to protect the **Public Health, Safety and Welfare** of the citizens of Garfield County.

- F. Fracing – The use of an off-site location for frac activity is accomplished by utilizing pipelines from an adjacent to site, which will transport the sand, and fluids to GV 82-5. The use of an adjacent site is necessary due to the limited area of the well pad, however since this adjacent site is not within the Battlement Mesa PUD it is not a part of this review. The use the adjacent parcel for the frac activity does benefit the GV 82-5 site simply by reducing the on-site impacts that occur within the PUD. The traffic impacts associated with remote fracing will still occur, albeit stopping short of the PUD boundary. Staff is concerned with the remote fracing as a larger issue related to “centralized facilities” that would require County review regardless of whether it was or was not contained in the PUD. As you may be aware, the County does regulate certain Oil and Gas activities, both on and off the COGCC-approved well pad. Examples of this include Temporary Employee Housing (on pad); off-site pits including produced water storage in both tanks and water impoundments; on-pad pits that serve multiple well pads as it is considered a centralized facility. The definition of a centralized fracing facility would be one that serves multiple well pads, potentially including the pad upon which that facility is located. In the current circumstance it would appear that the remote fracing may not be considered a centralized facility since it is only serving the GV 82-5 well pad, and will decrease potential impacts inside of the boundary of the PUD (including odor and noise issues). Staff has requested additional information related to the remote site so that a determination may be made that Williams has the proper authority to using the adjacent site for this use. It is an integral part of the current application, as the completion activities for these wells COULD NOT occur without it. The additional information requested includes:
- i. Legal Description of the site;
 - ii. Property owner permission for use of the site for this purpose;
 - iii. COGCC permits for the adjacent site, including any additional permits that may be required for this use;
 - iv. Information related to where the produced water is originating (where it is coming from) and how it is being transported to this site.
- Staff has included the provision of this information as a condition of approval for the GV 82-5 site.
- G. Compliance - There are few tools available by which the County can compel compliance with State and Federal plans or permits. Compliance with COGCC standards, inspections related to water and air quality, are all State functions that the State must enforce.
- H. Visual Impacts - Impacts resulting from the GV 82-5 site are mitigated to a certain extent by the land layout and proposed well pad location. The site is located below Battlement Mesa, which sits atop a ridge. The top of the derrick is visible from the golf course, as photos had shown, however the drilling will be completed in March thereby minimize the impact to the golf course. One home is shown in the photos that will see this use.
- I. Preemption
 (1) The COGCC regulates visual impacts, and in *Town of Frederick v. North American Resources Company*, 60 P.3d 758 (Colo. App. 2002), some of the Town’s regulations did create an operational conflict with the detailed requirements of the state regulations below. This does not mean we cannot regulate, we just need to see if it can be done in a way that harmonizes with the state regulations. The Court of Appeals in the *Town of Frederick* case did not specify in detail what the Town regulations required, but cited the following COGCC Rules in support of its conclusion that local regulations created operational conflicts and were preempted:
 Rule 318-Location of Wells: includes setback requirements from other wells.

 Rule 803 - Lighting: “to the extent practicable, site lighting shall be directed downward and internally so as to avoid glare on public roads and building units within seven (700) hundred feet.”
 Rule 804 – Visual Impact Mitigation: “Production facilities, regardless of construction date, which are observable from any public highway shall be painted with uniform, non-contrasting, non-reflective color tones (similar to the Munsell Soil color Coding System) and with colors matched to but slightly darker than the surrounding landscape by September 1, 2010.
 (2) The COGCC regulates Noise in the 800 series rules for Aesthetic and Noise Control Regulations. That section lists the permitted decibels that occur, based upon the adjacent property use – similar to those State Statutes that are typically applied to Special Use Permits. The chart below contains the maximum decibel levels permitted in certain areas.

Clearly, the Battlement Mesa area is residential but the COGCC regulations state:

It is important to note that the Zoning Resolution of 1979 lists the maximum permissible noise level as 90 db(A), which exceeds the limits imposed by COGCC.

- J. Hours of Operation - Special Use Permit regulations stipulate that impact to adjacent properties must be adequately mitigated; therefore, one of Staff concerns is related to the impact of lighting and noise. The above preemption section prevents the County from enforcing protective standards that are contained within their regulations. Currently drilling, completion and production at these sites will occur twenty-four hours a day, 7-days per week with drilling and completion operations occurring for several months at a time per location. Given that staff’s concern related to noise and lighting is due to the proposed hours of operation for this use, it appears that the County could require limitation.

The location of Extraction and Processing of Natural Resources sites within an existing, developed PUD, or in an urban or semi-urban area with existing structures within several hundred feet of the use, should be required to mitigate the significant impacts to adjacent properties. The County could require limits to the hours of operation, consistent with other Special Use Permits/Major Impact Land Use Change Permits for extraction and processing activities. The limitation of hours of operation is in effect in other jurisdictions throughout the country and is typically a requirement in urban and semi-urban areas where existing structures will be impacted by the nighttime operations.

That said, it would appear that this particular location DOES NOT adversely impact the adjacent properties with noise and lighting due to the distance to structures and the topography of the immediate area.

PLANNING COMMISSION RECOMMENDATION GV 82-5

Planning Commission recommends that the Board of County Commissioners APPROVE the Special Use Permit for Extraction and Processing of Natural Resources within the Battlement Mesa Planned Unit Development on property owned by Battlement Mesa Land Investments and operated by Williams Production RMT Company for drilling, completion, production and reclamation related to 22 natural gas wells on pad GV 82-5 with the following conditions:

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. Any materials including solids, liquids or gases resulting from the extraction and processing activity shall be removed from the site. This does not preclude the allowance of permitting on-site temporary storage for these materials through this special use process, **nor does it include cuttings, which may be left on-site pursuant to COGCC standards.**
3. Prior to the Board of County Commissioner consideration of the Special Use Permit for well pad GV 82-5 the Applicant shall submit an updated site plan that indicates the following:
 - a. COGCC-approved well pad area
 - b. Area of the well pad that is included in the COGCC-approved reclamation plan
 - c. Area of disturbance any use/material or facility within that area;
 - d. Well pad improvements
 - e. Facilities or improvements required by other permits including, but not limited to, Stormwater Management Plan and Spill Prevention and Control and Countermeasures plan.
 - f. Location and use of all facilities, materials and uses within the well pad, including, but not limited to, tanks, trailers, porta-potties, trash receptacles and pits.

If, upon review of the site plan, any activity accessory to the Extraction and Processing is NOT wholly contained within the COGCC-approved well pad then County review and approval of a reclamation plan for those areas, along with sufficient security, shall be required. An approved County reclamation plan shall be required prior to Board of County Commissioner approval of the Special Use Permit.

4. All operational activities including, but not limited to employee parking, fuel storage, sanitation facilities, equipment and natural resource storage areas shall be limited in location to that surface area which is under permit with the COGCC for the well pad unless otherwise approved through this permit. Any extraction and/or processing activity found occurring off-site of the well pad or not approved through this permit, will be considered a violation of the Special Use Permit and will be subject to the violation process as contained within the Garfield County Unified Land Use Resolution of 2008, as may be amended from time to time.
5. The Applicant shall provide sufficient information to demonstrate that the well pad has not and will not impact jurisdictional wetlands. If jurisdictional wetlands are impacted, the operation shall cease until such time as the required permits are issued by the Army Corps of Engineers.
6. The County shall require the Operator to maintain the Volatile Organic Compound (VOC) emission controls on the well pad facility, regardless of other agency regulatory requirements.
7. 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.
8. Operation of the facility must be in accordance with all Federal, State and Local regulations and permits governing the operation of this facility.
9. The Applicant shall be required to submit a report annually, until such time as the well pad is released from the COGCC reclamation bond, of the extraction and processing operation, for staff review. Upon review of any deficiencies pursuant to conditions of approval or other local, state, or federal permits, Staff may forward the report to the County Commissioners for full review of the Special Use Permit.
10. 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 other permitting agency.
11. The County can request a site inspection with one calendar 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.
12. All extraction and processing activities shall be required to comply with the following performance standards:
 - (1) Volume of the sound generated: every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed ninety (90) decibels (or COGCC rule, whichever is more stringent), with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one hour, at any point of any boundary line of the property on which the use is located.
 - (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 so 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 the 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 Fire Code;
 - (b) At the discretion of the County Commissioners all outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property; **Both the Planning Commission and Staff recommend that the BOCC specifically determine that additional screening or enclosure of this site is not necessary due to on-site vegetative screening and topography that provide adequate visual screening.**

(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 reasonable foreseeable natural causes or forces;
(d) All materials or wastes which might constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors in accordance with applicable State Board of Health Regulation;

(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.

ADDED SINCE PC HEARING

13. Prior to issuance of a Land Use Change Permit for GV 82-5, the Applicant shall provide the following information regarding the fracing location:

- a. Legal Description of the site;**
- b. Property owner permission for use of the site for this purpose;**
- c. COGCC permits for the adjacent site, including any additional permits that may be required for this use;**
- d. Information related to where the produced water is originating (where it is coming from) and how it is being transported to this site.**

This condition had not been included or discussed at the Planning Commission hearing due to the fact that Staff had anticipated receipt of the information from Applicant. The information has not been submitted to-date and therefore staff recommends that it be included as a condition of approval.

Staff is also recommending a revision to Condition 2. which was originally worded to prohibit the burying of cuttings on the site. The Planning Commission discussion on this issue revolved around the fact that the COGCC has standards that must be met in order for the operator to bury this material. Staff continues to recommend that removal be required – for the following reasons:

First, the Battlement Mesa PUD does not contain provision for permitting, by right or by special use, the use of mineral waste disposal or solid waste disposal sites within the PUD.

Second, the County regulations at the time permitted sanitary landfill and extraction and processing of natural resources as conditional uses but did not include the allowance of mineral waste disposal.

Third, this drilling activity is occurring within a subdivision, which is an urbanized environment that warrants additional standards. The potential for future development to occur on these sites is very high and therefore all materials must be removed. The operator has been hauling the cuttings off-site, due to inadequate storage area on the pad, and the County should require that they continue to do so. Staff recommends that Condition 2. be amended as follows:

- 2. Any materials including solids, liquids or gases resulting from the extraction and processing activity shall be removed from the site. This does not preclude the allowance of permitting on-site temporary storage for these materials through this special use process.**

PLANNING COMMISSION RECOMMENDATION PA 41-9

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 Planning Commission and Board of County Commissioners.
2. This Special Use Permit for Extraction and Processing of Natural Resources is limited to production activities related to PA 41-9 and PA 42-9 wells on well pad PA 41-9. If future extraction and processing activity (additional to what is being permitted herein) would be proposed, an amended Special Use Permit shall be required prior to that activity occurring on the site.
3. 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.
4. Operation of the facility must be in accordance with all Federal, State and Local regulations and permits governing the operation of this facility.
5. The Applicant shall be required to submit a report annually, until such time as the release of the COGCC reclamation bond, of the extraction and processing operation, for staff review. Upon review of any deficiencies pursuant to conditions of approval or other local, state, or federal permits, Staff may forward the report to the County Commissioners for full review of the Special Use Permit.
6. Should additional drilling occur on this site, the County shall require the Operator to install Volatile Organic Compound (VOC) emission controls on the well pad facility, regardless of other agency regulatory requirements.
7. 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 other permitting agency.
8. The County can request a site inspection with one calendar 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.
9. All extraction and processing activities shall be required to comply with the following performance standards:
 - (1) Volume of the sound generated: every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed ninety (90) decibels (or COGCC rule, whichever is more stringent), with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one hour, at any point of any boundary line of the property on which the use is located.
 - (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 so 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 the 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 Fire Code;

(b) At the discretion of the County Commissioners all outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property;

Both the Planning Commission and Staff recommend that the BOCC specifically determine that additional screening or enclosure of this site is not necessary due to on-site vegetative screening and topography that provide adequate visual screening.

(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 reasonable foreseeable natural causes or forces;

(d) All materials or wastes which might constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors in accordance with applicable State Board of Health Regulation;

(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.

Kathy – The Planning Commission recommended approval subject to the following conditions and due to the number of conditions, she did not go through them. She did make a comment about a couple of the conditions: Condition No. 12 is something that the staff has done commonly over the past couple of years and that is simply to reiterate the industrial performance standards as conditions of approval. However, that there is one that has caused concern to the Planning Commission and that is regarding the storage area and the concealing of those facilities from the adjacent properties. All outdoor storage facilities shall be included by a fence or wall adequate to conceal such facilities from adjacent property. As you can imagine the derrick from the drill rig probably cannot be enclosed by a fence.

Commissioner Houpt – That is temporary, this is for permitted facilities.

Kathy – The Planning Commission wanted to forward part of their discussion to this Board so you were aware that they thought adequate on site screening does exist for this site simply due to its topography and the existing vegetation.

Commissioner Houpt – The visual impacts from the river, was that discussed.

Kathy – No. It sits well above the river. The GV82-5 site sits adjacent to the Colorado River but it does sit above it and one of the sites did show a glimpse of the Colorado River and existing vegetation. You could see that it was well down below where the well pad was located.

Chairman Martin – If you are on I-70 you can see a tower.

Kathy – The most visible point for the GV82-5 site is when you are traveling west on I-70. The PA41-9 site because it is in production stages has its own specific conditions related to it particular that if additional structures were added they would be required to come back through this process for that. Once again, we added in the Planning Commission deliberations regarding the adequacy of the on-site screening for that site.

Kathy – There were several additions and changes from what the Planning Commission recommended to this Board and they are particular to the GV82-5 site and related to Condition number 2. That condition really requires that all related materials and waste be removed from the site at the end of the production stages. The exact language of the conditions is “any material including solids, liquids or gases resulting from the extraction of processing activities shall be removed from the site. This does not preclude the allowance of permitting on site temporary storage facilities and materials through the special use process” and the Planning Commission then added “nor does it include cuttings which may be left on site pursuant to COGCC standards.” Staff is recommending that the last part of that condition be removed simply because we are concerned about potential future development on site. An additional amendment to Condition number 3, the condition that the Planning Commission adopted was that “prior to the Board of County Commissioners consideration, that some information be provided.” That information has not been provided in whole as of yet and so we would just amend that condition to read, “prior to the issuance of the land use change permit that we receive that information.” Then Number 13 is a new condition that staff is recommending simply because of the remote fracing operation. We are requesting that some information be provided regarding that adjacent well pad site basically, a legal description for the site and the fact that the property owner has granted their permission for the use of that well pad for remote fracing, the COGCC permits for the site including any permits that may be necessary for the remote fracing issue and information related to the origination and the produced water for the fracing.

Board Comment:

Chairman Martin – The last one, in previous hearings and we have encouraged to do rig remote fracing simply because of the dust mitigation that would have to take place, the movement of vehicles to and from the different roads and that we have actually encouraged the industry to set up remote fracing. There are many benefits to that simply because we do not have the impact of the lands adjoining the neighbors, the largest one is the control and I will have to mull that over if we want some more regulation on that on but again, it is debatable.

Kathy clarified, the reason we are asking for it is not to further review it; we just want to make sure everything is in place.

Commissioner Samson – You are not asking them for a new permit.

Kathy – No, we are not.

Commissioner Houpt – Our environmental health director brought forward a concern about VOCs and emissions control and I understand that those controls have been added to the 82-5 pad.

Kathy – That is correct; it is condition No. 6, “the County shall require the operator to maintain the VOC emission controls on the well pad facility regardless of other agency regulatory requirements.

Commissioner Houpt – Could you just explain to me for more clarification why there was not a requirement on the other pad, is it because it is dormant?

Kathy – There is a requirement on the other one but it is No. 6.

Commissioner Houpt – Should additional drilling occur... so currently it is deemed there is no need for emission control?

Kathy – That is what the Planning Commission determined.

Applicant:

Jim Mogel, Holland and Hart, Ann Lane, senior counsel and Dasa Bryan with Williams presented for the applicant.

Jim – We do not have a formal presentation today, the staff has done a very thorough in terms of their presentation and Ms. Eastley and Ms. Quinn have worked with us very closely on this, have been very productive, and have worked hard to get us to this point today. We have today with us a number of Williams folks in addition to myself. Those present included Ms. Lane, Ms. Brian, Steve Harris who is the completion superintendent with Williams and our expert on fracing activities; Scott Brady our drilling superintendent; Mike Shoemaker who is an environmental specialist with Williams; Sandy Hotard who is the land and field land person; Rick Matar is our air quality practice manager who can talk about some of the VOC issues and Donna Gray and Sue Alvillar are also present. As Ms. Eastley indicated at the beginning of her presentation, this is a little bit of an unusual process. The permitting process for an oil and gas site is not something that typically comes in front of the County Commissioners. The regulations within the Battlement Mesa PUD actually do require that we get to this point here today, which caught all of us by surprise, and I suspect some of the public comment that you have seen gets to that fact. There were several steps earlier in the process where predecessors to Williams actually did obtain Special Use Permits under the Battlement Mesa PUD for the 82-5 well site, which do not permit directly to what we are talking about today in the sense that the scope of what Williams is doing right now goes what those permits were but this is a site that has been permitted in the past. It is not a completely new concept to the folks in the Battlement Mesa area. We are very comfortable for the most part with the staff recommendation, there a couple of exceptions or a couple of the recommendations that the staff has made that we would like to bring to your attention and perhaps have some discussion on. The first relates to the condition number 13 which we talked about earlier for the 82-5 well site, which goes to the remote fracing, which is taking place. The remote fracing for 82-5 is actually taking places on another COGCC permitted well site, 64-5 pad which is about a quarter mile away and essentially is the same activity that would have taken place on the 82-5 site when we frac the wells that are being drilled there except the fact that the pipes are longer. The reason we have done that is for a couple reasons: 1) we were simply trying to minimize the impacts on Battlement Mesa PUD property because of the adjacent various residences and that sort of thing. The traffic that would be generated by fracing operation is going to be on the pad and it is not going into the Battlement Mesa PUD area and as a result, it reduces the impacts associated with noise, traffic etc in Battlement Mesa. 2) It also allows us to minimize the interference with the land disturbance at that site, the 82-5 site and we were able to use a pad that was already in existence in order to frac from so that we were able to minimize the size of the pad at the 82-5 site. Our issue to discuss with item 13 is simple that we believe that since the activity that is taking place at this remote frac site is in fact an oil and gas production operation, which is taking place on a COGCC approved PUD that this is a permitted use within the area and the County zoning code. If you go to the use tables and the County zoning code that allows for oil and gas drilling and production, COGCC permitted site as a use by right within the zoning category where the 64-5 site is located we do not really quarrel with the staff's desire for information we do not feel it should be an obligation or a condition to our permit to provide this to the staff.

Commissioner Samson – What is the big deal?

Jim – It is not a big deal but the language in the condition says basically, that it is a condition to issuance of the permit and we touched on earlier most of the activity is done at this point and we are trying to keep the conditions to a minimum. In addition, in essence, it is information that may be of interest but it is not really that should be required of the applicant at this point.

Commissioner Houpt – I think I disagree with you only because this is a situation where the drilling is occurring within a PUD that requires a SUP and so your related activity is directly resulting from that activity. If we permit that activity within the PUD we are impacting that outside site as well because it is connected, there is no way to distinguish between those activities and so it would be logical for us as people who look at land use concerns to want to have evidence that the property owners understands what is going on. So I would have to ask the same question that Mike asked and further it is okay that and my next question after you are done with your presentation, I would love to have an update on what is going on with these sites. This is part of our process and we are more concerned about land use and land use impacts than timing of the permit.

Jim – We understand that and I think from our standpoint the operational activities associated with remote fracing, part of our application, we provided information that talked about the fracing that would take place and described how it would relate to the GP82-5 site, which is subject to this permit and is within the Battlement Mesa PUD. As a result, the fact of the remote fracing is part of the application that we made and the information considered by staff as part of the application. The information required by Condition 13 is much like the information you require as part of a formal permit application. The information required on the other well site really goes beyond the scope of the County's regulations.

Commissioner Houpt – That is not my interpretation.

Jim – The other issue we would like to discuss today is that it goes back to Condition number 2, which Ms. Eastley talked about previously and that goes to the question of on-site disposal of cuttings. We have issues actually discussed fairly heavily in front of the Planning Commission on the original condition that staff proposed is basically what they are proposing today which would prohibit us from disposing of any cuttings within the boundaries of the GV82-5 well site. We would request that the Board approve a condition that is consistent with the condition that was approved by the Planning Commission such that it continues to add a requirement or condition that the mandated offsite disposal does not include cuttings. The reasoning for that is several but primarily cuttings are regulated by the COGCC and basically if they exceed certain limitations, certain standards that are set out of the COGCC regulations, they are treated as waste and there are significant disposal criteria that Williams or any other producer has to follow in order to handle those. If they fall within the walk-away standards of the COGCC regulations, they are essentially dirt and they are allowed to be disposed of on-site. We understand staff issues with respect to land use but the fact from our standpoint that we fill the COGCC has already made the determination that those types of materials are not waste and that can be disposed of onsite usually requiring us to haul all of the cuttings away creates an operational conflict with the state regulations. We would request that the Board continue to follow the Planning Commission recommendation with respect to Condition 2.

Commissioner Houpt – What would the operational conflict be, it is a different level requirement so how would that conflict with your operations?

Jim – I would look at it simplistically and maybe that is not the way to look at it but under the COGCC regulations we can leave the cuttings on site and the County is requesting that we take the cuttings away and so that adds to how we operate for our activities. How the oil and gas activities operate on the site because it is an additional step.

Commissioner Houpt – Have you been hauling cuttings away?

Jim – Mr. Brady answered that question.

Chairman Martin – Before you answer I do have a request for a clarification. Jim, in the surface use agreement in reference to Battlement Mesa Partners Limited, was that an issue that was discussed on cuttings on the surface use agreement?

Jim – No, it is not.

Scott Brady – The well pad had been revisited several times and this last visit was the fourth visit. This operation is significantly different than how we started back years ago. It is a much larger single drilling rig operation to drill a multitude of wells. It requires more room than did the location allow for from back in 1990. The reserve pit and the area of room that Ms. Eastley mentioned about the differences in land use there, just allowed that there was not enough land there for us to dig a pit large enough to hold those cuttings. Therefore, we made site provisions with adjacent landowners, us being Williams, to haul solids off there. It is very costly, very time consuming and adds a whole lot of traffic. What we have to do it haul off enough so we can keep a level of the reserve pit under the COGCC standards. That is all we want or should need to have to haul off there. Anything that we do not have to haul off we would like to under COGCC standards be able to leave there, so yes, we have hauled off.

Commissioner Houpt – Those cuttings need to remain on the approved site pad too. They would not be leaving cuttings on adjacent property.

Kathy – No, it is just on the pad. It is part of the reclamation plan for the well pad site itself, so yes they would remain within the well pad.

Jim – While we have Mr. Brady up here, he can give you an update on where things stand too in terms of the status of the drilling.

Scott Brady - Drilling operations have been completed for somewhere between three and four weeks. The drilling rigs moved off to another site. There are crouching operations going there at present and the final phase of frac completions; Steve would have to tell you how much more time is involved there but I think we are more than half done with all the completion process now.

Commissioner Houpt – One question about the cuttings, I am familiar with COGCC rule on that but this is primarily dirt that you are leaving as cuttings. Have you found any contamination in these cuttings?

Brady – No, but we would not until we got into the test criteria that you are fully aware of from the COGCC rules for reclamation.

Commissioner Houpt – It is not really dirt.

Scott Brady – It is rock.

Commissioner Houpt – But there can be contamination.

Scott Brady – Yes there can be. A lot of the area out there dictates which wells might potentially have more arsenic, barium, or hydrocarbon content. This is not one of those areas. We would fully expect that the sampling process that would go on here would allow us to leave the cuttings on site or not have to treat the cuttings.

Commissioner Houpt – You can understand the staff's concern, the PUD allows for schools and other types of facilities for children would be digging around.

Scott Brady – What would be left there would be in our standard dirt, crushed rock sand.

Jim - Mr. Shoemaker who is here with us is the environmental specialist, he is familiar with the cuttings testing criteria and the technical aspects of that, and he might be able to shed light on your questions.

Mike Shoemaker – The main thing to address there is what Mike said are the COGCC rules and the walk away standard, which means that you are able to use it for appropriate standards in residential standards based off the CETG table, which in turns bases it back to the EPA and RFERA standards so it is a walk away standard which they feel is appropriate for residential placement. That area is more green belt open space and not over our portion.

Kathy – The use by right did include other activities.

Mike Shoemaker – It does under the PUD in the Battlement Mesa PUD it is open space and certain public types uses which include things but there is no residential uses allowed there but staff is correct, schools and I am not sure about daycare centers.

Kathy – Hospitals.

Jim – I think in terms of the cuttings, I think we have covered that, the other aspect or issue that we would like to emphasize in here is we completely agree with staff in terms of the screening requirement. The County's standards do allow the County Commissioners to impose additional screening requirements on industrial type activities; here we feel it is somewhat futile. Certainly, the drilling operations we cannot cover up a drilling rig very well. The 41-9 site has minimal visual impacts to adjacent properties; we have covered it so it blends it with the vegetation around there and we are subject to criteria from COGCC for reclamation on the lower site. Once the production and completion operations are completed, there will be minimal improvements on that site so we support staff's position that no additional screening be required for those sites. Just a couple of things to clarify during Ms. Eastley's presentation she indicated the property was actually owned by Battlement Mesa Land Investments. The documentation we passed around prior to the hearing indicated that it was actually owned by Battlement Mesa Partners LLC and that was part of the confusion because the County Assessors records did not coincide with the information that we had. Related to access Jim pointed out that CR 309, which is the major haul route that goes into both of these sites used by Williams comes over from Rulison access and it was actually improved by Williams prior to these activities. I think it was somewhere in the line of \$2 million dollars so they have invested a significant amount of money in these sites.

Steve Harris – The completion superintendent and the frac man filled the Commissioners in on the remote fracing activities. Where we are today is we have one more frac to do on the first eight wells that were done and that will be done this coming Wednesday. Following that the completions will start on the last remaining eight wells, those first fracs should start around December 21, and we will be done January 9, 2010 with the fracing operation. We will then have to drill them out and land tubing and that should be done around the first of February. We will not frac on Christmas and New Years Day either.

Public comment:

Cheryl Brandon – Resident of Battlement Mesa and a member of the Battlement Concerned Citizens Group (BBC), a group concerned about heavy industry coming into our PUD and the impact on our densely populated small community and its citizens. I was asked to read this letter today because she was unable to come, her name is Mary Ellen Denomy and some may know here, she lives at 308 Tamarack Circle in Battlement Mesa, Colorado. She read the letter into the record stating that oil and gas should not be given a carte blanche without being fined as a punishment for not complying with the rules that everyone else has to follow. If so, then no one should be required to need a permit anymore and pay the fees.

Chairman Martin – Remember that this is not a violation or a penalty hearing, this is to keep in mind that it is to issue or not issue a SUP for this extraction industry. It is not about violations.

Commissioner Houpt – Does that preclude that discussion.

Chairman Martin – It should. It is not within the scope of what we are trying to do, so that was said in the beginning and we need to make sure we stay within that scope. If it were a violation, that is a different issue.

Cheryl Brandon – Excuse me, at the last meeting we were told we could come and talk about that here. We were specifically told by the attorney.

Deb – What I said was that this Board would probably listen to you but it is still not within the scope of what needs to be approved.

Commissioner Houpt – If that was the message they were given, then I think we have a responsibility to follow through.

Chairman Martin – We will listen but we have to make our decision based upon the information within the scope so that you know that we are not ignoring your issue.

Sandy Getter and my husband Richard and I live at 68 Meadow Creek Drive in Parachute, Colorado actually in Battlement Mesa. I am feeling that everything that is going on today is after the fact because as soon as you gave that approval in August they quickly moved in and quickly drilled the 16 wells, they are done and we cannot get 16 wells drilled that quickly if we wanted it otherwise. As far as the cuttings by the river, look at where it is. Look at where GV82-5 is, if you leave those cuttings with possible chemicals our water supply is below that. We need to be protected, those cuttings and that land needs to be totally clear and it is one of the things that needs to be done. I do need to ask about the facing. You said it is almost done; obviously, it was not done remotely.

Steve – It was.

Cheryl stated she was not here the last month. I want to say that I am not here representing any particular group because I am representing many disgusted citizens in Battlement Mesa. We look at the situation of drillings in our PUD without that SUP is just another cover up by people responsible to protect public health and safety. When we purchased our property in 1998 from Battlement Mesa then they called themselves the Company of Partners, we were led to believe that the open space in our PUD was a green belt area, sort of a buffer to prevent unsightly activity or storage. Now we find out that the Williams Production Company has been drilling in the PUD almost 20-years. Look at the map up there, you can see that their well pads are tucked away, one below number 14 on the golf course another in the pocket to our Morrisiana, nevertheless in the PUD which we did not know. In August of this year, I was at a Battlement Mesa Service Association meeting where Eric Schmela of Battlement Mesa Company Partners told a resident Sarah Purdue, who wanted to have a beauty shop in her home that our PUD was set up so that commercial would be separate from residential and only a vote of all the people here could change that. Garfield County had told the same thing that commercial and residential were set up in separate areas because Battlement Mesa was set up as a PUD. So, who allowed in the original filing of the Battlement Mesa PUD to have heavy industrial, that is drilling included next to homes, the golf course, etc. You saw that other map, which we were not given when we were bought our property and it seems a bit inhumane. It also seems to me that Eric Schmela is quite knowledgeable about this. I am sure his company has been well aware of this oversight of Williams not having an SUP to drill in our PUD. After all, who went into the agreement with Williams years ago, it is my understanding that Eric Schmela is also aware that the previous management director had told the BMSA HOA that they could take over the open spaces. That was told to us and that a survey would need to be done first to determine the exactness. The surveys were undertaken and done by the director who died unexpected, and Eric came in and has nixed the turnovers. He should have been well aware Williams was in the PUD with those surveys. The well pads could just as easily be placed 100-yards further away outside the PUD. Williams has high-powered attorneys, we know, Holland and Hart right here, who could have advised them too. Williams should have had landman who would have been locating and searching property ownership and establishing mineral ownership. Otherwise, how could they have established any right; or as we would say it, lease agreement to harvest the gas and provide the state with accurate permit information. Not making it known that there was drilling in the PUD made it much easier to sell lot and homes. Not showing the map with present and proposed well pads to clients is unconscionable. It is sad to but the County is to blame also extending permission for Williams illegal activity is a further disregard for the legal set up of our community. Therefore, this case should not be glossed over as an oversight with so many involved. Also, no precedent should be set for further drilling in the PUD just because we have already had it going on. Battlement Mesa citizens deserve recompense for this illegal drilling. Some people came to me and said she we should all get something individually. Well that does not work too well. So since this has been an on-going activity for almost 20-years, several projects I have in mind are the following and they are substantial. 1) construct a four-lane bridge over the Colorado River and four-lanes to the entrance to our subdivision. 2) build a bridge over the railroad tracks at the west entrance after the on and off ramps are completed and eventually building a bridge over the Colorado River to connect to the west or back entrance to Battlement Mesa by the RV Park. 3) make a sizeable donation to fund future repairs and maintenance on our activity center. Since Battlement Mesa Company, Williams Production Company and Garfield County are all involved I what appears to be a cover up, you should all collaborate on these projects. Thank you for listening and I hope we will definitely get some recompense for this.

Bob Arrington, on the Battlement Mesa Services Association as the Director, I believe at the first of the hearing, there was discussion regarding the notification and were there any challenges.

Chairman Martin – No challenges, we accepted it and put it in to the record.

Bob – I am not so sure that all of the proper organizations were notified. I think it would behoove the Commission to check on that one whether the Service Association, the Consolidated Metro District and the fire district were notified of their status of coming forward on this hearing for his SUP. In addition to that, GV82-5 and Colorado River touching in there, you can readily see it is a floodplain so all the requirement necessary for percolation tests and soil contamination, everything there should be taken into account in any special use permit issue. At that bend in

the river, the water intakes for the CMD are located there so any spills should have special berming to prevent that. The City of Rifle has given a special use of gates and sensors by the oil and gas people to protect their water supply and I believe that could be a good consideration for the SUP that we like protection from them. The other thing is land use change; this hearing may be putting the cart before the horse if we had not had the hearing on the land use change prior to this. We spent several hours just prior to this meeting listening to a major change of a cable across a river. Here we have major changes to the entire community lifestyle. Finally, on this item, fire and spill protections – part of the Planning & Zoning recommendations went through there as they talked about yearly inspections by the County and people involved. I believe those inspections should be on a quarterly basis particular in fire season to make sure they have the flammables stored and everything there. Battlement Mesa has already suffered one major fire through the Monument Valley area and that signifies that we cannot have an ignition point as GV82-5 because it would race right up the hill and take out the homes. This was entered previously as Exhibit KK.

Dave Devanney, a resident of Battlement Mesa and here today representing the group called Battlement Mesa Concerned Citizens and entered a letter into the record. He read the letter into the record stating they found out in May 27, 2009 at a meeting when another drilling company announced plans for 10 well pads and up to 200 natural gas wells within our community. The frustration and outrage was heightened when they learned later that an operator, Williams Production RMT had already been drilling within their PUD without the required SUPs for 20-years. On November 18, 2009, the P & Z listened to us but we were ignored; so this Board is our last and best hope. He raised 10-points related to the fact that the drilling is unacceptable and if the County staff had done their job, this would not have occurred. He would like to impose some type of compensation for the residents. He also requested there be an internal audit to see how many instances like this occur after the fact, as it may be a systematic problem. He would also like the EIA department to install both air and water monitors in the area to test for pollution. He would like the cuttings extracted and disposed of in an approved manner and testing of the ground to see if there is any additional contamination and would request a security bond in such an amount as appropriate by the Building & Planning Department. The letter was entered previously as Exhibit PP.

Applicant:

Jim responded to several issues saying he understands the concerns of the Battlement Mesa citizens. The issue has been taking place in Colorado for many years, which is split between the surface estate and sub-surface oil and gas estate causes a lot of consternation and has caused a lot of mitigation. There is a lot of case law out there that goes to the question of rights of the surface owner versus the rights of the several mineral owners and frequently the surface owners are somewhat surprised to the extent to which mineral owners have rights on the property that they own. The goal of Williams is to try and, do the best job we can about how we develop our oil and gas rights and part of what we have tried to do. Our predecessors with the Barrett Companies and Exxon back in the early days tried to anticipate these types of issues to the greatest extent possible to put extra limits on oil and gas activities within Battlement Mesa over and above what is typical and normally required if parties were just left to themselves in terms of their legal rights and responsibilities. There were a number of agreements that were entered into between our predecessor and the Battlement Mesa Partners at the time, which we put limits on our activities. One of the statements that were made is that this is not a use that is allowed in Battlement Mesa that is not correct. The use we are talking about and the reason we are here today is that it is allowed by special review which recognizes that there may be some additional conditions or criteria that might be applied to this other than just a drilling operation where you do not have a covenant or a PUD. Those documents were recorded, the PUD is recorded which recognizes that this is a special use that could be permitted and presumable the folks who testified here today took title subject to that and that was disclosed in their title commitments. I recognize that not everyone reads those documents except us real estate lawyers, but they are in fact there and you do take title subject to those types of documents. The special use agreements were also recorded as well. The maps on the screen earlier today that showed those various drill sites located within the Battlement Mesa PUD were exhibits to those. That information was available. I cannot speak to the relationship between the Battlement Mesa Developers and the people at the time they purchased their homes; we are not involved in that issue. That does not relate to what we are talking about here today. In terms of notice, some of the organizations mentioned such as the Service Association and the Metro District, they may have been referral agencies but they are not required to receive notice under the code as property owners.

Kathy – Correct that is not the legal standard for notice requirements. However, the County does send out requests for referral comments. On page 9 of the staff report, a list was submitted of all the agencies where the referrals were made. These do include the ones mentioned. No comments were received back from many of these agencies. Kathy explained the process for sending out referrals.

Jim stated that Williams's representatives did meet with the oil and gas committee and in fact, they presented a letter at the original hearing indicating that they supported our application. The notice was adequate for the hearing. In terms of the water issues, there is the reference to Rifle under the COGCC regulations for watershed and additional protections. Those regulations do not apply in this instance. In terms of the fracturing fluid, Williams is obligated to test the fracturing fluid under the COGCC regulations and maintain an inventory of those components.

Dasa Bryan clarified that the Rifle Watershed was not a COGCC regulation that is the watershed requirements in Rifle. With respect to the COGCC requirements under 317B, we are within 5-miles from the intake and we have certain requirements to do COGCC regulations with Colorado River, which we have done and will continue to do. With respect to fracturing the COGCC under 205 there were new requirements, we are required to keep certain records, and we are in compliance to those requirements, testing of water, etc.

Jim – Real estate lawyer, in terms of the bonding, part of the issue is the COGCC bonding requirements and the pad is subject to a bond that has been posted by Williams and it has COGCC required reclamation criteria. We have applied for a sundry amendment to the permit for that area so the entire pad 82-5 pad will be included within the bonding requirements. If you refer back to case law and preemptive issues typically, bonding is one of those issues that is a state matter, a COGCC matter. The other thing we have Rick Matar who is our air quality person and one of the issues raised was the VOC and air quality issues.

Rick Matar – Pad GV82-5 will have an air pollution control device as soon as those wells are put into production. A combustor that burns VOCs could present a safety issue when we are burning, fracturing going on and activity at the pad. That will be activated. That particular air pollution control device will be made enforceable by the State of Colorado by an air permit application with the state to have it meet standards required by Regulation 7 of the State of Colorado. As far as PA 41-9 at this time, an air pollution device is not planned for that location because if you put a combustor at that location you could be generating more pollution that you would be destroying. It is not

warranted at this time. A combustor would be burning natural gas, that would put emissions into the air, and if the vapors are not there to combust, you are not controlling. On the 41-9, there are no vapors in terms of oil production because it is mostly produced water, which is not in significant quantities to generate any measurable air emissions. That is being monitored by CDPHE and they are responsible for permitting and through our production records if there is a significant amount of production we will be flagged and evaluated at the time on an on-going basis.

Jim – In terms of the floodplain issue, that was part of our application and the GV82-5 is not in the floodplain.

Chairman Martin – For Dave Devanney in order that he understood the reference letters are identified on – page 9 of the staff report, Town of Parachute, Battlement Mesa Service District, Battlement Mesa Park and Recreation District, Grand Valley Fire Protection District, School District 16, Colorado Division of Wildlife, Colorado Department of Health and Environment, Colorado Division of Water Resources, Oil and Gas Liaison, County Vegetation Manager, Road and Bridge, the Sheriff, Environmental Health Officer and the Bureau of Land Management. Some gave comments some did not.

Chuck Hall – 149 Willow Creek Trail in Battlement Mesa commented in reference to notification to the Battlement Mesa Service Association. At the time, Williams found out that they was a requirement to have a major land use impact review, Williams came to the BM oil and gas committee and presented their plan for that drilling activity and in addition to that there were meetings being held for the service association that are called village meetings and at that time several of those village meetings, Williams came and made presentation on some of the activities that they planned to do within their drill site. One additional comment, the times that Williams have come to oil and gas committee for Battlement Mesa Service Association if there have been problems identified they have tried to rectify those problems in a very quick and efficient manner to satisfy the residents of the community.

Chris Cole, counsel to Battlement Mesa Partners, LLC, the applicant. With reference to why we were not involved in putting forth a SUP, number one we did not know that one did not exist at the time. The location where this particular well location had been sited was a long-standing well location. What we did essentially was when the Williams came forth and stated they wanted to drill a bunch of wells in that location, we looked at, discussed it and made some changes to the surface use agreement that was in place. That was the beginning and the end of our due diligence on that particular point and once again, it was because this area was already in production. With reference to the other PA41-9, we were not involved in that and I think that was brought forward as a part of this review process and it was determined that Barrett had not obtained any drilling sites SUP at the times they did it. In Williams's defense, Williams took over from Barrett and for whatever reason, it is not an ordinary part of their business to go back and check for SUPs because they do not have to do it. If someone cannot understand how that can happen, then okay they will just have to work on it but from our standpoint, we did the best we could and that is the situation.

Commissioner Houpt to Chris Cole, you stated that you thought there was a SUP in place so you did know there needed to be a SUP.

Chris – We assumed that the permitting had all taken place because that is not what we do; as a landowner, all we do is give a surface use agreement for someone and we do not worry about permitting.

Commissioner Houpt – Do you not advise them that they are in a PUD and this is a special situation where you need a SUP?

Chris – in this case, we would not have and originally we do not. When we deal with third parties, we anticipate that they are going to do all of their undue diligence and we do not take that responsibility onto ourselves. If we start advising people about appropriate uses in our subdivision we leave ourselves open for liability. So as a rule is as where is.

Commissioner Houpt – But you give them all the documentation that shows what the requirements are.

Chris – They always have the documentation as part of the title commitment process. From our standpoint, we deal with people at arm's length and we do our best not to create relationships where third parties can come in and say that you said this or that and we try to do to simply advise where to look and to advise themselves and form their own opinions as to the appropriate cause of action for that and try not try to create any kind of a third party relationship.

Commissioner Houpt – As a landowner, this is your PUD and so I am not very confused. I am not blaming anyone today, it does not make sense to me that this slipped by and I am trying to understand it so it will not happen in the future.

Chris – Number one, we have a grandfather situation going on here, I was not counsel to Battlement Mesa when all of this went down, Eric Smaller was not the present Battlement Mesa Company either. Neither one of us any experience in that area. Williams has already operational out there on property that was subject to the Barrett surface use agreement and we assumed that all permits were in place and I believe they assumed the permits were in place. But, for the Antero SUP process that will be upcoming, I suspect we would never had heard a word about that ever because both locations had been there for many years and not one complaint about from any of the folks who lived in Battlement Mesa. The other thing that is worthy of note, the Battlement Mesa PUD is like 3200 acres, it is a huge piece of ground. There are areas of it that are quite remote and the Williams pad down by the river is in a remote part except for the drilling activities and PA41-9 is up in an area unless you live in Morrisiana Mesa, you would never know it was there.

Commissioner Houpt – I have to say and I am not blaming you, but as a county official, it is very disturbing that this kind of thing occurred. There was the question asked of an internal audit and this happens a lot, so I would urge everyone who is watching hearing and everyone who represents the oil and gas industry, Williams and various other companies, be familiar with our planning department because we take these regulations very seriously.

Chairman Martin – A little history that you have not touched on and we need to make sure that we clarify. In 1981, Exxon transferred the ownership of the surface to the Battlement Mesa Partners and in 1982 in the PUD, extraction and processing were listed as special uses within all zones, the entire PUD. The partners entered into 1989 the development of oil and gas and it located all of the different proposed pads; it is all disclosed and recorded. The other one is that the surface use agreement has been in place since 2007, the reiteration of it but the original one was back in 1989. So when you purchased property between 1982 and to present, it would be the duty of the real estate company who you did all transactions with to disclose that and if it is, your loan company and all of your other exclusions needed to be listed. Therefore, if you go back and look at your deed it will all be there. That is why we have the frustration today because again as the attorney say, not everyone reads those deeds. That is an issue between you and your lending company and whoever you purchased the property from.

Chuck Hall – On the meeting in the BMSA, but in all other meetings there has been none of the extraction companies talk about your rights as to what you can comments so Williams probably did not advise any of the BMSA people or anything that they could make comments prior to these hearing or to be a part of them.

Chairman Martin – That would be the responsibility of this governing board to send that out through staff to make sure that you welcome to comment. That is why the 1800 notifications of the hearing were sent. Chuck Hall – Would like to know who signed for the certified mail because we have several things coming down the pipe.

Chairman Martin invited the people to look at the entire group of mailings.

Commissioner Houpt stated individuals could also send written comments to the Board.

Kathy – Drinking water supply underneath the 82-5 below it by the river is that the access point for water for Battlement Mesa is that is what was being referred to?

Kathy – Yes, there are a few wells that are on that site just past the water supply. There is a water supply that comes out of the Colorado River. The water quality standards were talked about specifically related to storm water management, etc. Testing of those wells is ongoing.

Jim Rada – The primary supply for the metro district is the river. They do have a well field below the treatment plant. I talked last week to the operator of the plant and they have not used the wells in 24 years but they do sample them routinely as they do the river water and the treated water that they send out to their systems. There is on-going monitoring. They also have a third source which runs through the PUD, an irrigation ditch and they do not plan to have use it but they have it and they do test that water and have they have other operators test it periodically. The primary supply is the river.

Commissioner Houpt asked Jim if he had any concerns or look at the issue even though it is a COGCC rule, of the cuttings.

Jim – I have no involvement of that.

Deb Quinn – For clarification in the application on the 22 different wells that are currently permitted on the GV82-5 site, is the recent application for the 16 new wells, there is a comment on each application that says 29 wells are anticipated for this site so I need clarification from the applicant whether or not 29 wells are anticipated and if so do you intent to come back for an amendment should those additional 7 wells be put in.

Scott Brady – That well site is completely drilled out with the wells we just completed drilling there, he did not know where those additional well came from, but the total that we have just finished allows that entire drainage pattern to be drilled and there are not additional wells to drill from there.

Deb clarified that there were no additional wells to be drilled.

Scott Brady – Not in our foreseeable future.

Deb – If you did, you would come back and amend.

Scott Brady – We would start over.

Deb – In connection with one of the comment that was made about the issuance for at least one of wells on GV82-5 last week, we did receive from Williams and copies of two resolution of this Board. One was from 1986 and the second from 1989 that shows that Williams predecessor did come in and request a SUP from this Board for 1 well on that well pad in Battlement Mesa PUD. We do not have information to show whether the permit was ever issues but they did go through the process, the Board approved it with conditions, and the permit was to issue after the conditions were met. At that time, back in 1986 and 1989 we did not record the actual SUP so they have not been located yet but they did come through that process. As Mr. Morgel indicated it does not have much to do with the application today because we now have 22 not just one and the situation is totally different but there was an application made and a hearing before this Board for at least one of the wells on that location.

Chairman Martin – Further verification can be through the Board of County Commissioners books if you have a certain date which will also show you the date and who made the motion, the conditions of that approval and also the Resolution number. That is also in our records.

Deb – On the issue of remote fracing, I think the applicant's position is that fracing is a permitted use on a permitted well site within the context of our zoning regulations today and therefore it is not something this Board would look at. Staff is not quite there, we are willing to go forward with this particular application because this particular remote fracing is very specific to this application and we learned enough about it to be comfortable with the approval that you are going to give today for this special use. However, Countywide staff has become aware that this is a practice that we need to know more about to determine what the impacts might be to a particular site because if you do remote fracing from one site for 20 different well pads, the impacts on that particular site and the neighbors to that particular site might be huge. We do have subsequent meetings scheduled with Williams on the staff level this week to learn more about that practice Countywide and we will come back at some point with a recommendation about how countywide we deal with that issue.

Chairman Martin – We have had a presentation on remote fracing already in front of this Board. We had that presentation by Williams and they showed how that the impact would be less, where they would set up and how it was and that no permanent structures would be needed. The impact on the land use would be less than what it would be if we required a permanent location for fracing. To reiterate and bring it forward and to continue our education is a worthwhile purpose.

Deb – On the issue of the cuttings, clarification from Williams about how many cuttings was generated from the activity thus far and how much of that had to be transported off site compared to how much still remains on site. What they intend to do with it when they remove the pit liner, which is required currently under the COGCC rules and just to give an idea of how expensive it is in terms of what the applicant has told you as an operational conflict. In addition, to the quantification of the dollar numbers these are some more questions for you, assuming today this Board finds that there is a local interest involved in regulating this activity and wants to see that these soils are safe for future uses in line with the goal of the Colorado Oil and Gas Conservation Act for the facility development of oil and gas resources while mitigating potential land use conflicts between such development in existing as well as planned land uses, what is the operational conflict that might arise in the effectuation of your local land use interest? Does it materially impede or destroy that state interest and without the quantification will it cost more for you to haul off the cuttings? Does this really tell us that that it materially impedes or destroys the state interest? She asked for more information by the applicant about what they are talking about in terms of it will cost more.

Jim – Mr. Brady can address this question with respect to the quantities and tell you exactly what we are doing with it. I mentioned operational conflict and I think it may go beyond that, I think it is potentially an express preemption because the cuttings are actually regulated by the State. They are classified either as EMP waste or they are not EMP

waste and if they are not EMP waste, then we have the ability to dispose of them on site. It may go beyond operational conflict.

Mr. Brady – By volume: He could not tell the Board the calculated volume there, we have it but he did not know the number today. We knew that the reserve pit area that we used was not large enough. Currently, we have estimated that we have taken of about 50% of what we generated in the drilling of the wells. The additional 50% that is still there is what we would like to be able to keep on site.

Deb – What was the estimated cost of the removal of the 50% that has already been removed?

Mr. Brady - \$150,000 to \$175,000 as ballpark figure. The additional 50% would be something similar to that amount.

Deb – How does that compare in terms of the percentage of cost involved in relation to the total that you make from drilling.

Mr. Brady – That is not a fair question for me, we would have to get with the engineers and the reservoir people. I will decline from trying to answer that question.

Commissioner Houpt – The question could also be how does that compare with treating the soil if contamination is detected since the liner has to be pulled and there will be strict conditions for leaving that waste.

Mr. Brady - Sampling has to go on before final determination or reclamation is done. They do not have to be taken out of the reserve pit because of sampling but they will have to be taken out for removal of the pit liner so that is already an additional expense. We do not think that will be tested such that they would need to be land farmed, removed, or mediated. We expect they will test such so that we can put them right back in and achieve the three-foot of cover on them.

Commissioner Houpt – You are assuming they will be tested clean.

Mr. Brady – Correct.

Commissioner Houpt – But if they are not, then what?

Mr. Brady – If they are not then I have to go along with your test criteria and what the rules called for but it still does not mean that I have to haul them off, I can meditate and treat right on location.

Deb – Have you tested the ones that have already been hauled?

Mr. Brady – No.

Deb – You do not know if they are clean or not, you have just dumped them somewhere.

Mr. Brady – Our experience in that area is as I mentioned earlier, an area rather defines how the samples might end up meeting test criteria. Barium for instance in more relative to the bar we use in our drilling mud and we more use bars in the Rulison area where we are drilling much stronger wells where we have to have a lot of bar for density to hold the gas in place. Arsenic is one that Commissioner Houpt is familiar with and the Barium are currently being looked at by the Oil and Gas Commission as having some relaxed standards by what the original rules were.

Chairman Martin – Those are under consideration.

Mr. Brady – I am saying that with confidence that will be the case.

Kathy – For clarification, the information that was contained in the application states that it as much as 500 cubic yards of cuttings per well would result. That would be a maximum 8,000 cubic yards.

Chairman Martin – It also has the standards of the COGCC's in reference to leave in place or haul it off and testing and that is what the recommendation is that they must meet the COGCC standards or they must be treated in one way or another. It is regulated.

Kathy – I understand that COGCC does have standards that are applicable to this site. It is a concern to staff from a land use perspective. First of all other extracted activities cannot leave their excess materials onsite without fully reclaimed or taken away and from a land use perspective that should occur any differently for this industry.

Commissioner Houpt – Would there be any circumstances where you could see them being able to leave them onsite if treated. Could we add some language to this because I am not disagreeing with you but in this situation, there clearly may be many different uses in the area.

Kathy – Deferred to Jim Rada for water quality, surface water issues and potential for future development if cuttings are buried there and something is constructed in the future they will be digging those cutting back up so whatever the standard is for them to leave there is a concern.

Jim – The new oil and gas rules adopted the health-based standards from CDHPE so the levels that are reflected in your new table 9.10 reflect health based standards and which would allow those to be left in place and not create a human health risk.

Commissioner Houpt – That is why I am wondering where the level of concern is because I trust the judgment of the staff and the recommendation.

Kathy – One purpose from the staff perspective is to ensure consistency on how we apply these standards that are applicable to all extraction procedures.

Mr. Brady – No matter what the sampling criteria ends up, if we qualify, as they are that they can be buried then you do not have to do anything to them other than achieve a certain level of cover.

Commissioner Houpt – That is, unless we have a condition of approval to require you to remove the cuttings.

Mr. Brady – The other side of it is even if the sampling says okay, if we exceed in two or three areas that the samplings are high, then all we have to do is extract that material and treat them and then we can still put them back in that exact same reserve pit. We do not have to haul them off somewhere. We can land farm them and treat them on site so technically they will never have to leave that site.

Commissioner Houpt – Yes that is true unless we put in a different condition and that is why we are trying to understand the concerns.

Mr. Brady – I am talking about the oil and gas standards.

Chairman Martin – In review of the radium removal from the Rifle tailings and of the arsenic removal from the spent shale and the BLM process, all that process went through the same and they had to meet a certain standard. There was a certain type of liner or clay in each one that was specific to that particular issue because it was contaminated. Both are still buried above wells and water intakes in the Rifle area so I would say we need to rely on those standards, the health department, the new rules and regulations that are in place and that they are safe. If they are not, we will hear about them that is for sure. It may be too late but we are still following those standard which have been raised from what they have been in the past.

Deb – I do not know that any has any different standards to recommend. So on that issue we would defer to the state standards because that is as much as we have. We do not have any expertise on staff to say that it should be

different. One of the issues though in this particular PUD is one of the reasons for the staff recommendation is that the code in effect at the time of the Battlement Mesa PUD was adopted had a number of different industrial operations listed that were regulated and those operations included mineral waste disposal as a separate use. That is not a use that was permitted to occur within this PUD, just the extraction and processing. I think the applicant has made that this is an intimate part of the production so it should not be considered waste but that is what was in the code at the time. It was a use that was permitted and the waste was not defined in that old code so that is one of the basis for the staff's recommendation. Jim – Then there was the argument that we raised at the Planning Commission was that these are not waste, that it is material produced in connection with the extraction activity which is a permitted use under the PUD and then you have to refer back to the COGCC regulations in order to understand what to do with it. Commissioner Houpt – You do, if you are going to fall back on that regulation and if we are trying to be consistent with land use regulations and mining and extraction, then our staff really raise a concern. You are right in terms of the oil and gas regulation of cuttings.

Bob Harrington – Battlement Mesa. One thing to add to Jim Rada's comments about the water supplies for Battlement Mesa; Battlement Mesa currently samples quarterly for hydrocarbons. This was down from a 3-year period and had to go to quarterly because in their reports to the Department of Health they picked up hexichola benzene into the water supply. This is one of the reasons why we really emphasis we need monitoring very close to the water intake area.

Commissioner Samson moved to close the public hearing. Commissioner Houpt – Seconded. Motion carried.

Chairman Martin – Deliberation.

Chairman Martin entered Mary Ellen Denomy and the other letter Exhibits – OO and PP.

Commissioner Houpt looked though the conditions.

Chairman Martin – Inspections can be called at any time and it does not need to be a specific time, monthly daily, it can be anytime we feel it necessary or if we get a complaint.

Commissioner Houpt – Williams in the past has caught my wrath on this on several occasions and my sense of what should really happen with regulations is thrown out the window when people come back and apologize for doing work and then ask for a permit.

Chairman Martin – I have to say that Williams actually did not come forward with anything in reference to asking for that, it was Antero and it was not staff or anyone else. The point was made that Antero was the one that did the research and brought it forward and said, hey you need to go to the County and ask for that permit. I think they should be commented.

Commissioner Houpt – There should not be a situation in our County where people do not understand that there are regulations to be followed. I am saying that I think we have made great headway in working very closely with the industry on permitting and our regulations and this is a unique situation. We all acknowledge this and Battlement Mesa is the one place where we do require a special use permit. I do appreciate the effort that was put into this, it is very comprehensive but I have to remind everyone and you were about to take about preemption but there are different interpretations of that and we really do work closely with the state and we have tried not to step on each other toes. This is a unique opportunity to make sure that we are maintaining the character of a PUD that is in place and this discussion today is going to lead into another discussion that we are going to have as we see more applications come in front of us. It is important that everyone recognize how seriously we take the conditions in this special use permit that require extraction in the PUD. Many of the concerns that were raised by citizens today, I believe have been covered in these conditions. The conditions do cover monitoring, inspections and contamination is covered by state regulations but there are also conditions in here that cover emissions. I think they are very extensive. In my opinion, this is a situation where the activity is almost completed. There is fracing that needs to be completed that we have heard today will be accomplished by Feb. 1, 2010. In addition, under the circumstances I do not think there is a productive reason for not accepting this application. By accepting this application, we put protections in place that help staff down the road keep track of what is going on in the area and have to say that Williams has worked in my estimation hard at complying with this in the past. I think with the exception of having a fine that we can assess, and I am not sure it is in our in our regulations.

Chairman Martin – There is no fine. They can take it to court.

Deb – It is state law for fining.

Commissioner Houpt – I mean locally can we fine.

Chairman Martin – No, under our land use you would have to go to court for the court action.

Commissioner Houpt – A fine is something we have not contemplated before and in terms of mitigating and building infrastructure, honestly I do not think that is a response to impact of energy development. This Commission needs to talk about penalties and we need to talk about the seriousness of not just the oil and gas industry but of anyone not adhering to our regulations. Outside of this that is something we owe to all of Garfield County to discuss.

Chairman Martin – In 1981, the staff approved the PUD, then 1982 came along and no one issued a special use permit less than a year later. It might be that our staff fell down on that particular issue however, 1986 and 1989 they came back and said yes you do need a special use permit and supplied it. Anything that happened between 1989 and now we have to thank Antero for bringing forward because again we were probably asleep at the switch. You make your motion and I will tell you about the agreement with Exxon and all the other issues that we have in place with reference to the bridge that is required to go across to the Battlement Mesa. That is in the PUD agreement with Garfield County with Exxon and the PUD holder of Battlement Mesa Partnerships. These are issues outside the scope. We can answer all of those questions but we need to stay within scope. Are these for approval or denial?

Motion for GV 82-5

Commissioner Houpt made a motion that we approve the Planning Commission's recommendations for GV82-5 to approve the special use permit for extraction and processing of natural resources within the Battlement Mesa PUD on property owned by Battlement Mesa Land Investment Partners LLC and operated by Williams Production RMT Company for drilling completion, production and reclamation related to 22 natural gas wells on pad GV82-5 with the conditions brought forward by staff changing condition number 3 to read "prior to the issuance of a land use change permit for well pad GV82-5 the applicant shall submit".

Chairman Martin – You are looking for the area for the pad to be included, is that what you are looking on a reclamation plan?

Commissioner Houpt – No, staff had said condition number 3 that they had not received those materials yet so I am just saying issuance of land use change permit instead of before the Board of County Commissioners because that has not occurred yet and I am still torn on the cuttings discussion and wanted staff to be comfortable with continuity in our regulations. Although I support what the COGCC has on the books, I think it is very comprehensive.

Chairman Martin – As Ms. Quinn said, we do not have any other standards to refer to so the best we have are the COGCC, otherwise we have to develop them.

Commissioner Houpt – If we were looking for standards, but we are looking for standards in this recommendation from staff, they are just saying they want the cuttings off the property, so I will leave that in there and I am sure we will have discussion over it. With the exception of the change in Condition Number 3, I would move that we approve with the conditions set forth by staff.

Deb clarified that this includes conditions no. 13.

Commissioner Houpt – Yes it does. Commissioner Samson – Second.

Commissioner Houpt wanted to work on the language for cuttings to indicate that in this situation, I will have to defer to the oil and gas commissioner regulations because I really think they have covered the standards that covers the health, safety and welfare. My motion I am going to amend that we take out that one recommendation by the staff but we leave rest of the recommendations in place. Condition No. 2 the second sentence would read, “This does not preclude the allowance of permitting on site temporary storage for these materials for this special use process period.”

Chairman Martin – You are going to leave it at that and take out what the P & Z said nor does it include the cuttings which may be left on the site pursuant to the standards.

Commissioner Houpt – Sorry, I will leave that in and not strike that language.

Chairman Martin – That is a good compromise there. Understand there may be some cover that needs to come out but I think with those standards and testing we will be fine.

Commissioner Houpt – We will be aware of that issue and if there is a concern that can be addressed. Do you accept that change in your second?

Commissioner Samson – Here is where I am. There is no way we can deny this. However, we have several people come before us who are very upset and I understand why they are upset because they were sold a bill of goods without all the information. We cannot do about that and we really cannot do anything about the mistake that was made 19-years ago and the rectifications that have tried to come forward, etc. I think we can and I understand the COGCC has these regulations and they are adequate with concerns with cuttings but the point to make is these people have come here and they are really concerned about the cuttings. If I understand the gentlemen it is going to cost Williams \$175,000 to haul them off. We cannot penalize them with the monetary fine without going to court and I am not saying I do or do not want to do that. However, I am thinking to myself, if they have to pay \$175,000 to move that dirt out of there and it helps these people to feel more safe in their mind that that their drinking water of the Colorado River and their intake is not going to be contaminated, I can do that.

Commissioner Houpt – Then I will withdraw that change.

Chairman Martin – You got to truck in to go ahead and reclaim the site anyway so it is just not one way it is both ways, plus you have traffic and the other issue of where are getting the material and how you are getting the material there. It is a compounded problem.

Commissioner Samson – I know and I readily admit that this COGCC standards probably as far as I can tell would take care of that issue, but if it makes these people safer that their water is not going to be contaminated by those cuttings, then I think that is a small price for William to pay. Here again, Williams did not create did this fiasco and I do not want to blame Williams as they did not recreate it but only trying to make the best of it

Chairman Martin – That is always subject to a 205 action in request that it is a preemption issue and is in an operational issue and they could come back in.

Commissioner Samson – That may be good because this question of when Antero comes before us and we are going to meet all that out, it might be good for us to get some kind of an indication from the COGCC. Are they going to start pre-empting us on all kinds of things?

Commissioner Houpt – That is not how the wording reads in the new rules so I am not anticipating that there will be preemption on land use regulations that are in place.

Chairman Martin – If it is a standard or condition of approval that cannot be met or is challenged, you understand that could be one of the grounds, that it is not, it is not necessary that they met all health standards, etc and it could be a challenge. This is the one closest to the river.

Commissioner Samson – My question to Commissioner Houpt is, I think in Mr. Devanney’s letter, he brought up some important things and one of the things he discussed is, this is a mess and how did it get done and what to do that it does not happen again. I do not know that this has to be part of this motion and it should not, but that is something that we need to talk about.

Commissioner Houpt – That is what I was talking about when I said, this Commission needs to talk about penalties and lack of follow-up perhaps internally. I think we need to make sure that into the future our regulations are followed very closely and that the conditions we put into place are follow up on. Perhaps we can have some feedback from staff on how we can better accomplish that as a County.

In favor: Houpt – aye Samson – aye Martin – aye

Chairman Martin – I am not happy with all of them.

Commissioner Samson – I do not believe anyone here is completely happy.

Motion – PA 41-9

Commissioner Houpt made a motion that we approve the request for a Land Use Change Permit to allow for extraction and processing of natural gas on well pad PA 41-9 located within the Battlement Mesa PUD with all of the conditions brought forward by staff. I think it is very important to note that any further activity on this pad will require an amendment of a new special use permit.

Chairman Martin – And you are correct calling it a special use permit since you are working under the 1978 land use regulations and not the new unified land use code.

Commissioner Houpt said, yes in both languages that has come forward today.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

ADJOURNMENT

Attest:

Chairman of the Board

DECEMBER 21, 2009
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on December 21, 2009 with Chairman John Martin and Commissioners Tresi Houpt and Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Marian Clayton Deputy 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:

RFTA AND TAX MONEY

Fred Carson stated he is concerned with how the county spends our tax money. One reference is to RFTA, \$650,000.00. He wanted Chairman Martin to read something and gave him a letter to read. He asked him to read the highlighted areas only.

Chairman Martin stated this was in relation to the 2004 RFTA election. He stated this is the new transportation sales tax for transit; it was defeated 39% to 61%.

Fred said you might want to read the other part from a former Commissioner.

Commissioner Samson stated to Fred that they had a discussion via phone and Fred chewed him out vehemently saying that the two votes for RFTA were not for RFTA; but for the hogback route, correct and Fred stated correct. Commissioner Samson checked with Chairman Martin and said his understanding, at that time, that both votes were if Garfield County should become part of RFTA; so he checked with Chairman Martin again and that was exactly what it was and Fred told him he did not know what he was talking about and that Commissioner Samson needed to check the facts.

Fred said the reason he came was that Commissioner Samson never got back to him on the results like he said he would.

Commissioner Samson said his point to him is that Fred said he did not know what he was talking about; which he said he would check it out. He said Fred was also trying to make him look bad in saying that it was a vote for the hogback route and not for Garfield County to join RFTA.

Fred said that maybe he was wrong on that; he thought it was for the Hogback.

Commissioner Samson said his point is not to cause contention and point fingers; but he said that Fred called him and chewed him out for 30 minutes and it was not correct.

Fred said it sounds like Mr. McCown thought the way he did because of the fact that the voters did vote against funding.

Commissioner Houpt explained that the voters voted against joining RFTA; which would create a tax that would supply routes throughout unincorporated Garfield County and routes have been established for years in the Roaring Fork portion of Garfield County; because the municipalities are picking up the unincorporated Garfield County slack. A few years ago, when the hogback became an established route the Board heard from people who use it regularly, that it was an important route. So what we do is contract; we have not joined RFTA, we do not pay for routes throughout Garfield County and she thinks they should be more equitable. We have a route that is very important for people in terms of commuting to work, getting to doctors appointments, or running other critical errands and it was very different from the election. The election was for joining RFTA for countywide support and this is just a contract for one of the routes that RFTA provides.

Fred feels if RFTA does not have enough riders to fund the bus from Rifle to New Castle, wherever it is, he does not feel the county should be spending money to fund something that is not economically feasible. Why should we pay for a couple hundred riders on a bus; it is an enormous amount of tax money.

Commissioner Houpt said if he looks at public transportation, if you look at the highway infrastructure, and anything that provides a transportation function for the public; it is all subsidized, because it does not pay for itself.

Fred still feels that Silt and Garfield County Voted in that election that they did not want to fund the money for the bus. He feels the Commissioners have stepped over what the taxpayers wanted.

Commissioner Houpt said she appreciates his interpretation; but she thinks it is a pretty different call.

Commissioner Samson said philosophically in many ways, yes he agrees with him. Commissioner Samson said he has problems with RFTA. That is why he has consistently said in his view, if Garfield County was to join with RFTA it would have to be approved by the citizens through a vote, and they have voted in these elections not to join RFTA. Now we can talk about all day why that is; but they have spoken and he agrees with that. For us to ever, as a county, join with them it would have to be the people. What we as a Board took was a position to not fund RFTA itself, or to become part of it but to help the people in the western end from New Castle to the west. With that being said, he has met several times with mostly the mayors and other important dignitaries throughout the county, and they have reiterated they do not want to join RFTA. With the thought being they also say something needs to be done with public transportation. He said they were hopefully going to have meeting on February 1st, they will invite all the city councils to sit down and talk and to be informed about costs and operational and maintenance and so on of possibly forming a different district, or transit authority to help take care of transportation needs in the west end. What will happen; he does not know that is why they are having the meeting. But if a majority of the people, at that time, feel that we need to go forward in trying to form something; that's what we will do. If they do not, he guesses they have to go back to square one with something else. But he does agree with Fred that the people have spoken; do not join RFTA.

Fred stated and also not to fund bus routes he does not believe.

Commissioner Samson said he does not think that has ever been put to the people.

Chairman Martin said he agrees and what it amounts to is the contract and the service.

Fred said so the election, even though it was for a sales tax for funding it, he takes it as not to fund any kind of bus route down there.

Commissioner Samson said he does not think that question has ever been asked. The only questions asked; should Garfield County join and fund RFTA no. The only way he would ever go along with that is if it was a vote of the people that said yes join RFTA.

Chairman Martin explained to Fred that he had another contract he should know about. The Senior Transportation, or TRAVLER, and that are a contract with RFTA as well. That is for a defined service, for a defined ridership etc., it is also a commitment they did with the seniors. That is what led to the contract for the Rifle to New Castle contract with RFTA. Again, it is only for a defined service and that was a decision of this Board based upon the needs of the public at that point. If that was wrong, we were all wrong. However, we did not join RFTA.

Fred said as a taxpayer and times that they are; you are funding things like the bus route when the taxpayers are taking pay cuts, and the tax sale with a record number of people losing their homes because of the high taxes in Garfield County. He just felt that maybe you should be looking at returning money to the taxpayers.

Commissioner Houpt said it is not that we have too much money; there are a number of people being helped by public transportation.

Chairman Martin stated the other idea, Fred, is not to us ad valorem tax to pay for the transportation; but taxes other than ad valorem tax, and that is what they have tried to do. He continues to say they are spending too much of that because there is not that much left of ad valorem tax. It depends upon how the money is defined, where the money is collected from; another words if people are paying property taxes, are paying for RFTA or the transportation that would be incorrect. Because their tax is defined where it needs to go. We try to make sure that we take the other monies that are not ad valorem tax to use for these purposes.

Don explained this is a public discussion later in the day - RFTA.

Commissioner Samson stated he received a call from Jim Bail and he is basically taking care of medical problems a day or so before their meeting in Rifle. Mr. Bail would like to move the meeting to the Rifle city hall, because they have better equipment. Commissioner Samson stated to him; since it is a county meeting Commissioner Samson would like to have it in a county building. The question is if we are going to, and hopefully we will continue to have meetings in Rifle, or throughout the county; do we need to have the IT staff looking into securing better equipment, more equipment to make sure that this is done.

Commissioner Houpt asked Ed if they were looking at a traveling system.

Dale Hancock stated they will be ready for the one in Rifle, on January 18th and that equipment is being purchased and installed as we speak. As far as points further west they will talk about if they can get something that has mobile capabilities.

Commissioner Houpt said when they talked about moving around she did not anticipate we would be installing another system somewhere. She anticipated we would have a traveling system.

Dale thinks it makes good sense to have one at the Health and Human Services building in Rifle for any number of different purposes beyond Commissioners meetings. It is a small venue but it has numerous applications for other county functions beyond the Boards; including administration, health and human services, and public health issue, and training. We will also look at mobile....

Commissioner Houpt said; once again be careful about how we are spending our money.

COUNTY MANAGER UPDATE: ED GREEN

GOVERNMENT FINANCE OFFICERS ASSOCIATION AWARD – PAUL BACKES, MCMAHAN AND ASSOCIATES

Lisa Dawson presented awards to the Board they received recently. The Government Finance Officers Association gave them a reward for excellence in reporting for their comprehensive annual financial report, which they submitted this June for the prior year. She thanked the Commissioners for all the support, and acknowledges all the excellent work done in her department. This award is one of the highest awards you can get in the United States, and it is really a reflection of the high standards we have here in Garfield County.

Congratulations to: Lisa Dawson, Cathleen Van Roekel, Bob Prendergast, Theresa Wagenman, Teresa Beecraft, Kelicia Costello, Michelle David and Jennifer Victor on the great job.

Garfield County has received the prestigious Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the United States and Canada (GFOA).

The Government Finance Officers Association also gave Finance Director, Lisa Dawson the Award of Financial Reporting Achievement since her office is primarily responsible for preparing the award-winning financial report.

“This award is the highest form of recognition in governmental accounting and financial reporting and signifies that Garfield County is clearly communicating its financial bottom line to the taxpayers of Garfield County. The requirements for this award get tougher each year and are designed to promote openness and full disclosure to the public. The public has a right to know how their tax dollars are being spent and Lisa said her office works very hard to give them the information they need. This is the first year that the award has been presented to Garfield County. GFOA is a professional association of approximately 17,500 state, provincial, and local government finance officers.

2010 COMPENSATION PLAN – KATHERINE ROSS

Katherine Ross submitted the 2010 Compensation Plan. This is the same one presented to the Board on Wednesday in the Work Session.

Katherine and Lori Goodwin were present.

Katherine presented a 6-page document; she explained that she came to the Board annually about next year's compensation plan. There are two parts they need a decision on; one is pay increases, or not, and the pay structure movement or not.

Commissioner Houpt stated the pay structure movement is separate.

Katherine thinks it would be best for two decisions on this.

Chairman Martin said the last page gives the recommendation in reference to pay structure and we were still standing by no change in the pay structure for 2009.

Commissioner Houpt said she came up with a different equation than any of Katherine's options. If you go to option 5B, we have a lump sum increase based on performance with a cost estimate of \$376,000.00 and that would be a onetime payment to folks. In looking at the percentages she would cap it at the 2%; but then she look back at Mountain States Employers Council numbers, their projections, and she would for proficient go to 1.5% and then the 1% for developing, to her that sets exception apart from proficient, proficient from developing, and if we are

looking at performance, and having it be performance based; that would be her recommendation on how to approach that.

Katherine restated; exceptional would be 2%, proficient would be 1.5% and developing would be 1% and inconsistent would be 0%.

Commissioner Houpt replied right and she thinks they need to share that Mountain States Employer Council's Western Slope projection; their increase was 1.3%. It is consistent with what their projections would be.

Katherine said they would call this option 5C; it still would be a lump sum increase based on performance. The estimated cost would be mostly likely less than \$376,000.00; but it would still be one time.

Ed stated these would go out in February.

Katherine stated the February pay period.

Commissioner Houpt stated; just for some background and her thought process, we as a Commission has not come to any decision on if there will be any kind of increase. She thinks this county over the years has been very conservative and prudent on how they have spent money and established reserves. That along with looking at where our revenues come from, and how we have planned for the downturn we will see as a result of our revenues in the coming years; she believes that we are positioned to give some type of benefit to our employees. It is a difficult time for everyone, we are not looking at every corner that we possibly can to write checks, planning different programs or give exurbanite increases; but she thinks it is important to let people know that we honor them. We have honored people by continuing a very strong benefit program, we have not laid people off; but we are able to do this, and we are able to do it because we tightened belts in other places. We have saved money over the years. This to her is consistent with what other governments are trying to do, its' something we can do and she thinks it would honor people without making a future economic commitment that would strain the budget by having onetime merit payment.

Ed stated much of our operations is performance; we spend a lot of time evaluating corporate performance of our employees. This would be a complimentary....

Commissioner Houpt said she would agree and wanted to add that we, as an organization and a very unique situation because such a low percentage of our monies go to employee pay and benefits. That is not the case for school districts, or other governments and they are in a very difficult position. But it's 28% of our budget, so we have more latitude than other do.

Ed thinks it is in not only local governments but also private industry. It is very hard to find an organization that only has 28% of its funding going to employees.

Commissioner Houpt said they have some pretty expensive projects too with our road infrastructure.

Commissioner Samson said he would continue to be the bad guy today. As he said from the beginning and the newspaper have not noticed it; but I hope they will today. He stated he is kind of the fly in the ointment here; he has done a lot of research and talked to many people throughout Garfield County. Many employees of municipalities as well as school districts, private, and most people say we are very thankful to have a job; we are worried about losing our job. He has studied the salaries of every person that works for Garfield County; he thinks they are getting good salary could it be better, yes. Could our salaries be better yes? The point is he feels that not only are they being compensated fairly for the work they are doing, and the vast majority of employee of Garfield County that he witnessed; do a good job, and he is proud to be associated with them. Besides the salary they receive, they receive a tremendous benefit, and if they take PPO III, the entire insurance for health insurance is paid. He does not know of any municipality or school district that does that. That could be a saving of \$1,000 per month if you insure your entire family. Because of the economic times, he does not think it would prudent for the Board to give a raise at this time. You wanted to build into, and it has been built that there is money there for the future a 2% onetime bonus if things turned around. He is not going to say he is for or against that; but he knows it is there, in the future if things did look better. At this time, he thinks it would best to go that route instead of looking at a 2% increase or any increase at this time for county employees.

Chairman Martin asked; who put that 2% in there to discuss later. He thinks he was the one that suggested that for the Board, and he thinks it's right. He does not think February is the time to start; the 2% in there and he likes Tresi's formula it is acceptable to him. But he thinks the right time is a little bit later in the year to do this. He understands that the employees would like to have a raise, and unfortunately, he thinks the times say we need to tighten our belt now.

Commissioner Houpt thinks since it is really important to plan your budget through the year and to allow your employees to plan; this is timely and the money is in the budget. It is a very small part of our budget; she does not know what will change between today and March 30, or whatever date they would look at it. I make a motion that we do approve a onetime lump sum increase based on performance as presented, and what we now refer to as 5C. She stated that she understands they cannot support this; but we have to have a definitive vote on this.

Commissioner Samson said he did not know if he wanted to second this because he is not going to vote for it.

Chairman Martin explained he could still vote against it but you can second it for discussion. Chairman Martin stated to honor Tresi he would second the motion for discussion.

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

Chairman Martin stated it is defeated and he thinks they need to go ahead and honor our finance and personnel folks; we have a request for a decision on a pay structure recommendation and that is there is no change for 2010 and he puts that motion out there to support that issue, on a pay scale recommendation from personnel.

Commissioner Samson – Second.

Chairman Martin restated that the motion was to follow the recommendation on the pay structure; no change in pay structure in 2010 as brought forward by our administration personnel.

Commissioner Houpt said she would like to ask Katherine a question before we vote. There was a recommendation at one point that we do continue adjusting so we do not fall behind; are we going to find ourselves in a difficult position of trying to catch up again if we do not at least on the books adjust that.

Katherine explained they should not if they look at it annually and that is what they have been doing. If you go back to the page that has the market data, no one is moving and we are in line with the market.

Commissioner Samson wanted the record to reflect; in his earlier comments, he should have mentioned the surrounding counties; none of them are giving any pay increases at all.

Commissioner Houpt stated they are in a different position than we are in.

Commissioner Samson said many of them have laid employee off. He thought the record needed to reflect that also. His point being, do we have the money, yes? We have the money but he thinks there are other factors besides we just have the money to do this.

Commissioner Houpt said she is not sure she agrees that because other counties are having difficulties with their budgets, we should follow in line with what they are doing. They would not be doing that if they had healthy budgets. We have a healthy budget; we have worked hard to have a healthy budget, we have had benefit from the oil and gas industries revenue; but we have also been very prudent with how we managed that. As have other county's but they have a different structure of revenue and she does not think it is a prudent practice to fall in line with other government entities because they are having a different kind of budget experience than we are.

Commissioner Samson said he can appreciate that; he cannot really argue with most of what you say; but we have to look at the school districts and the municipalities within our own county that are struggling.

Commissioner Houpt stated they are struggling and in excess of 90% of their budgets go to personnel and so they are in a very different situation. If they give increases, it impacts their budget tremendously.

Carolyn wanted to ask a clarifying question. Pay structure has a specific meaning under our personnel code; your motion includes no performance increases and no salary increases at all.

Chairman Martin stated no salary increases; that is separate. There are two separate issues; one is the pay structure on how it is divided and how we go ahead establish what our pay is going to be within our perimeters. That is what is on the table and that is a recommendation of no change.

Commissioner Houpt said this one is not connected to the 2% funds.

Chairman Martin replied it is not; that would be a second motion and that was the first motion to do that; but he thinks they need to do systematically and that is to make sure we know what our pay structures are and how we evaluate. We have a second; we can call for the question.

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

Chairman Martin stated it is recommended we continue the pay structures; decision in reference to pay for performance, which is the 2%, we have in place and in our budget. The motion to go ahead, review that at the end of the first quarter of 2010 for a decision by this Board to see if we will go ahead, and implement that based upon Tres's motion of percentage.

Commissioner Houpt said they could direct staff to put that on the agenda.

Chairman Martin said he wanted a motion to bring it back.

Commissioner Samson asked Katherine if that would satisfy her and she stated yes.

Chairman Martin continued to say, "So we know this is not a dead issue and continue to talk about it".

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #2 IN THE DECREASED AMOUNT OF \$34,720.74 WITH MARTINDALE CONSULTANTS, INC. FOR AUDITS OF LOCALLY ASSESSED OIL AND GAS PRODUCTION FOR THE GARFIELD COUNTY ASSESSOR'S OFFICE FOR FISCAL YEAR 2010. – KENT LONG

Kent Long presented the award and requested approval or disapproval of the award to Martindale Consultants, Inc. in the decreased amount of \$34,720.74 for the performance of audits of locally assessed oil and gas production in 2010.

Don spoke with the assessor briefly this morning and would like to discuss in Executive Session before you proceed on the contract. We will ask of course for you to have a public discussion and a public action on it; but there is both legal advice and confidential information you need to consider as part of the consideration of this agreement; they would like item 1C to be moved to the end of this discussion so he can include it in the executive session.

Commissioner Samson asked; you are requesting that D also be and Don stated yes, C and D.

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #5 IN THE AMOUNT OF \$91,200.00 WITH VALUEWEST, INC. FOR COMMERCIAL REAL ESTATE APPRAISAL SERVICES FOR THE GARFIELD COUNTY ASSESSOR'S OFFICE FOR FISCAL YEAR 2010 – KENT LONG

Kent Long presented the award and requested the Board approve or disapprove to ValueWest, Inc. in the amount of \$91,200.00 for the performance of commercial real estate property appraisal services in fiscal year 2010. Kent stated they would need to exercise their authority under Rule 5.8B to approve the letter.

John Gorman stated that his office really appreciates the services from ValueWest. They have been in our county doing commercial appraisal work with great accuracy and efficiency, and they have been increasing the value, not arbitrarily; but finding value that was missed and more accurately appraising value that was inaccurately appraised; resulting in more tax revenue both to the individual taxing authorities across the county which of course includes Garfield County who is paying for this service.

Commissioner Samson asked if this was the gentlemen who testified before the Board several times with the Board of Equalization.

John stated John Zimmerman exactly.

Commissioner Samson - I move that we approve contract renewal letter number 5 in the amount of \$91,200.00 for ValueWest pursuant to Rule 5.8B. Commissioner Houpt – Second.

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

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #3 IN THE AMOUNT OF \$4,800.00 WITH ALPINE BANK, N.A., FOR BANKING SERVICES FOR THE GARFIELD COUNTY TREASURER'S OFFICE FOR FISCAL YEAR 2010 – KENT LONG

Kent Long presented the award to Alpine Banks of Colorado in the amount of \$4,800.00 to be assessed by the bank as a monthly service charge of \$400.00 for the performance of banking services.

Georgia appreciates the work of the contract administrator working with the bank in getting this renewed.

Commissioner Samson – I move we approve contract letter number 3 to Alpine Bank of Colorado for the provision of banking services in the fiscal year 2010 in an amount not-to-exceed \$4,800.00.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #2 IN THE AMOUNT OF \$119,252.00 WITH EASTERN RESEARCH GROUP, INC. FOR AIR SAMPLING SERVICES THROUGHOUT GARFIELD COUNTY FOR FISCAL YEAR 2010 – KENT LONG

Kent Long presented the award to Eastern Research Group, Inc. for the performance of air sampling services in fiscal year 2010 in the amount of \$119,252.00.

Commissioner Houpt – I make a motion we approve contract renewal letter 2 to Eastern Research Group, Inc. for the provision of air sampling services in the fiscal year 2010 in an amount not-to-exceed \$119,252.00.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE THE AWARD OF AN INDEFINITE DELIVERY, INDEFINITE QUANTITIES CONTRACT TO OFFICE DEPOT FOR COUNTY WIDE OFFSET (STATIONARY) PRINTING SERVICES FOR FISCAL YEAR 2010 IN AN AMOUNT NOT TO EXCEED \$199,143.00 – KENT LONG

Kent Long presented the award for a stationary proposal; it is offset printing services. Two bids were received within \$77.98 of each other. Jean's Printing is a Colorado corporation. Office Depot is a Florida corporation registered to do business in Colorado.

Commissioner Samson asked what is the difference between flex and masters. For those who do not know Office Depot submitted two different bids.

Kent explained they submitted alternative pricing; which is their masters pricing. According to the documents that Office Depot submitted, as part of their bid, the flex is their most economic pricing. It does not require a government entity to retain inventory. The masters you are required to maintain inventory and you have to order a certain number of envelopes, paper, and business card within a year. Kent does not see any advantage to the masters program for the county. If the county were to use a program out of Office Depot, it would be the flex program.

Commissioner Samson asked where that work would be done; Grand Junction.

Kent said it would be done out of the Glenwood Springs Office Depot.

Commissioner Houpt said she could not tell if they could trigger the masters or if we trigger the masters but it sound like we would make that determination.

Kent replied yes.

Commissioner Houpt said that Kent is recommending that the county go with; well you are not recommending.

Chairman Martin stated one or the other; Depot or Jeans, and we look at one is in Rifle, one is in Glenwood Springs, one is a home owned and the other is a corporation.

Kent said this brings up all the vendor preference issues we previously discussed.

Chairman Martin asked even though the one in Glenwood Springs, the Depot, hires and employs local people.

Commissioner Samson asked where they got the sum. You have sums for \$3,000.00 and now we have not-to-exceed \$199,143.00.

Kent explained the \$199 figure is taken from a report that Jamaica Watts ran. It is the line item for printing services within each department.

Chairman Martin stated you have within your budget you have what is estimated, what they will need and this would cover the county; not-to-exceed \$199.

Commissioner Houpt said she is confused; why did not the bid proposals come in at the level that we budgeted.

Ed stated this is a market basket approach where you have a representative sampling of what you will purchase over the life of the contract.

Kent stated correct; they had specific items in the invitation for bid and they asked every vendor to supply pricing on.

Ed stated you could not possibly know what you will buy in this arena over the course of the year; you just take a slice of time and evaluate that.

Commissioner Samson asked who had the contract last year.

Kent said as best that he can tell there was no formal contract. Agencies have been going primarily to Jeans Printing in Rifle. One option is to award both; Glenwood Springs offices, obviously Office Depot is closer and in Rifle Jeans is closer.

Chairman Martin stated there is not a specific amount other than the not-to-exceed the total amount. We would have to keep track of that. If you wish to split the baby then the motion would be to authorize both to be contracting services not-to-exceed a total amount of \$199,143.00 and utilize both.

Carolyn asked; are you saying that the two contracts together would be that amount, or each.

Chairman Martin stated no; the total contract could not exceed \$199,143.00.

Carolyn asked Ken; how they would do that, split it 50% until one contract has half the amount and then the other.

Kent said either you could split it or you could write \$199 not-to-exceed in each one and track expenditures.

Carolyn asked Ed if they had the capability to do that.

Ed said you are basically obligating \$400,000; he would split it and put roughly \$100 associated with each contract.

Don asked; award two contracts at roughly \$100,000.00.

Commissioner Houpt thinks it is very interesting they came back with very close numbers. They both employ local people and we have not really had, as a Commission, a formal decision on how we are going to deal with national companies. I make a motion that we award indefinite delivery and an indefinite quantities contract to Jeans Printing Inc., and Office Depot each in an amount not-to-exceed \$100,000.00 for performance of printing in the fiscal year 2010.

Commissioner Samson – Second. He also asked if that was how it was done in the past; there has not been a contract but we have gone to both of them.

Kent explained that historically the county has used Jeans Printing and they have not used Office Depot that he is aware of.

Commissioner Houpt asked Ed; with that in mind do you think there needs to be more flexibility in case people do not want to switch.

Ed explained it actually opens the door to give flexibility. Even if, for some reason, you have an operation in Glenwood and you still feel comfortable with Jeans you can still go to Jeans. This just gives more options for employees and supervisors.

Commissioner Samson asked Kent; the difference he explained concerning flex and masters, the masters mean they have to keep inventory in stock and Kent answered yes. Commissioner Samson asked; does that reflect since the other three do not even split it. Is theirs flex or masters or they do not worry about it.

Kent said his understanding; Jeans is get it done, give Jeans a proof and they get approval and at that point they print it.

Commissioner Samson stated; with that being said Jean's Printing would be the lowest.

Kent said Jeans would be the lowest if you used Office Depot master pricing.

Commissioner Houpt said she wanted to revise her motion to put flex in.

Commissioner Samson said he is still lost. He stated from what he has been given; Jeans printing is more masters than it is flex because you say that when they have a job they get it done.

Commissioner Houpt said so would Office Depot.

Commissioner Samson said; but that would be masters and that is why they split it. Masters guarantees that the job is going to get done and they will have stuff on hand to get the job done. Am I reading this correctly?

Kent explained that masters would require that you maintain inventory of previously printed items. Under the flex program, you submit the order and Office Depot prints it and bills you. It is similar to what, as he understands, has occurred at Jeans.

Carolyn asked where the inventory is held.

Kent replied in the Office Depot warehouse.

Commissioner Houpt thinks the point is; with Jeans they get the order, do the project and they give it to us with the flex program; with the masters program, they would just go to a shelf and pull it off the shelf because it would already be printed. She does not see a great benefit in that because it locks us into certain things; so she wants to go with the flex program; which puts Office Depot below Jeans, but Jeans Printing has been a consistent resource for the county. Which; is why she submitted a motion that would give both contractors an opportunity.

Ed said it is really a difference between just in time delivery and delivery based upon placing the order and waiting for a week or whatever. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE A FIVE-YEAR LEASE AGREEMENT IN THE ANNUAL AMOUNT OF \$4,596.00 WITH PITNEY-BOWES, INC. FOR A NEW MAIL MACHINE FOR THE GARFIELD COUNTY ADMINISTRATION BUILDING – KENT LONG

Kent Long presented the five-year lease agreement with Pitney Bowes, Inc. for a mail machine to be located at 108 8th Street at the County Administration Building. Billing and payment for this mail machine will occur on a quarterly basis at \$1,148.00 per quarter. The total value of the lease over the five years is \$19,533.00.

Kent has a concern where they term this as a financed lease under Article 2A it is in fact a finance lease under that Article. However, later on in the terms they are requiring the county to waive all of its rights.

Don said listening to the discussion, he had not seen this agreement in the packet, and he presumes this is not a standard county form agreement already approved by his office.

Kent stated no; it came from Pitney Bowes

Don wondered if it would not be appropriate to have that submitted to the County Attorney's Office for review. He did not know if they needed to move real quickly on this; if it is appropriate to authorize the Chair to sign the leases if approved by the County Attorney and the Contract Administrator. Does that seem appropriate?

Kent said it does; his office has received numerous complaints from several departments in elected officials about the current mail machines and the service on those machines. They began negotiations with Pitney Bowes about two weeks ago in an attempt to resolve that issue as fast as they could. Right now, they are in the middle of trying to finish the negotiations on these leases.

Commissioner Houpt – I make a motion that we direct staff to continue negotiations bringing the legal department into the discussions; finalize the lease agreements with Pitney Bowes Inc. for a mail machines at 189 8th Street and 109 8th Street and authorize if the terms and conditions are acceptable to both the contract administrator and the county attorney; authorize the Chair to sign those two contracts for the mail machines in an amount not-to-exceed for the 108 8th Street, \$1,149 per quarter and for 109 8th Street \$1,476.00 per quarter for 2010.

Commissioner Samson – Second.

Carolyn stated if we cannot work it out we will bring it back and Chairman Martin stated correct.

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

STAFF RECOMMENDATION TO APPROVE A FIVE-YEAR LEASE AGREEMENT IN THE ANNUAL AMOUNT OF \$5,904.00 WITH PITNEY-BOWES, INC. FOR A NEW MAIL MACHINE FOR THE GARFIELD COUNTY JUDICIAL BUILDING – KENT LONG

Kent Long presented the lease agreement with Pitney Bowes, Inc. for a mail machine to be located at 109 8th Street, Glenwood Springs saying that billing and payment for this mail machine will occur quarterly at \$1,476.00. The total value of the lease over the five-years is a not to exceed amount of \$25,092.00.

STAFF RECOMMENDATION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT IN THE AMOUNT OF \$197,000.00 WITH THE COLORADO DEPARTMENT OF CORRECTIONS, DIVISION OF CORRECTIONAL INDUSTRIES FOR THE PREPARATION AND DELIVERY OF MEALS TO PERSONS IN THE CUSTODY OF GARFIELD COUNTY CORRECTIONS – KENT LONG

Kent Long presented the award of a Purchase of Service Agreement to the Colorado Department of Corrections, Division of Correctional Industries in the amount of \$197,000.00 for the provision of meals to persons in custody of Garfield County Corrections.

Kent stated the budget appropriation for 2010 is \$160,000.00. However, when he reviewed the historical payments to correctional industries four meals came out to be about 77% of the annual appropriation, regardless of the amount. 77% of \$160,000 is \$128,000.00, so he does not believe that community corrections will exceed the appropriation of \$160,000.00. If in fact they got close to that they would obviously have to come back in front of the Board and request a supplemental.

Chairman Martin asked if his recommendation was to go ahead and approve it with \$160,000.00 maximum.

Kent said they wrote it at \$197,000.00.

Commissioner Houpt does not want to approve an amount that is not appropriated for in the budget.

Chairman Martin said so your motion would be \$197,000.00.

Commissioner Samson – I move we approve the purchase of services agreement with Colorado Department of Corrections, Division of Correctional Industries for the provision of meals to person in the Garfield Correction for the fiscal year 2010 in the amount of \$197,000.00.

Commissioner Houpt – Second; but again we have to do something about the budget. She asked Lisa Dawson, what does it do to our records if we approve a contract that is in excess of what we have budgeted.

Lisa stated that during the year, they look at budgets and we do not do line by line budgets. We do more or less bottom line budgeting for each department, so they keep track of that if something like this causes their budget to go over budget. Then they would come to the Board and do a budget supplement; but if they under spend in one line item, that could compensate for something like this.

Don wanted to interject a few things on the contract because; first of all this is a unique contract as it is with the State of Colorado actually. In addition, he wanted to point to paragraph number 3, under compensation of appropriation, this is a standard form provision, and it specifically represents that we have appropriated \$197,000.00 for this contract. That needs to be accurate. The other two contract provisions he needed to point out; the insurance provision on paragraph 10, is altered from the standard provision to accommodate the State of Colorado. We have done this in the past on this agreement, and it has been approved and there is no indemnification provision in this agreement; the State will not sign, even though they require us to do that.

Commissioner Houpt asked Don; what you are saying by approving this we also need to make sure there is a different appropriation made in the budget to reflect this contract. Since we approved the budget that will be coming to us probably at the first.

Don stated he guesses it is not clear to him; in the budget the Board has now approved, is there \$197,000.00 appropriated for this?

Commissioner Houpt stated no; that is her problem. It is \$160,000.00.

Don said this contract represents there is such an amount appropriated.

Chairman Martin said that is why he mentioned that \$160,000.00 is the recommendation because of the budget appropriation; if we need to increase that, we need to have a supplement in the first quarter to allow that to increase. Carolyn said they could do that as an amendment and Chairman Martin stated you could to the contract.

Commissioner Houpt asked; what you are recommending, she does not follow.

Don said he is recommending that the contract accurately represent what you are doing.

Ed said you are saying to move it to \$160,000.00.

Commissioner Samson - I will amend to \$160,000.00.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #1 IN THE AMOUNT OF \$120,000.00 WITH DIVIDE CREEK ANIMAL HOSPITAL, INC. FOR THE PROVISION OF VETERINARIAN SERVICES FOR GARFIELD COUNTY IN FISCAL YEAR 2010 – KENT LONG

Kent Long presented the award to Divide Creek Animal Hospital, LLC in the amount of \$120,000.00 for the provision of County wide veterinarian services contingent upon receipt and approval of a sole source justification from the Office of the Garfield County Sheriff, and a current Certificate of Insurance from Divide Creek Animal Hospital, LLC.

Commissioner Houpt asked how this became a sole source.

Kent said, as he understands it; this is the only animal hospital in Garfield County.

Commissioner Houpt said; no, they are not, that is a problem and if we look at the functions....

Chairman Martin said there should be two contracts. One is for CARE and for this one, and this one is for the west end and the other is for the east end. This happens to be the one on west end.

Commissioner Houpt said if they were going to renew this, she would like to renegotiate the terms, because she has a real problem with a five-day waiting period and having euthanasia disposal services be a part of that.

Kent asked if she wanted a shorter or a longer waiting period.

Commissioner Houpt said she does not want them destroyed. They can be taken to CARE.

Lou said he thinks it is a similar provision they have with CARE although it says that is a possibility. Generally, after 5 days if they are not recovered they bring them to CARE. It is kind of a stepping-stone in the west end. After 5 days, if no recovery, except for vicious or the ones injured; generally, they go up to CARE.

Commissioner Houpt said she would like to have that clarified in this. We talked about if an animal is vicious and dangerous; then there is no other option and she thinks CARE has said in front of them that they understand that as well. But, these guys were back-up to CARE, so that 5 day holding period shouldn't then bring them into the disposal sort of category. It really should be reflected that they then would be transferred to CARE.

Lou said maybe they could change the language rather than after the 5 day have a euthanasia process, 5 days he guesses they would move toward adoptive practices at CARE. That is the practice; they will not euthanasia them in 5 days. Lou said he would be curious, and he does not know, he would also check the contract with CARE because he thought similar language was in there and as a rule, they do not euthanasia in 5 days.

Chairman Martin explained it becomes their expenditure after the 5 days and then they have adoption fees they collect to recover the cost of keeping them alive.

Lou said the reason the 5 days; at Divide Creek, if something is not done then it is moved to CARE.

Commissioner Houpt wanted to clarify that; it would be good to have what the practice is clarified in there.

Chairman Martin stated with a motion to go ahead and approve the contract with the clarification that after 5 days the Sheriff has the option to remove them to CARE under his other agreement with CARE.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt asked Lou if the combination was working well and Lou replied it is working real well. He was impressed that both Karen and the Divide Creek staff got together and worked out many of these things such as transporting animals so that his staff does not have to.

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #1 WITH GARFIELD COUNTY SCHOOL DISTRICT RE-2 FOR A SCHOOL RESOURCE OFFICER – KENT LONG

Kent Long presented the award to Garfield County School District RE2 at a 25% match for the provision of a School Resource Officer in the fiscal year of 2010 contingent upon receipt of a signed original Contract Renewal Letter #1 from the Garfield County School District RE-2 by December 31, 2009.

Kent explained that he identified the wrong contractor; correction is Healthcare Management instead of Garfield County School District. Obviously, that change will need to be made. When Kent spoke to Dave Smucker, he indicated that school district is having budget shortfalls. They do not know if they will be receiving a renewed grant from the State, which would be effective July 1, 2010. Dave did ask for language in the letter that would allow him to terminate the letter if they do not receive appropriations for this particular service. Kent stated that is fairly common between government agencies.

Commissioner Houpt asked what Lou thought of that would you want to see the resource officer program go away if they do not receive all of their monies.

Lou replied no not at all; at that point, they would have to look at staffing and his staffing has that plugged in to have a school resource officer there. He would love to have another one over in the Parachute School District. His only

reservation so far in doing that is he didn't think it was fair that Rifle was paying for one and we would provide one 100% in Parachute. It might actually open up the door to provide another one in the other school district as well. We will have to look at the staffing, the budget, and say yeah we are willing to do it for them on our dime, or some other combination. Lou said they have heard him say one hundred times he thinks the SR Program is one of the greatest things going for them and he would hate to see that go away. His point would be; if they cannot get the money, Lou would continue as we have been because the position is already staffed there.

Commissioner Houpt – I make a motion we approve contract renewal letter #1 to Garfield County School District RE-2 for provision of a school resource officer for the fiscal year 2010, and authorize the Chair to sign.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #3 IN THE AMOUNT OF \$1,010,233.44 WITH CORRECTIONAL HEALTHCARE MANAGEMENT, INC. FOR THE PROVISION OF MEDICAL SERVICES FOR PERSONS IN THE CUSTODY OF THE GARFIELD COUNTY SHERIFF'S OFFICE – KENT LONG

Kent Long presented the award to Correctional Healthcare Management, Inc in the amount of \$1,010,233.44 for the provision of medical services to persons in the custody of the Garfield County Sheriff during fiscal year 2010.

Chairman Martin explained the Sheriff has negotiated this contract; changes have been made and they have the actual infrastructure within place at the building.

Commissioner Houpt said they have had numerous discussions on this and discovered that this is the most cost effective, efficient way to approach this. I make a motion we approve contract renewal letter #3 to Correctional Healthcare Management, Inc. for the provision of medical services to persons in the custody of the Garfield County Sheriff during fiscal year 2010 in the amount of \$1,010,233.44.

Commissioner Samson commented that they basically had them over a barrel.

Lou said he hates to say it; but the last time they went out for bid, by the way he thinks they will be doing an RFP this year for 2011, he said they will check to see if they are keeping honest or not. The last time the Sheriff said, they had one other provider from back east and they had no staffed or stationed here; but he has to say they are an excellent organization. They do a great job and are growing by leaps and bounds and Lou has no complaints with them whatsoever. Part of the other is; the reason why this jumped from 2009 to 2010, they realized an 8 or 9% in their costs. But Lou stated they recently added more mental health services than they previously had budget in '09, they just amended mental health services. That increases that too.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

STAFF RECOMMENDATION TO APPROVE THE AWARD OF A TO SANDY'S INC. IN AN AMOUNT NOT TO EXCEED \$305,500.00 FOR THE DESIGN, DELIVERY, AND INSTALLATION OF FIXTURES AND FURNITURE FOR THE SHERIFF'S ANNEX BUILDING IN RIFLE, COLORADO – MATT ANDERSON

Matt Anderson presented the award of a firm fixed price contract to Sandy's Office Supply, Inc. in the amount of \$305,500.00 for the design and installation of furniture for the new Sheriff's Annex in Rifle.

Matt stated they must go out to bid for a furniture purchase this size. He said it is hard to compare apples to apples for furniture. He developed a spreadsheet, which details how they went out to bid for this project. They had three different areas they rated on technical, past performance and price. As you can see there are four different proposals submitted and each one they evaluated based on technical and Sandy's came back with the most complete proposal as far as furniture goes, functionality and it falls in line with the past performance the county has received from Sandy's as well. Couple of questions you may have is regarding the cost. If you look at the price areas; the reason why Sandy's appears to be higher, is because of completeness of the proposal. When you are developing a brand new building; it's difficult to ask a furniture provider to come in, and based on a couple of questions, they did have a meeting with all the offeror's in the room, to say here is what we need. When they submit their initial proposal, it is based on completeness. He stated they had the county engineer; the sheriff's department and he evaluate all the proposals. Sandy's was the most complete; they feel there will be minimal changes to the contract. The sheriff particularly feels, along with the county engineer that Sandy's provides the best furniture as far as functionality, for what they need. As far as cost goes comparing apples to apples, if you look down to it the furniture does appear and the price is very reasonable from Sandy's as well. Not to mention they have provided great service to the county for many years. Matt said they want to award a contract for not-to exceed \$305,500.00 and that is based on the projected changes that may need to be made as the building continues construction.

Commissioner Houpt asked; if you did those projected changes for the other proposals; would that put it at the \$305 level.

Matt replied yes; with the risk they looked at and potentially with the functionality of the furniture, they believe that the cost could be higher with the offeror's.

Commissioner Samson said it does not seem like the other bids did what they needed to do to give us a chance to be equitable in trying to decide who should get this bid.

Matt said that is true; the Office Interiors out of Grand Junction, they did submit a very nice proposal. It was complete; the functionality of the furniture, the quality of the furniture and the fact that they still do feel; you know Sandy's really came in and did their homework with these guys. They put together a really complete proposal; they don't feel as many changes would be made, so really the bottom two proposals they didn't seem to have a complete understanding of the project and Matt felt the risk would be very high if they were to go with them.

Commissioner Samson asked if the \$305 was budgeted and Matt stated yes sir. I move that we approve to award the firm of Sandy's Office Supply in an amount not-to-exceed \$305,500.00 for the design and installation of furniture for the Sheriff's Annex.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Carolyn as if the agenda is incorrect; it says \$309 and Chairman Martin stated yes, it is \$305,500.00.

STAFF RECOMMENDATION TO APPROVE CONTRACT RENEWAL LETTER #1 IN THE AMOUNT OF NOT TO EXCEED \$600,000.00 WITH CLEER (CLEAN ENERGY ECONOMY FOR THE REGION) FOR THE MANAGEMENT OF THE GARFIELD COUNTY NEW ENERGY COMMUNITIES INITIATIVE PROGRAM (GNECI)FOR 2010 – MATT ANDERSON

Matt Anderson presented the award to Clean Energy Economy for Region (CLEER) not to exceed \$600,000.00 for fiscal year 2010 for the continuing program management of the GNECI.

Matt stated the program has been successful over the last year. They have an addendum coming out that will include money from a grant from a DOE grant. They did not anticipate doing an addendum with this contract; however, they want to get a clear budget for this year from CLEER, and they want to get a really good scope of work to include this in the contract, so an addendum will be coming. Right now, they want to renew this contract as is; as it was last year in the amount of not-to-exceed \$600,000.00. Matt wanted to make clear that CLEER does not get the full \$600,000.00. There are many other programs, sub-contracts and many entities that manage the programs. Matt said they would be looking forward to an addendum and a detailed budget in the next couple of months.

Carolyn wanted to clarify; the \$600,000.00 we are not appropriating another \$600,000.00. Some of that money has been spent in 2009; so do we not have a good number, can't Bob give them how much we spent in 2009?

Matt said they can; because this is a labor/hour, time and materials type contract, last year they approximately (and it was not a full year) \$350,000.00. This year' the reason he left at \$600,000.00, and this was the amount that we awarded the contract last year; because number one it will be a full year this year, and number two they are including more flow downs from contractors, as far as subcontractors go. They are anticipated to be spending more as far as the different programs for materials, or other sub-contracts they go through.

Commissioner Houpt stated you just need a place marker number; does Bob have a plan for how he is going to come up with a more understandable number.

Ed said they have a total of \$3.6 million available for all the programs and this is just the part that CLEER will move through the organization.

Commissioner Houpt stated this is consistent with the CLEER proposal Alice. She asked if they were comfortable with starting with this number and they answered yes.

Carolyn asked Ed; what was budgeted for CLEER. That is what she is worried about because she knows that money was spent, so what is in the budget for the CLEER contract. We have the same problem with what has been appropriated; otherwise, the statutes say you have personal responsibilities for contracts.

Chairman Martin said you are talking better than \$3 million dollars, which is held in reserve for this. What you are doing is appropriating the \$600,000.00 in your budget, as you did last year not-to-exceed the \$600,000.00 in payments.

Carolyn asked; is that what the budget says, she does not know. She would be surprised that it said that since CLEER has already spent money.

Chairman Martin said it says \$3.6 million.

Carolyn asked for CLEER!

Commissioner Houpt replied for this project.

Carolyn said no; it has to be for the contract. That is what she is asking; the project is a bigger issue. The question is what does the budget say under professional services.

Commissioner Houpt asked Alice; when you wrote the grant and you were with the state on funding, was the \$600,000.00 determined to be management funds for the duration of the program?

Alice stated there was the grant they wrote; \$1.6 million, the \$600,000.00 is the number that developed from them responding to the RP to say, here are program implementation costs. A very small amount is the management; it is the sub-contractors providing services.

Commissioner Houpt asked if that was for multiple years or is that annually.

Alice said it was for multiple years; when they entered into that contract, they did not know that Garfield County, we knew the contracts at the end of the year. Therefore, it was a lump sum but that number is changing because after the contract was signed, they are responsible for paying third party. Aspects like advertising and things that were not in the budget when they put it together. Then the Department of Energy Grant has to be refined by the advisory board to decide how to use that. So the \$600,000.00, Carolyn, is from the grant; but it was for the duration. Carolyn said that is exactly her question.

Commissioner Houpt asked; should we be approving something that deducts what was spent this last year.

Carolyn said that is the normal way it happens.

Matt said that last year they did only spend approximately \$350,000.00 with CLEER. This year there will be more contractor flow downs; adding another grant, there is going to be more work done.

Commissioner Houpt said the \$600,000.00 would increase.

Matt said it could approach approximately \$500,000.00; there is no way to tell what we will spend for the entire year. He stated it is his best guess that it will be more than it was last year.

Don asked if the budget anticipated revenue received and amount expended for this contract.

Carolyn stated to Matt; that is the question, what does the budget say, not what any of us think might happen.

Matt said as far as what is budgeted; we have the one line item for CLEER and part of our....

Chairman Martin said he looked at his budget but his has been revised and went upstairs for the final revision.

Matt said he is not sure if it details down to what the contract actually for CLEER is.

Lisa Dawson stated that is correct; the money they got from the DOLA Grant and for this project is held as agency funds. It is a lump sum and an agency fund; it is not broken down into professional services. They keep track of that through our program accounting and through contracts.

Commissioner Houpt said because this is the program that keeps generating new money it rather changes the scope of what CLEER does, and as John just said it is kind of a hybrid. We have to be flexible with how we do that, so your recommendation is that we approve for the \$600,000 level; but expect an addendum.

Matt replied that are expecting an addendum and a detailed budget that CLEER is anticipating for use this year.

That will also include the DOE grant and how much they anticipate. It will break it out from what they are currently doing and what projects they have. They will have a good idea, contractually wise of a good estimate of how much they will spend this year. That does not mean what we have budgeted; that is just contractually wise what we are estimating what they will spend.

Commissioner Samson said that is all well and good; but he doesn't think they answered Carolyn's question and Carolyn replied no.

Matt said to answer the question; to his knowledge, they do not have a specific line item.

Don asked when we would have an estimate of how much this contract will be for.

Commissioner Houpt stated that is what the addendum will be.

Don asked when that would happen.

Chairman Martin said it would be after the first of the year.

Carolyn stated; the scope of services we have right now.

Chairman Martin replied to table this until later today; we can answer those questions, bring it back and show him what the line items are and the budget. If it happens to be one lump sum, they will do that and those revenues are available for expenditures based upon what we have here estimated. We will have to make those adjustments in our budget.

Alice wanted to ask a clarifying question; we can subtract what is already spent and just use that number for this renewal because the number was for the total length of the contract.

Commissioner Houpt said they will have to add the additional projects and Alice stated exactly.

Matt said that is fine but he wanted to make it clear that this is not a firm fixed price contract. This is a time and materials; a labor hour contract and typically on these contracts you have a set amount and you can go up to that because you do not know how much you are going to spend.

Ed explained that Matt is just setting the ceiling at \$600,000.00.

Don said that is fine as long as it is a budgeted amount. That is normal a not-to-exceed amount; we do that on many contracts, but those are supposed to be budgeted.

Ed said he thought the point is that it was already established at \$600,000.00.

Carolyn stated for 3 years, Ed. You have to subtract what CLEER spend in 2009 to know what is left for 2010 and 2011. Alice has it right on.

Chairman Martin said the request is to go ahead and do that so we have figures in front of us to make a firm decision later on today.

Carolyn said and when the amendment comes in front of the Board, it will include more revenue. But at the moment the only revenue is \$600,000.00 over 3 years.

Commissioner Houpt said when they bring the amendments in it probably will amend last year's proposal. We do not want to lock CLEER into a \$600,000.00 cap for 3 years. That would not be affective for this program.

Chairman Martin asked Matt to come back at 1:00 today.

Carolyn said there might be more GEO money also. Although some of the GEO money will be spent directly from the state.

Alice said it is all those changing factors of new GEO money, new DOE money.

Commissioner Houpt asked if they really needed to have them come back or can we approve the contract for the \$250,000.00 level. I move we approve contract renewal letter #1 for fiscal year 2010 with Clean Energy Economy for the Region or CLEER in an amount not-to-exceed \$250,000.00 understanding there will be an addendum coming forward.

Alice said she had one suggestion; she is wondering, because she wants to be clear when she leaves here, it is her understanding it should be the total amount, which was initially approved \$600,000.00 minus whatever was spent to date. She thinks it would be an amount more than \$250,000.00.

Commissioner Houpt said they said it was \$350,000.00, so she took 350 and 250 to get to \$600,000.00.

Matt it should be sufficient until they get the addendum.

Alice said it is just that they are covering third party expenses that were not anticipated that they would cover in the initial contract. So they are responsible for a higher dollar figure as long as they can come back early in the year.

Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don would like to move to the items he has listed for public discussion first before executive session items.

CONSIDERATION/APPROVAL OF IGA FOR TRANSIT SERVICES WITH RFTA

Don would like to move past 1A and come back to it after executive session, and move to items 2B and 2C and ask Mr. Blankenship to come forward. He said he should have actually listed consideration of the IGA with RFTA as the first item before we move to the ordinance. He would like to briefly provide the Board and the public with an explanation of why you are doing this IGA with an ordinance. It is a very unusual procedure. There is a specific State Statute under the County Powers Act that authorizes the county to enter into agreements and to by itself, without agreement, provide mass transportation services. But, in order to provide those services of both by schedule, maintenance issue, capital expenditures and personnel expenditures; all of that has to be approved by ordinance. Why he does not know; but that was the wisdom of the legislature. In the past, somewhat distant past, they have done this with RFTA. More recently they have skipped through this; but because they were looking up the issues with RFTA service in Garfield County, somewhat comprehensive way this year, he thought it would be appropriate to wrap all the services up in a new ordinance that would make lawful all of the services provided by RFTA in Garfield County. To that end he has put together a new Intergovernmental agreement with RFTA and you will see, on the second page, under transit services, it addresses both the service that has been provided by RFTA for many years in the area generally within Glenwood Springs and the Eagle County line, and addresses the more recent service of what they have referred to as the hogback service, also in this agreement. They are now in one agreement; however, the financial support issue is still on page 2 under IV, you specifically pointed to the services provided for the hogback area. That in the past has been the desire of the Board of County Commissioners and he does not know if that was a request from RFTA; but he knows that was a request from this Board. As with all county contracts, it is limited to one year because of fiscal issues, and will need to be renewed. It references the ordinance, which they will consider very briefly after you consider the agreement. But before we move to the question of the ordinance, he wanted to make sure that the Board was in agreement with the contents of the proposed IGA and he will tell them that Mr. Blankenship has brought back to him today, executed copies from his Board demonstrating their agreement to this contract.

Dan Blankenship stated that a couple of his board member attended the Silt Board of Trustees meeting and they voted to contribute \$2,700.00 to the hogback service in 2010; which would be something that would reduce the amount Garfield County has agreed to provide. They are still waiting to hear back from the City of Rifle. He thinks they will at least consider providing a higher level of funding in 2010. He said he could not guarantee that they will actually be able to do it because they are reviewing their cash flow and their forecasts for the year. But it is still something that is out there as a potential to reduce the county's share.

Commissioner Houpt said she knows that Silt is struggling and she thinks it was very good of them to put money forward at any level.

Dan said it was unanimous vote and they were supportive of maintaining the service and are looking forward to working with the county and other jurisdictions on the I-70 Corridor.

Don said this agreement does not address the issue of reducing the county contribution; because it was very uncertain at the time they were trying to put this together.

Commissioner Samson said he guesses he is misunderstanding what they are saying because VI, reduction in I-70 Grand Hogback Corridors. If during the term of this agreement RFTA, decreases the level of I-70 Grand Hogback bus service for that which was comparable to the service that was set forth, Garfield County at its sole discretion may reduce the amount set forth...

Commissioner Houpt thinks that is service levels; what Don is talking about is contributions from others.

Don stated on the contributions you are correct; it does not address contributions and if you want it to do that, he should add something to it.

Dan said he could just change the amount and initial it.

Commissioner Houpt asked if they could have a more general statement since they do not know what Rifle is doing. Say that if further contributions from participating municipalities come forward Garfield will be reimbursed for that amount.

Don suggested perhaps an additional sentence at the end of the current text of number IV; by mutual written letter agreement between the parties this amount maybe reduced based on contributions from other political sub-divisions. That way both RFTA and the County will have to have a letter of agreement that RFTA is receiving X amount; is that all right and Dan said it did. Don said if he makes that change, he would ask Dan's Board to initial. Don asked if the Board desired that change.

Commissioner Houpt thinks that makes a great deal of sense.

Chairman Martin wanted to comment under Article 3 in reference to the appointment of someone to the board of directors. He does not think that is necessary; he thinks they can be a consultant or a contractor, but he does not think an appointment to the board of directors of RFTA is necessary if we are only a contract person.

Commissioner Houpt said we have built this function in the past; she served for a few years on the board in a non-voting advisory role. The advantage of being there and being at the table is that you can participate in the discussion; you don't get a vote, but you do get a better understanding of what is being said at the table. Better understanding of the working authority, and participate in that discussion. She thinks there is a great advantage to having that seat and she thanks them for putting that in there.

Chairman Martin said he is not in favor of it.

Dan said he thinks an option; it is not a requirement.

Commissioner Houpt said it gives you the ability to go to the meeting and have a conversation.

Chairman Martin said as you would anywhere same as Ski-CO, they do not have a seat on the board and they are in the same position as Garfield County. This is his point; if they are going to be a contract person, they need to be treated the same as all contract people.

Commissioner Houpt said we are.

Chairman Martin stated; no, we are not. We are given a seat on the board of directors even though it is not binding, and yet the biggest contributor was Ski-Co is not even considered as a board of directors. He would say they could sit and take part, and give input; but we do not need to have an appointment on the board of directors.

Commissioner Houpt said she wants to keep in here because she obviously does not agree with what you are saying. She thinks when given the opportunity, which is what this does, to have a non-voting advisory role. That honors the fact that we are putting a great deal of money into a route and she thinks they have an obligation as stewards of the public money to be able to be at the table and have that discussion.

Chairman Martin stated we still do; but we do not have to be on the board of directors.

Don explained since there is no consensus on III; can he have a motion as to whether or not you would agree with the current drafting of paragraph, III.

Commissioner Houpt – I make a motion we maintain the language in the IGA of Roman Numeral III public input regarding service plans so they have the opportunity to have that option to sit at the table.

Commissioner Samson – Second.

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

Don said what he would look for is a motion to authorize the Chair to sign the Intergovernmental Agreement for transit services Garfield County with the alteration discussed and appeared to be in consensus the alteration in paragraph IV.

Commissioner Houpt – So moved. Commissioner Samson – Second.

Chairman Martin said the alteration was \$614,000.00 based upon others.

In Favor: Houpt – aye Samson – aye Opposed – Martin - aye

INTRODUCTION AND READING OF ORDINANCE 2010-1

This is in regard to an ordinance of the Board of County Commissioners of Garfield County, Colorado approving an Intergovernmental Agreement for Transit Services between the Roaring Fork Transit Authority and the County of Garfield to provide service of public busses to municipalities known as the Grand Hogback corridor public bus service between the cities of Rifle, New Castle and Glenwood Springs, serving the Town of Silt and parts of unincorporated Garfield County. The total cost of this bus service is for \$614,000.00 from January 1, 2010 through December 31, 2010. The ordinance spells out the terms including repealing and termination of all existing agreements, ordinances, transit service in the Hwy 82 corridor, I-70/Grand Hogback, reduction of service if RFTA decides to cut route times, This is the first reading and the second reading and adoption is scheduled for ____.

Don stated he has already explained the need for an ordinance in this matter. Without objection from the board, he will proceed to the reading of Ordinance 2010-1 by Statute Section 3015-407 and he is entitled to do this reading by title only. It is entitled an Ordinance of the Board of County Commissioners of Garfield County, Colorado, approving an Intergovernmental Agreement for transit services between the Roaring Fork Transit Authority and Garfield County. The read is required by Statute, it incorporates the agreement as amended that you just approved. You can see from the contents of the Ordinance the process is unfortunately convoluted. The Ordinance requires that it actually be adopted after publication, it will be published in the form that he just read with the amended agreement, signed by the Board, signed and initialed by RFTA. It will not be affective until 31 days after adoption. It is currently set for adoption as a regular item on your January 11 agenda. We need that time frame in order to get it properly published. It will be February before we have an effective agreement.

Dan asked if it worked for his board to approve this amendment/revision to the Intergovernmental Agreement at their January 14 meeting. That is the earliest they will be....

Don stated; if at all possible he would prefer to have that agreement at time the time of final adoption. He can move the actual adoption to January 18 it just moves back the effective date one week and then he would know he has a valid agreement.

Dan said he is fairly confident his board will not have any problems with the amendment; but it's tough for them to reschedule a meeting.

Don asked if it was okay with Board to move the final adoption to January 18 regular meeting.

Commissioner Houpt and Commissioner Samson said that would be fine.

Don stated he simply had to accomplish the reading.

RESOLUTION ESTABLISHING THE TRAVELERS HIGHLAND PUBLIC IMPROVEMENT DISTRICT

At the December 2009 meeting of the Board of County Commissioners, proof of proper notice of a meeting of the Board of Directors for Travelers Highlands Public Improvement District was tendered. It was then stated that organizational and the Board at that meeting would consider mill levy assessment issues. Based upon the November 4, 2008 mail ballot election, a majority of electors of the District approved its formation. In County fiscal year 2010, the BOCC shall begin holding regular and/or special meetings as the Board of Directors of the District and shall begin exercising its general and specific powers.

Don explained you considered the resolution imposing a mill levy and certifying the mill levy at your last regular meeting. In attempting to get that levy established and actually effective for 2010 through the assessor's office, they discovered that the final formation of this district had not been accomplished. Don said they need to do that. He stated they then need to have a resolution certifying the mill levy. He said with a great deal of cooperation and assistance from the assessor's office; they actually have the certification and imposition of levy in front of the Board at 10:15, but they need to accomplish these two items first to make sure you have a legally formed district. That's why the resolution establishing the district is in front of you actually authorized this and the voter approval of the third many months passed; so he asking the Board to confirm that by authorizing the resolution. He believes there is a typo in the title that needs to be corrected, and with that correction, we ask you would approve the resolution establishing the Travelers Highlands Public Improvement District.

Commissioner Houpt – I make a motion we approve the resolution establishing the Travelers Highland Public Improvement District as presented with that single amendment to the title and authorize the Chair to sign.

Commissioner Samson – Second.

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

RESOLUTION CERTIFYING MILL LEVY-TRAVELERS HIGHLAND PUBLIC IMPROVEMENT DISTRICT

Don explained this is the resolution as the Board acting as the board of directors of the Travelers Highland Public Improvement District certifying the mill levy to the assessor and he would ask again that you confirm your action taken last week by authorizing the Chair to sign this resolution.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

Executive Session:

Don stated he has already noted one item he had under his time; he needs to provide legal advice concerning County Road 162A and the status of title insurance for that road and then he will ask the Board to take public action after executive session. Members of his staff also need to discuss and receive direction about Continental Rifle litigation; provide a brief update on a claim, a copy is in your executive session packet; receive direction/provide legal advice concerning property acquisition for 206 7th Street; discuss the acquisition of the Billmeyer easement; legal advice concerning the Mountain Family Health building lease, and they need to provide legal advice and receive direction on the two items that were deferred from Ed's time. One we have already covered, its property acquisition and the other is the contract renewal with Martin Bail. He needs to discuss confidential information in relation to that contract and it is confidential by Statute, he will ask for public action on number of these items when coming out of executive session...

Commissioner Samson – I move we go into executive session. Commissioner Houpt – Second.

Don said he would like to discuss the items that will come up at 10:15 and the assessor's items.

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

Commissioner Houpt I make a motion we come out of executive session.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

PURCHASE AND SALE OF PROPERTY ON 7TH STREET

Don stated they provided the Board with legal advice and confidential information concerning the purchase and sale of property on 7th Street. He needs direction on how to proceed in regards to a contract. Don stated they have discussed a confidential proposed purchase price in executive session; what is the pleasure of the Board?

Commissioner Houpt – I make a motion we authorize the Chair to sign the purchases and agreements presented by staff.

Commissioner Samson – Second.

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

CONTRACT RENEWAL FOR MARTINDALE CONSULTANTS:

Don stated there are some issues that need to be resolved on the specific wording of the contract renewal document; but he would like the Board to consider authorizing the Chair to sign a contract renewal with Martindale Consultants for 2010 at this juncture in an amount not-to-exceed \$200,000.00 for 2010.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

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

Chairman Martin referred to Don's item A and they will defer to later.

CONSENT AGENDA:

Approve Bills

Inter-Fund Transfers

Authorize the Chairman to sign the Amended and Corrected Barrie Exemption Plat and the Amended Barrie Exemption Plan and Boundary Line Adjustment. Applicants are Philip A. Barrie and Kathryn J. Barrie – Fred Jarman

Commissioner Samson made a motion that we approve the Consent Agenda items a – c as submitted.

Commissioner Hought second.

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

HUMAN SERVICES COMMISSION:

EARLY CHILDHOOD – SANDY SWANSON

Joanie Godwin (Kids First Program), Rick B (Roaring Fork Valley Early Learning) and Sandy Swanson were present.

Sandy Swanson submitted a Garfield County 2008, 2005, and 1990 comparison of population and births with breakdowns showing the 2008 population at 57,051; in 2005, it was 50,676; and in 1990, it was 30,147. The total birth in 2008 were 992; in 2005 – 816; and in 1990 – 487. Total births to Hispanic mothers in 2008 were 453 in 2005 – 439 and in 1990 – 51. She went on with her statistics and presented some very interesting information and data. Sandy added that the State of Colorado tracks a three risk factor birth index, which includes, single mother, less than a high school education and less than 25 years old. These characteristics are markers of vulnerability for poverty, and its consequences. Children born to mothers who have all three risk factors are more likely to drop out of school, give birth out of wedlock, to divorce or separate and to be dependent on welfare or live in poverty.

The Aspen to Parachute region is facing unprecedented growth now, and in the next 20-years, Healthy Mountain Communities has predicted that Garfield County's population would grow to 87,000 by 2025. This level of growth will greatly impact housing, transportation and the cost of living, all which add stressors to the lives of the families served by this division.

Rick wanted to take about why they know that the focus on early childhood development is so critical. Children need attention and that is good for their health. Recent research from the National Scientific Council on developing child; has provided more specific evidence, the critical nature of experience to early brain development for a child. In the first few years of life, there is almost an unlimited capacity in a child of neuro pathways to develop and circuitries to form. What happens, and is so critical the first few years of life, this capacity is much greater than it is in adults. What they are learning more about is a child reaches mid childhood and parts of that circuitry that is not developed, pathways are not permanently developed are weeded out. The brain; because of its desire to be more efficient; starts weeding out the circuits that are not fully firing. We know now that a child that is neglected, or does not have the full stimulation they need; will lose that forever. The brain just weeds it out starting at about age 5. What are the key components to ensure that the stimulation occurs; early secure attachments, adequate nutrients and lack of toxins and toxins can be environmental, but also emotional. We know intensive care giver providing, growth promoting environment is critical, experiences occurring at the right stages of life and know when those stages are critical. The benefits of this kind of a positive environment include; development of self confidence and sound mental health throughout life, motivation to learn, achievement in school, and later in life positive social skills and a sophisticated understanding of emotions, commitment, morality and other aspects of human relationships. When we talk about quality in early childhood development, we too often think in terms of quantitative evaluation and we think about adult child ratios, physical facilities, and group size. He thinks when they start to understand the critical importance in brain architecture and development of secure attachments, relationships, stimulating environment; then we really start to look at early childhood development more in term of qualitative attribute. Such as a caregiver, the nurturing skills, the lack of toxic stresses, and the capacity of that caregiver to provide a positive relationships. It tells us that a child needs a support system throughout childhood. If you look at where the most critical development occurs, where you have the biggest bang for your buck; it is in those first few years of a child life.

Joanie said they have a few direct services programs that focus on providing the families, of the young children, some of these things Rick mentioned they needed. One is Kids First Program; it supports the families by educating them on to what to look for, for quality education in young children, and also connecting them to license childcare programs. Kids First also works with the programs to increase the quality of their programs and in the classrooms. Currently there are over 97 early child programs in Garfield County. The Family Visitor Program provides families with children from pregnancy up to two years old, with home visits, which provide the family with support and education. That program focuses on child development and early literacy through one of their three programs Colorado Bright Beginning, Home Visitor Program and the Nurse Family Partnership Program. There was over 850 families that were visited last year and more than 785 of those live in Garfield County. The Childcare Assistance Program is another than helps low-income parents pay for their childcare. Thanks to the policies established by the Garfield County, the eligibility level has remained at 225% of the federal poverty level. They had 164 families provided with assistance in the month of November alone. Eagle County has recently reduced their rate to 150% and has dropped 65 families, who were eligible, down to the maximum of 40 families now. Raising a Reader is the Roaring Fork Learning Fund; is building kindergarten readiness and positive early literacy among 1,400 local preschool children in 92 classrooms from Parachute to Aspen. Of these, 1,100 of the children are in Garfield County. Raising a Reader Program works from October to May and they give children a book bag that has four age appropriate books in it and they are exchanged out on a weekly basis. Reach Out and Read, in Colorado, is dedicated in making literacy promotion a standard part of the provision of pediatric primary care. They supply materials and take advantage of the existing relationship between the medical providers and the parents of young children in their practice so that they can be educated on the importance of their involvement in the early childhood development. Parents, last year, were gifted books to read to the young children and in Garfield County 6,252 were given out from three medical offices, which were Pediatric Partners, Mountain Family Health and Garfield County Public Health. There are additional services provided by Public Health, Department of Human Services, and other agencies that are provided as part of the spectrum of their services.

Sandy stated the school districts have programs; one is the Colorado Preschool Program whose goal is to decrease the gap in achievement of low-income children. Currently there are 311 children in Garfield County who are enrolled and there is a waiting list due to excess need. This program serves children ages 3-5; but because of limitations, most of the children are 4 and 5 years old. They are very vulnerable to starting school unprepared. The Colorado Preschool Program pays for funding for four half days per week, and they expect some parental involvement in that process. The other program that the school districts manage is Child Find. That is under the

Individuals with Disabilities Education Act; that requires states to identify, locate, and evaluate all children with disabilities from birth to age 21. In Garfield County Child Find is very active; many, many agencies participate in providing parents with questionnaires, called Ages and Stages, so they can identify children early. It is amazing in terms of early identification; because of all those things happening in the brain, how quickly you can get a child up to speed if you identify them when they are a few months old, as opposed to waiting until they are 10 years old. RE1 and RE2 had over 150 Child Find children sent to them for evaluation so far this year. She supplied the Board with some recent statistical data compiled from the Department of Health Statistics; she thinks the most worry some number that they still have in there is that over 30% of the woman giving birth have less than high school education. In 2008 was the first time births to 13 and 14 year olds; it was significant enough to register. This year they had four; the number of teen births is 104 in 2008. The other worry something is the county's rate of vulnerable families; it remains higher than the state average. That is the three indicators that moms less than 25 years old, she is single and she has less than a high school education. You take those all together and the chances of that woman living in poverty and that family are very high.

Commissioner Houpt said she is always amazed by their statistics.

BOARD OF HUMAN SERVICES:

EBT DISBURSEMENT – LYNN RENICK

For the month of November 2009, client and provider disbursements for allocated programs, totaled \$291,018.06. Client benefits for Food Assistance and LEAP (which began November 1) totaled \$475,941.49. Total EFT/EBT disbursements for November totaled \$766,959.55. A copy of the certification summary has been included in your packet and the Department is requesting Board approval and signature. Commissioner Houpt – So moved.

Commissioner Samson – Second.

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

Lynn explained In addition, we are requesting signature on an amended October 2009 certification summary in the total amount of \$720,048.44. This amount was updated due to approximately \$5,000 of expunged; that occurred after October's summary was completed.

Commissioner Houpt – So moved.

Commissioner Samson – Second.

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

CONSIDERATION AND SIGNATURE AUTHORIZATIONS ON TWO 2010 CONTRACTS WITH THE GARFIELD COUNTY ATTORNEY'S OFFICE

The Department is requesting authorization for 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 (contract copy provided for the Boards review).

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CHILD SUPPORT ENFORCEMENT SERVICES

Child Support Enforcement Cooperative Reimbursement Agreement between the Garfield County Attorney's Office and the Board of County Commissioners acting on behalf of the Garfield County Department of Human Services in the not-to-exceed amount of \$45,000 for legal services as defined as eligible IVD activities within the Scope of Services. Please note that each Board member will need to sign this Agreement.

Lynn stated you have in your packet the State form; she has marked out Governor Ritter's signature and put not necessary. She did go through the attorney's office if that meets your approval.

Commissioner Houpt – So moved. Commissioner Samson - Second.

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

CONSIDERATION AND AUTHORIZATION OF SIGNATURE ON THE 2010 PURCHASE OF SERVICES AGREEMENT WITH PITKIN COUNTY FOR IV-D (CHILD SUPPORT ENFORCEMENT) SERVICES

The Department is requesting signature authorization on the Purchase of Services Agreement with Pitkin County, in the not-to-exceed revenue amount of \$6,000 plus all incentives earned for the provision of Child Support Enforcement services to eligible IVD clients residing in Pitkin County. This is a renewal agreement. Each Board member will need to sign this Agreement upon approval.

Lynn stated this had the same issue with it being on a State form and marking out Governor Ritter's signature.

Commissioner Houpt stated on the contract not-to-exceed \$6,000.00 plus all incentives. So moved.

Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson – aye

Chairman Martin reminded everyone that the last two items need to be signed by all three Commissioners; not just the Chair.

CONSIDERATION AND SIGNATURE AUTHORIZATION ON THE 2010 9-PARTY MEMORANDUM OF UNDERSTANDING FOR SENIOR PROGRAMS

The Senior Programs Advisory Board has reviewed the 2010 Memorandum of Understanding for the provision of congregate meals and Traveler transportation services to seniors. A copy of the MOU is in the Board packet for review. This document represents the financial breakdown for each entity, which totals \$362,324.91. The Department is requesting Board approval and signature on the 2010 MOU for Senior Programs. Municipalities have agreed upon, or are in the process of approving, the document.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

CONSIDERATION AND APPROVAL OF THE 2010 INTERAGENCY GOVERNMENTAL AGREEMENT WITH THE ROARING FORK TRANSPORTATION AUTHORITY FOR THE TRAVELER SERVICES

The Department is requesting consideration and signature authorization on the 2010 IGA with RFTA to provide the Traveler Senior Transportation services to eligible Garfield County residents. The not-to-exceed amount is \$364,788.59. RFTA will again receive a 1/12th payment during the contract term and expenses will be reconciled at the end of the contract term. The new contract is being finalized; however, the Scope of Services has been added to the board packet for review.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

APPROVAL OF MEMBERSHIP ON THE 2010 SENIOR ADVISORY BOARD

A list of proposed Senior Advisory Board members and alternates are provided in the Board packet for review and approval. Garfield County's Board member also needs to be approved. Per resolution, annual approval of Board members is required.

Commissioner Houpt – I make motion we approve the senior program advisory board members for 2010 as presented.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

CONSIDERATION AND APPROVAL OF THE CONTRACT WITH COMMUNITY HEALTH INITIATIVES, INC. AS SUBCONTRACTOR ON THE STATE COLORADO PREVENTION PARTNERS GRANT

The attached signature authorization on the 2010 IGA with RFTA to provide the Traveler Senior Transportation services to eligible Garfield County residents. The not-to-exceed amount is \$364,788.59. Shelley Evans will continue as the designated Project Coordinator and Dr. Jerome Evans will provide the evaluation component for the grant. The total not-to-exceed amount of the subcontract is again \$110,000, which includes program activities and operating expenses. The term of the subcontract is September 30, 2009 through June 30, 2010. This is expected to be the last year of the State grant. The Board's consideration and approval on the contract is being requested.

Commissioner Houpt said this has been very effective because they have all of the school districts at the table, law enforcement, some non-profits, CMC etc. The school districts have really come forward to move the process forward and figure out how to address the concerns and meet the needs of those kids who are struggling in substance abuse.

Chairman Martin said they see that the last statistics; Garfield County ranks way up there. It makes it difficult for these kids to make good choices; but we need to keep those cessation programs in place and give them good information.

Lynn explained they are requesting the sub-contract to Community Health Initiatives in the not-to-exceed amount of \$110,000.00.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

PROGRAM UPDATES

Reports are attached for the Board's information and review.

The Collaborative Management Program, consisting of several community organizations and government entities, applied for a Juvenile Justice Capacity Building Grant. The group was fully funded at \$100,000 to establish and implement a Juvenile Evaluation Team and the provision of direct services to eligible youth. The Department will be the fiscal agent; an Interagency Agreement with the State Division of Youth Corrections and Garfield County may be required as the grant goes forward. Believes they were only one fully funded out of 9 applications received. The Department understands that there will be a decrease, possibly up to a 5% reduction, in the current Single Entry Point contract due to the two state budget cut processes this year. An amendment is expected to be received within the next month.

The Department received an increase of \$25,000, one time only, for mental health core services (four-county region). The Colorado Department of Human Services offered this increase to Garfield County because of over expenditures in SFY09.

The Colorado Department of Human Services – Child Welfare Division has been awarded the Federal Differential Response Research and Evaluation Grant. Colorado will be one of three Federal Demonstration Sites. Garfield County is one of the five pilot counties to implement and gather data regarding the effectiveness of an alternative assessment and service delivery response rather than only the typical investigation path after a referral is received. The other counties involved in this Federal grant to be managed by the Colorado Department of Human Services are Arapahoe, Jefferson, Larimer and Fremont.

Chairman Martin asked about re-organization when it takes places, or if it has, followed the recommendations.

Lynn explained that probably Tresi could give an update as well. Colorado Counties Inc., CCI, has been working with Governor Ritter and his staff relative to what they will be doing in 2010. At this point in time, the CCI Board, as well as Governor Ritter, has come to an agreement that we work together in planning how to go forward with the recommendation 29 as well as 14. 29 is the big one, which is the State re-organization plan, and there will be a new committee through an executive order that will be working on this. It will also be bedded through the States policy advisory committee pack process, which is on a monthly basis. She represents the northwest; she will be involved in those levels of conversations and research.

Commissioner Houpt asked how the directors of the different departments would be selected for the new committee. Lynn said this was the first that she has heard that 1/3 of the counties would be represented on this committee; she does not know but her guess is it will be an application process. She talked to one of the deputy directors at CCI about that this was going to happen. She thinks they just need to look and determine; anyone who is going to apply, she will do that. She is sure that many directors will be applying.

Chairman Martin stated; in discussing that particular recommendation with some of the folks that are in the Governors circle; there is no money to re-organize, no building to re-organize, there is no staff to re-organize, no equipment to re-organize etc. Those are some of the issues that have to be discussed and how are we going to overcome them.

Commissioner Houpt thinks that at this point the good thing about this partnership letter is a commitment to move forward together with the counties to figure out what the recommendation should be. We have decided not to do the CCI tour around the State right now; because they are doing a tour that, we should be working with them on as well. If at some time it seems necessary to do that; that will be fine. For now, they will just work in tandem with the State and be an active partner that they recognize.

Lynn said she thought there were some things that we as counties could still look at.

Commissioner Houpt thinks that one of the most important messages that the group got from, the Action Committee, received it is not necessary in Colorado to have a mandate for regionalizing services; because rural counties are already regionalizing to have that economy of scale and to share professional resources. It was good news, for the State, and important new for them to hear about and acknowledge.

Lynn thinks they hopefully will receive some education during those forums. She is not convinced it is not about money.

Chairman Martin thinks it is all about money and also who is in charge. We have had to make sure that the local authorities, who are doing well, are not going to be in charge. It will be a regional decision based upon the State policy. That is the real issue that scares him in reference to the way they are going. It is also tied to the Federal Grant money on what the Federal Government wants the State to do, and not necessarily what is good for the local is good in Washington DC and that is the big challenge.

Commissioner Houpt said the good news is that we will now be an integral part of that discussion.

Lynn said just as closure on that the State and the County, the bottom line is better outcomes for kids and we need to focus on that.

CHANGE ORDER OLSSON ASSOCIATES RTC-12 – TASK 3/ +\$20,000 – BRIAN CONDIE

Carolyn Dahlgren and Brian Condie submitted the estimated fees for Task 3 of the Release to Contract No. 12 to Olsson Associates due to the additional expense, time and effort in managing these subcontracts causing the exceeding of the budget without having completed the original scope of work. Additionally, Continental Rifle condemnation is proving quite time consuming. The additional amount of \$20,000 from \$43,545.00 to \$63,545.00 is proposed.

She does not have all the contracts for them to sign today; she just gave an example of each one.

Brian stated they have two contracts with Olsson #12 and 13 and the land acquired was not completed this year.

The court case was postponed until July 2010.

Carolyn stated they are still negotiating the Bill Meyer easement.

Brian stated they needed to continue that contract.

Commissioner Houpt said she did not completely understand the spreadsheet; she went over spreadsheet, the first one is for land and easement acquisition.

Brian stated that was in play already; that is for 2009.

Commissioner Houpt asked what they needed a motion for.

Brian stated for a continuation in 2010.

Carolyn explained just as they did for the other contracts a contract renewal. The dollar amount went up more than they expected because primarily Continental Rifle ended up costing more money than they expected. They also had to renew the appraisals on the Bill Meyer easement so there was a secondary cost on that. Carolyn showed the Board what was completed on the 2009 contract by crossing out number one and number two. Only number three and the scope of services is left over for next year.

Brian explained for this phase of it they will deal with contracts; for the next phase he will deal with dollar amounts so they can keep them separate.

Carolyn asked how much he wanted to increase this contract.

Brian stated it was \$20,000.00.

Carolyn said the Board needs to know how much they are approving into 2010 for land and easement acquisition.

Brian stated they do not know because the judge has not given a value of property the yet.

Commissioner Houpt asked if this could come back to them.

Carolyn said she thought they understood each other. We have to have a not-to-exceed amount, Peter's letter gave that; did it not, and Brian answered no and asked if she was talking about the \$40,000.00. He said it changes from \$43,545.00 to \$63,545.00.

Carolyn asked for task number three and Brian stated yes.

Commissioner Houpt stated; what you need is a motion to authorize the Chair to sign a contract renewal letter for release to contract number 12 for land and easement acquisition in the amount of 63,545.00 for fiscal year 2010.

Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt asked if this was \$528,000.00 and Carolyn and Brian stated correct.

Brian stated this is the airport upgrade; this is the Federal project they are doing this year. These are the funds left over from that project.

Carolyn explained that SDC means services during construction.

Commissioner Houpt asked if this was the county's portion or FAA's.

Brian stated that is a total; FAA will be 95% of that.

Carolyn explained you essentially front it with county money and then it is reimbursed.

Commissioner Houpt - I make a motion to authorize the Chair to sign a contract renewal letter for release to contract number 13 for R8/26, RT/2 Taxiway A schedule one through four; in an amount of \$528,205.00 for the 2010 year.

Commissioner Samson – Second.

Carolyn stated they do not do letters; they actually do a renewal contract.

Commissioner Houpt stated it is a renewal contract and she will revise her motion to say that and then she is trusting you know what the scope of services are. In favor: Houpt – aye Martin – aye Samson - aye

CONSIDERATION AND APPROVAL OF EXTENSION TO CH2M HILL AND OLSSON ENGINEERING CONTRACTS – CAROLYN DAHLGREN AND BRIAN CONDIE

Carolyn Dahlgren and Brian Condie presented the professional contract Amendment 1(2010 Renewal) to Contract 3, CH2MHILL, Inc. for purchase of professional services, recurring or as needed engineering services during construction related to site preparation for the Runway 8/26 upgrade to ARC D-II standards, to be performed in calendar year 2010, subject to the availability of FAA and/or the Colorado Department of Transportation Grant Funds and/or the BOCC appropriation in the maximum not-to-exceed amount of \$932,075.00 (2009 and 2010).

Carolyn explained if the Commissioners remember they have Olsson and CH2M Hill overlapping to some degree.

Commissioner Houpt asked what the breakdown was.

Brian stated the \$932,075.00 is the additional funds for the other project.

Commissioner Houpt – So Moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

Brian explained the next was release to Contract 4 for CH2M Hill, the hanger access taxiway; because of weather, they were not able to complete that. They will come back next year with their engineering to make sure the final lift is put on properly. Again, this is an extension of their contract for 2010 not to exceed.

Carolyn stated that was all last year. We need to know what we reduced for expenditures and Brian explained that Bob said they would not know that number exactly until February. If we do the entire number; then it is not-to-exceed.

Chairman Martin explained you run into the same discussion as to whether it has been appropriated, or what is on your budget to allow that to happen. It is in professional services he understands; the expenditure funds after being identified, 2009 expenditures minus what is there is what we are after.

Carolyn stated it would be the \$93,005 minus...

Commissioner Houpt stated you would not know that until February, so in order to put a renewed contract together you will have to use a number and Brian wants to use the \$93,000.00 number.

Carolyn said that makes no sense because....

Chairman Martin replied unless you add on minus the expenditures that took place in 2008; which is the total amount that should be identified by February, then you would be there.

Don asked what was budgeted.

Brian stated for next year the \$93,000.00.

Don said that is what they can do the contract for and commissioner Houpt stated; let's do the \$93,005.00 – I make a motion we authorize the Chair to sign.

Chairman Martin explained; understanding that there have been expenditures from the \$93,000.00.

Commissioner Houpt stated; it is up to that, but you have already paid off that not-to-exceed number and Brian stated correct. Commissioner Houpt stated that is the number you will have on the books; but the finance department will not have that number for you until February.

Carolyn explained that at the moment, Bob could give them an estimated on what had been expended. We could get a dollar amount.

Chairman Martin stated that is correct; but the budget amount is \$93,000.00, that is what you need to state minus...

Brian stated Correct.

Commissioner Houpt – So Moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CH2M Hill – Release to Contract #5

Brian said the final engineering and design bidding for AIP 19 is for the full amount. They have in 2009 for the \$911,510.00.

Commissioner Houpt asked what the \$33,740.00 was for.

Carolyn stated she thought that was what was left this year.

Brian stated that most of that is already expended and Carolyn replied correct, she thought this is what was left out of the total amount.

Commissioner Houpt stated if it is she does not want to put 911 on here. We have had this conversation all day about having some understanding of the money that is allocated.

Chairman Martin said identifying the amount of money that is in your budget and then expend that amount and not to exceed your budget with the motion. If you have \$33,740.00 in your budget; that is fine, if you identified \$911,510.00 minus expenditures from 2009.

Brian said they identified the money that was left over this year plus the \$18 million.

Chairman Martin said it does not work that way.

Brian continued to say the total professional services was \$21 or \$22 million dollars.

Commissioner Houpt asked; what happens if we sign this contract for \$911,000.00 and something happens and the company wants to charge us 40% more than we had anticipated; but it does not exceed this for 2010.

Brian said that is when they will go back to the contract will be that minus what we have expended. The contract will not be for \$911,000.00; that already is for this year. The contract renewal will be for whatever the \$911,000.00 minus what they spent in 2009. They will not get a contract for that full amount again.

Commissioner Houpt asked Brian if he thought they spent \$33,000.00.

Brian said they were up to 90% expenditure on that one.

Chairman Martin said they might have \$33,000.00 left.

Brian said they are wrapping this one up in February 2010.

Chairman Martin stated the trouble also is your dealing with the Federal year budget instead of a calendar year budget.

Carolyn said it does not matter; we have to do it year to year.

Chairman Martin stated he knew that. That is the identification you need to have.

Commissioner Houpt said it would be really helpful when they get these contracts if they knew what that contract number was.

Brian said they sat down with Bob last week to try to come up with the numbers; only thing is, all the bills still coming in, they will not know until February. But they need to renew the contract because they will be working in January.

Carolyn said that Bob can still give them what he knows to date has been spent. Carolyn asked if on CH2 did he have it separated out and release to contracts? Do we know what you spent on number 5?

Brian stated no, it is all under VIP18, which is Olsson.

Carolyn stated they would be safe to do it the way Chairman Martin suggested and get Bob to give them a dollar amount.

Chairman Martin stated he would so move.

Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt stated we need to get this figured out. Not just for the airport but for every contract.

Chairman Martin said he thinks everyone has it figured out; we just need to nail down the dollars that are there verses the expenditures.

Ed said it sounds like you need the figure before you have to affect the contract.

Commissioner Houpt stated to Ed; if we cannot have those figures, it would be nice to have standard language to help solidify the fact that we are not at that final number yes, and there is recognition that we are not approving it for up to that amount.

Brian suggested that maybe Bob could give them a number from October take that off and then November and December.

Don said the budget has to include it also. It is not just a matter of estimating it and having a contract. When you budget it you have to budget both your anticipated expenditures for 2010 and the carry forward you did not expend in 2009.

Brian said that is when we sat down with Bob to come up with their numbers.

CHANGE ORDER FOR KELLY TRUCKING CONTRACT/ +\$505,085.50 – BRIAN CONDIE

Carolyn Dahlgren and Brian Condie submitted the Taxiway A West for contractor Kelley Trucking, AIP Project 3-08-0048-18 supplement agreement total in the amount of \$505,085.50 for a revised contract total of \$11,431,761.55. This change is for additional embankment work to the contract in the location of the west portion of future Taxiway A from proposed Taxiway A1 to Taxiway A2. The additional embankment will bring this area to within approximately 3-feet of the future taxiway grades in the project. Justification in the change was fully explained in the contract.

Brian stated of the 65% design of the runway for next year, they have identified a couple of areas that need work done; the current contract under AIP did not include. Brian worked with the FAA to move that work out of the AIP Project 19 into 18. All of the 505,085.50 is appropriated in the budget, it is also reimbursable by the FAA; they have signed off on it and Brian had the documents where they have approved it. Brian said they are moving it from 19 into 18; or they would like too, so they can meet their construction schedules, which are listed. That is an increase in contract to Kelly Trucking of \$505,085.50.

Carolyn asked if that included the extra blowing up of rock; or is this just the change in the wall.

Brian said this is just the change in dirt quantities; relocating it from the east end to the west end in order for them to keep on schedule.

Chairman Martin stated; again, it is within the FAA Grant.

Brian stated yes; both 18 and 19 are in the 2010 budget.

Ed stated; prior to today that \$489,000.00 was not in the Kelly Contract.

Brian said the \$505,085.50 is not in the contract.

Carolyn explained one is a change order and one is a new award.

Commissioner Houpt stated; what you are asking is that we approve the supplemental agreement with Kelly Trucking in the amount of \$505,085.50 to move it into project number 18 from 19.

Brian stated Kelly's Trucking new total not-to-exceed price is... and Commissioner Houpt stated \$11,431,761.55.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

AWARD SCHEDULE II TO KELLY TRUCKING / +\$489,836.00 – BRIAN CONDIE

Carolyn Dahlgren and Brian Condie submitted the contract documents and specifications. This is the notice of award and notice to proceed in accordance with the contract documents and submitted proposal to Kelley Trucking, Inc. located at 6201 McIntyre in Golden, Colorado. This is the acceptance of the additional funds of \$489,836.

Brian stated this notice of award was held back because they did not have procession of Banner Lane property, and they now have that. Carolyn has advised Brian they can now issue this contract; which was awarded under AIP 18 for Kelly Trucking and they are ready to proceed

Carolyn stated; from their perspective, this is all the drainage work of the west end of the runway and the dry creek drainage that exists on Barren Lane; which is a commercial subdivision within the City of Rifle.

Commissioner Houpt – I make a motion we approve the notice of award to Kelly Trucking for AIP Project number 308004818 in an amount not-to-exceed \$489,836.00 for schedule two.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

CHANGE ORDER OLSSON ASSOCIATES RTC-12 – TASK 3 / + \$40,345 – BRIAN CONDIE

Carolyn Dahlgren and Brian Condie submitted the letter received from Olsson Associates regarding a letter from Peter Muller of PRT Consulting saying the FAA directive to have the pad for the new/relocated localizer constructed by June 1, 2010 required additional engineering design services that were not included in the existing Release to Contract #12. The total of PRT's incurred costs was \$18,845 and a detailed list was included for the Board's review. The total cost of Tetra Tech's was \$21,500; there the request is that RTC #12 Task 1 fee be increased by \$40,345 from \$626,450 to \$666,795.

Brian stated the change order came about for the \$40,000 and the engineering for basically the MSE wall, changing the soil cement wall to the MSE wall.

Commissioner Samson asked if they talked with the City of Rifle on that.

Brian stated they have not since they made the change. They met with them before when they asked if Brian would look at alternates.

Commissioner Houpt asked if he thought they needed to run it past them.

Brian stated they are the ones that asked them to look at an alternate to the soil cement for the MSE wall.

Commissioner Samson wanted to know if they saw the finished product.

Brian said no,

Commissioner Samson said it was his understanding they wanted to see what Brian had in mind as a finished product.

Brian said this is for the engineering to see if it would work; this is not for the wall itself. Now that it worked, they can go to the City of Rifle and show them.

Carolyn said this still says release of contract number 12, task 1. Task 1 was bid packages; we have some kind of confusion here. It must be Task 2 the preliminary engineering.

Brian stated the prepared bid package might have included engineering; because they have to do engineering for the bid package. The bid package will have your contract, your bid sets, all your engineering, all your drawings; how would they bid a wall unless all the documents are ready.

Commissioner Houpt stated your asking that the release to contract number 12 Task 1 be increased by \$40,345.00 and not to exceed amount of \$666,795.00.

Brian stated correct.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

DISCUSSION OF THE 9TH SUPPLEMENT TO THE 2009 APPROVED BUDGET AND THE 9TH AMENDED APPROPRIATION OF FUNDS – THERESA WAGENMAN

Don DeFord reviewed the actual public notification for this hearing today and confirmed the timing and information was complete and advised the Commissioners they were entitled to proceed.

Chairman Martin swore in the speakers.

Theresa Wagenman submitted the resolution and explained the changes included in Exhibit A. It includes some increased and decreases to the existing '09 budget. They are requesting the Board allow them to make those adjustments and changes.

Commissioner Houpt asked; on the fair fund and the livestock auction fund, are those monies from monies generated or those general funds.

Theresa stated the livestock auction fund is related to the 4H payouts they give to the kids; it is above and beyond the budgeted amount.

Commissioner Houpt asked where that money came from.

Theresa stated it comes from the livestock sales and then we pay out to the 4H kids.

Commissioner Houpt stated more was generated than anticipated.

Theresa stated yes. The fair fund, obviously, revenues were down a little more than anticipated; expenditures were; they spent more than what was appropriated for them. According to State Statute, you cannot exceed what your appropriated amount was. This supplement is to bring it up so we do not violate that Statute.

Commissioner Houpt asked if it came from their fund or from general.

Theresa stated it is out of the fair fund. They did an inter fund transfer to bump that fund balance up. A couple of months ago they highlighted it on the financials as an area of concern because their fund balance dropped down to \$20,000.00. They did an inter fund transfer from the general fund to the fair fund to bring it back up to just over \$100,000.00.

Commissioner Houpt said many of the monies to the fair came from the general fund and Theresa stated that was correct.

Chairman Martin asked for a motion to close public.

Commissioner Samson - So moved.

Commissioner Houpt - Second.

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

Commissioner Houpt – I make a motion we approve the resolution concerned with the ninth amendment to the 2009 budget and the ninth appropriation funds as presented.

Commissioner Samson – Second.

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

LEVY AND CERTIFICATION OF TAX LEVIES FOR 2010– JOHN GORMAN

John Gorman and Lisa Warder submitted the levy and certification of tax levies for 2010.

Chairman Martin swore in the speakers

John stated he wanted to let them know there was a mistake.

Chairman Martin replied; it is a noticed public hearing or not, just notified within the budget and John replied yes.

Chairman Martin wanted to make sure there was that clarification.

John stated on the face page of the document the Board has; he stated they have gone over the numbers many times and one of his responsibilities was to fill out this page and he has a typo in his phone number. John stated the number is 970- 945 instead of 946. John passed out information for the Board; on the summary page, it basically gives a snap shot of the projected revenues that will be generated by the variety of mill levies certified to the board by the various taxing entities, including your selves. These are the highest figures he thinks they have ever seen, or will see for some time, and he would be happy to give any clarification or explanation of this report.

Don stated the action required by the Board is to certify the valuations that are set forth by the Assessor and to levy taxes at the level and in the amounts, set forth by the Assessor in the packet presented to the Board.

John said that is \$44 billion; we are worth more than we thought.

Ed asked what the number was last year and John did not have that figure; it is only for 2010. He said he could give them a copy. Ed said the question is; is it a substantial increase.

John said there is a substantial increase for two reasons; one of course the real estate values, reflected in this report early this year, were reflective of those values June 20, 2009, the highest ever in the history of the county. In addition, this value also reflects the oil and gas assessed valuation from production in 2008; which again was not only the highest volume of production; but also the highest priced. The price times the volume gives the value and so the assessed valuation expressed in this report from 2008 production, is also the highest ever on record.

Chairman Martin asked John to identify the overall refund fact for transportation; who did that go to. That is broken down to school districts; is that thousands or millions.

John said it was \$407,948.00.

Chairman Martin stated that was all in reference to transportation, rebates and cost back to the different entities, which the biggest one is going to be the school districts, then the towns and cities.

John said these are refunds, abatements, and transportation dollars and to get these broken down...

Chairman Martin stated these go into your subsets behind.... He just wanted to make sure that was a transportation revenue dollars that came in.

John stated he did not know if there was any transportation dollars reflected in that. He thinks they are refunds and abatements; but for specific transportation dollars, he cannot tell them there are any.

Chairman Martin said it was interesting reading the tax increment finance, the tip in the downtown area discussed many years ago; where the money is, how much it was, who it came from.

John stated that was the last page of the report and is an interesting calculation.

Chairman Martin asked for a motion to close the public hearing.

Commissioner Samson – So moved. Commissioner Houpt - Second.

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

Commissioner Samson – I move we accept the levy and certification of tax levies for 2010 as presented by our County Assessor. Commissioner Houpt – Second.

Chairman Martin said noting the correction on his phone number.

In favor: Houpt – aye Martin – aye Samson – aye

EXECUTIVE SESSION:

Don stated the only items were what he listed earlier; the property acquisition issue, and advice concerning Martindale contracts and all of the items he identified earlier need to be discussed. There is public action, potentially on some of these items.

Commissioner Houpt – I make a motion to move into executive session to discuss the items mentioned earlier by our county Attorney.

Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Chairman Martin asked for a motion to come out of executive session.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

TITLE INSURANCE – COUNTY ROAD 162A

Don stated he had listed the consideration of title insurance for County Road 162A as a public discussion item; all he is interested in at this point, does the Board have an interest in acquiring insurance and if so, he will obtain further information.

Chairman Martin and Commissioner Houpt stated yes.

VILLAMEYER – PETER MULLER

Carolyn stated on Billmeyer they are seeking a motion specifically authorizing Peter Muller, who is under contract to the county, to negotiate with the owner of that 35 plus acre parcel consistent with the direction the Board gave them at executive session.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONTINENTAL RIFLE LITIGATION

Don stated the Continental Rifle litigation; the condemnation action, they are looking for direction from the Board to authorize staff to engage in settlement discussions consistent with the confidential discussion they just discussed.

Commissioner Houpt – So moved. Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye

CONSIDER A REQUEST FOR A ONE-YEAR EXTENSION FOR THE PRELIMINARY PLAN FOR THE EAGLE RIDGE TOWNHOMES. OWNER/APPLICANT IS EAGLE RIDGE INVESTMENT HOLDING, LLC REPRESENTED BY HAYDEN RADAR AND ALLAN MEYER – MOLLY ORKILD - LARSON

Hayden Radar, Molly Orkild-Larson and Allan Meyer were present.

Molly submitted the following Exhibits: Exhibit A – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B – Garfield County Comprehensive Plan of 2000, as amended; Exhibit C – Staff Memorandum; Exhibit D – Letter requesting a time extension from Hayden Rader dated December 11, 2009; Exhibit E – Letter from David Pesnichak to Garfield and Hecht PC stating time extension approved by the Commissioner dated December 1, 2008 and Exhibit F – Draft Resolution.

Eagle Ridge is located west of CR 114 within the Los Amigos Ranch Subdivision. On December 11, 2009, staff had a pre-application meeting with Hayden Rader and Allan Meyer who inquired if the BOCC could grant a one-year time extension for their Preliminary Plan under the Unified Land Use Resolution of 2008. The Eagle Ridge Townhome Preliminary Plan is to expire December 17, 2009 and in order to continue with the project and submit a final plat they are requesting this extension. The applicant has stated that the final plat is anticipated to be submitted in the near future.

Hayden Rader submitted that he has completed and been approved for both Sketch Plan and Preliminary Plan Phases however, due to time constraints he was unable to make the deadline nor able to commit to the financial burden it poses due to the current economy conditions.

Molly stated the Board received a revised draft resolution; there was one thing after legal council had looked at this, they omitted E3 and replaced it so that it reads now, the applicant has demonstrated the one-year time extension for the preliminary plan as necessary. The original conditions of approval cannot be met within the existing time frame.

Commissioner Samson asked how many extensions could be granted. It is not unlimited is it?

Molly explained the last extension was December 1, 2008; that was under the old code and this would be under the new code and it is one time.

Hayden explained they were asking for this extension at this time due to the existing economy, lack of ability to get financing in the market, and hoping it will change in the near future.

Commissioner Samson – I move we grant a request for a one-year extension for the preliminary plan for Eagle Ridge Townhomes to December 17, 2010.

Commissioner Houpt – Second.

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

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT FOR LIMITED IMPACT REVIEW TO ALLOW FOR MATERIAL HANDLING FOR THE TRANSPORT, STORAGE AND DISPOSAL OF PRODUCED WATER INTO AN INJECTION WELL ON APPROXIMATELY 2.02 ACRES OF A 1377 ACRE PARCEL LOCATED OFF OF CR 331 AND MINEOTA DRIVE (FILE NO. LIPA 6030/PAD D). THE APPLICANT IS THE DIXON WATER FOUNDATION – TOM VELJIC

Tom Veljic, Deb Quinn, Larry Green, Balcomb and Green, Rick Blankenship, and John Black from Antero were present.

Deb Quinn reviewed the notice and publications and determined they were timely and accurate. This was published on November 12, 2009 for the public notice. The applicant's attorney has provided quite a bit of information for mineral owners, which is summarized by a chart listing all the surface owners within 200 ft. In connection with those surface owners whose letters were returned as unclaimed, where they sent to the last known address as shown by the assessor and Larry stated yes. Deb also has another list of mineral owners how where the mineral owners ascertained and John Black gave his response. Where the records of the assessor and the clerk & recorder, and John answered yes. She asked if he knew if the notices that came back undeliverable; where they sent as shown by the county's public records, and he answered yes. Deb stated in connection with both pads D and F, not just this application but the one coming up; they provided copies of proof of the public notices including an affidavit, signed by Mr. Black indicating that the posting took place on November 13, 2009 and it is visible from a public notices and an affidavit took place November 13, 2009 and it is visible from a public right of way. She advised the Board they were entitled to proceed.

Chairman Martin – Swore in the speakers.

Tom submitted the following exhibits: Exhibit A – Proof of Publication and mail receipts; Exhibit B – Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – Staff Power Point; Exhibit G – Email

from Garfield County Development Engineer dated November 16, 2009; Exhibit H – Letter from Garfield County Road and Bridge dated November 17, 2009; Exhibit I – Memo from Steve Anthony, Garfield County Weed Management, dated December 4, 2009; Exhibit J – Letter from Orrin D. Moon of the Burning Mountain Fire District dated December 9, 2009; Exhibit K – Letter from David C. Moore, Mayor of the Town of Silt dated December 15, 2009; Exhibit L – COGCC Company Report Detail, Bonding Coverage, received December 14, 2009. Chairman Martin entered Exhibits A – L into the record.

The property owner (Dixon Water Foundation) requests approval to construct a centralized water treatment and storage facility on their property that is used to treat, store and dispose of produced water used in their natural gas drilling operations. The well field is generally located south of I-70 with some well pads located north of the freeway (see Antero Built Waterline Map in Tab 12). Antero is the operator for this well field. Produced water from the well field is piped to the facility; the residual oil and condensate from the water are separated, and then transported off site to be sold. The water is piped into the injection well (Pad D) approved by the Colorado Oil and Gas Conservation Commission (COGCC).

The request (Application Tab 5) includes approval for a centralized facility for “Materials Handling”, six additional produced water storage tanks, and a natural gas powered generator, in addition to the existing site facilities, which include two produced water storage tanks, two skimming tanks, and a pump house.

SITE DESCRIPTION

The site is located south of Silt and is accessed via County Road 331 (Dry Hollow Road), Mineota Drive, and private access easements through portions of the platted lots of Mineota Ridge Estates Subdivision. Mineota Drive is a private road, which is maintained by Antero as part of the access easement granted by the Mineota Ridge Estates HOA and affected property owners. The access easement connects directly to Pad D, which is located at the northern edge of the Valley Farms property.

The site currently contains a number of temporary and permanent storage tanks, pump house, and skimming tanks. The producing and injection well are centrally located on the well pad and there is an earthen cut located on the south side of the well pad effectively screening most of the site from Mineota Drive. Once drilling is complete and all of the temporary tanks are removed only a portion of the pump house and storage tanks will be visible from Mineota Drive. The produced water storage tanks are painted to blend into the surrounding landscape. A final site plan is shown below. The property has public access via CR 331 and a private road known as Mineota Drive. Mineota Drive terminates at the end of the Mineota Ridge Estates Development. There have been no issues with site access and the proposed injection well will accept produced water for treatment, storage, and disposal via pipeline. Once drilling is completed on Pad D there will be minimal traffic to the site with maintenance vehicles as the primary site traffic. Daily trips with a mid-sized tanker will occur to remove petroleum distillates from the skimming tanks. The applicant has adequately demonstrated the adequacy of the access easements granted from adjacent property owners and the Mineota Ridge Estates HOA. The Applicant’s Land Suitability Analysis is located in Tab 14 of the application and the Traffic Analysis is located in Tab 15.

The property is located on an existing well pad approved by the Colorado Oil and Gas Conservation Commission and contains producing wells and supporting equipment and buildings. There are no additional changes proposed to the topography and slope of the site. The site is located on the edge of the moderate slope hazard area and no significant impacts have been identified.

The site was created as a cut and fill on the edge of a moderate slope to accommodate an oil and gas well pad. There are no significant natural features located on this well pad. Off-site, the slope gradient flows downhill to the north, west and east to an agricultural area known as Valley Farms. There is an open drainage ditch located north of the site. The Colorado River is located approximately 1 ½ miles north of the site.

There are no natural or manmade water features on the site and there is no flood hazard identified for Pad D.

The Pad D site does not have any historic water usage or other identified water demand. There are no potable water wells or other potable water intensive used proposed for operation of the site. The only on-site personnel will be during regular maintenance of the well pad facilities. There is an open drainage ditch located north the site.

The site for Pad D is outside any designated flood plain or flood hazard area.

An on-site ISDS is not proposed nor any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well, proposed for operation of the site.

The Garfield County GIS maps identify the area of Pad D is located within an area of moderate “Slope Related Hazard”. There are no other geologic hazards identified on the site of Pad D.

The Application contains a Wildlife and Sensitive Areas Report (Tab 23) prepared by WestWater Engineering which concluded that the facility will minimally affect wildlife and there would be no impacts to native vegetation on the project site due to the previous disturbance to create the drill pad. The project will contribute to the cumulative impacts to the wildlife populations in the surrounding area that are experiencing gradual habitat loss, fragmentation, alteration, and displacement through increased development.

The report does contain a variety of mitigation recommendations. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

The Application contains a “Class I Cultural Resource Overview” prepared by The Grand River Institute (Tab 24) which ultimately found that that there are no archeological or historic sites identified within the project area.

The Applicant provided an address list for property owners within 200 feet of the parent parcel for public notice from the entire Valley Farms parcel.

Pad D is located on the northern edge of the Valley Farms Ranching operation and south of the Mineota Estates development. The site currently contains a natural gas well pad approved by the COGCC with producing wells and an injection well.

The relatively flat 2.02-acre site is located on the edge of a moderate slope and does not contain any significant topographic features. There are no streams or water bodies present and an open drainage ditch is located north of the site.

The project site was a “cut and fill” to produce a well pad site and much of the on-site soils have been disturbed. Soils in the surrounding area include those present in the Colorado River floodplain, which have been disturbed due to agricultural practices, road construction, and natural resource extraction. An on-site ISDS is not proposed nor is any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well, proposed for operation of the site.

The Garfield County GIS maps identify the area of Pad D is located within an area of moderate “Slope Related Hazard”. There are no other geologic hazards identified on the site of Pad D.

The site is proposed for “Materials Handling” and the transport of all produced water intended for final disposal will be accomplished via pipeline with minimal requirements for on-site staff. There are no potable water wells or other potable water intensive uses proposed for operation of the site. The only on-site personnel present will be during regular maintenance of the well pad facilities.

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The report does contain a variety of mitigation recommendations. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

The Application contains a “Class I Cultural Resource Overview” prepared by The Grand River Institute (Tab 24) which ultimately found that there are no archeological or historic sites identified within the project area.

The Wildlife and Sensitive Areas Report (Tab 23) prepared by WestWater Engineering concluded that the facility will minimally affect wildlife.

There are no radiation hazards identified for this site.

The Application contains a Spill Prevention, Control and Countermeasure Plan (Tab 20) prepared by O&G Environmental Consulting, LLC in compliance with the U.S. Environmental Protection Agency. The plan details how spills are handled, emergency response, and training.

The property has public access via CR 331 and Mineota Drive, which terminates at the end of the Mineota Ridge Estates Development. There have been no issues with site access and the proposed injection well will accept produced water for treatment, storage, and disposal via pipeline. Once drilling is completed on Pad D there will be minimal traffic to the site with maintenance vehicles as the primary site traffic.

The application includes a Traffic Analysis (Tab 15) prepared by Kimley-Horn and Associates Inc. The analysis uses traffic counts from existing injection well pad, Pad T, located near Divide Creek Road to project future trips on the Pad D site. Pad T is not connected to the pipeline system installed by Antero and the trip numbers represent “typical” vehicle trips for an injection well site using trucks to move produced water. Regular trips with a mid-sized tanker will occur daily to remove petroleum distillates from the skimming tanks along with an estimated 13 pickup truck trips for a total of 28 trips per day.

The site is located on the northern edge of Valley Farms, which is an active agricultural operation. Single-family homes are located north of the site in the Mineota Ridge Estates Subdivision. The 2.02-acre site is an active well pad with intermittent gas well drilling and production operations including the storage, treatment, and disposal of produced water into an on-site injection well. During well drilling operations, the site does produce noise, dust, and traffic that impact the surrounding area. Once well drilling operations on the well pad are completed minimal traffic and noise from the pad site is expected. The applicant proposes that all produced water will be transported via underground pipeline limiting traffic impacts to the surrounding road network and residential uses. The pump house and produced water storage tanks are screened by an existing earthen cut. The proposed produced water storage tanks are painted to blend with the surrounding terrain. The proposed use meets the requirements of the ULUR of 2008, as amended. A cross sectional elevation of the site is shown below.

The existing well pad is approximately 2.02 acres in area and no additional site disturbance is required for the proposed Material Handling facility. The application includes a reclamation plan under the provisions of the COGCC 1000 series rules and bonding under 700 series rules. The proposed site reclamation plan (Tab 22, Section IV) is intended to address long-term reclamation under the administration of the COGCC but does not address reclamation of the portion of the site used for Materials Handling if the operation ceases prior to the end of gas production operations and prior to final closure of the site. The applicant has not provided a reclamation estimate exclusive to Material Handling under the provisions of Section 7-212 (B) and Staff assumes the use to be a long-term facility. It would be appropriate for the Applicant to provide an estimate for reclamation for the portion of the site used for Material Handling and address whether the security under the COGCC rules are adequate to reclaim this site area. A condition has been added to address final reclamation of the site used for Materials Handling if that portion of site operations ceases prior to final closure, well capping, and reclamation of the 2.02-acre well pad.

The proposed use complies with the development standards of the Rural Zoning District.

The property is located in Study Area 2 of the Garfield County Comprehensive Plan of 2000 and is located within the “influence area” of the Town of Silt. As required by Intergovernmental Agreement, the Town of Silt was sent a copy of the application for comment.

The site is located on the northern edge of Valley Farms, which is an active agricultural operation. Single-family homes are located north of the site in the Mineota Ridge Estates Subdivision. The 2.02-acre site is an active well pad with intermittent gas well drilling and production operations including the storage, treatment, and disposal of produced water into an on-site injection well. During well drilling operations, the site does produce noise, dust, and traffic that impact the surrounding area. Once well drilling operations on the well pad are completed minimal traffic and noise from the pad site is expected. The applicant states that all produced water will be transported via underground pipeline limiting traffic impacts to the surrounding road network and residential uses. The pump house is screened by an earthen cut and the proposed produced water storage tanks are painted to blend with the surrounding terrain. The proposed use meets the requirements of the ULUR of 2008, as amended.

The Pad D site does not have any historic water usage or other identified water demand. There are no potable water wells or other potable water intensive used proposed for operation of the site. An on-site ISDS is not proposed or any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well. The only on-site personnel present will be during drilling operations and regular maintenance of the well pad facilities.

There are no public utilities required for the operation of this site. The applicant will extend electric power to the site to operate the on-site pumps.

The property has public access via CR 331 and Mineota Drive, which terminates at the end of the Mineota Ridge Estates Development. There have been no issues with site access and the proposed injection well will accept produced water for treatment, storage, and disposal via pipeline. Once drilling is completed on Pad D there will be minimal traffic to the site with maintenance vehicles as the primary site traffic.

The Garfield County GIS maps identify the area of Pad D is located within an area of moderate “Slope Related Hazard”. There are no other geologic hazards identified on the site of Pad D.

The Pad D site is located on the edge of “Valley Farms” which is an existing agricultural operation. The Garfield County GIS maps locate Pad D in an area of Valley Farms as “Irrigated, Inadequate Water”. The Pad D site was created as a gas and oil well pad and is not intended for agricultural production. No impacts to the surrounding agricultural uses are anticipated.

The Application contains a Wildlife and Sensitive Areas Report (Tab 23) prepared by WestWater Engineering which concluded that the facility will minimally affect wildlife and there would be no impacts to native vegetation on the project site due to the previous disturbance to create the drill pad. The project will contribute to the cumulative impacts to the wildlife populations in the surrounding area that are experiencing gradual habitat loss, fragmentation, alteration, and displacement through increased development.

The report does contain a variety of mitigation recommendations. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

The relatively flat 2.02-acre site is located on the edge of a moderate slope and does not contain any significant topographic features. There are no streams or water bodies present.

The Application contains a Spill Prevention, Control and Countermeasure Plan (Tab 20) prepared by O&G Environmental Consulting, LLC in compliance with the U.S. Environmental Protection Agency. The plan details how spills are handled, emergency response, and training. The tank facility includes secondary and tertiary containment to reduce the chance of groundwater contamination.

The Application contains an Area Wide Stormwater Management Plan for Construction Activities (Tab 21) prepared by LT Environmental, Inc., that identifies the Best Management Practices for the development of this site to reduce impacts to rivers, streams, and ditches. The plan will be implemented through a combination of construction techniques, vegetation and re-vegetation, administrative controls, and structural features. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

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Storage tank venting of Volatile Organic Compounds will be directed to an on-site and existing combustor to control odors. Dust control measures will be controlled through the Best Management Practices identified in the Stormwater Management Plan.

The site is identified as a “Low Hazard” on the Garfield County Wildfire Hazard Map.

The Garfield County GIS maps identify the area of Pad D is located within an area of moderate “Slope Related Hazard”. There are no other natural or geologic hazards identified on the site of Pad D.

The Application contains a “Class I Cultural Resource Overview” prepared by The Grand River Institute (Tab 24) which ultimately found that there are no archeological or historic sites identified within the project area.

STAFF RECOMMENDATION

The Applicant has applied for a Land Use Change Permit for Material Handling with the associated transport, storage, treatment, and final disposal into a COGCC approved injection well. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit. Staff recommends the Board of County Commissioners **approve** the request from Dixon Water Foundation for a Land Use Change Permit for MATERIALS HANDLING for the transport, storage, treatment, and disposal of produced water into an injection well on Pad D, on a property owned by Dixon Water Foundation located in the southeast quarter of Section 11, Township 24 North, Range 9 West, in Garfield County with the following conditions:

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.

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.

Vibration generated: the facility 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.

Emissions of smoke and particulate matter: the facility, generator, pump, or related driveway and parking area shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards, including CDPHE APCC Regulation 1 for dust.

Emission of heat, glare, radiation and fumes: the facility, generator, pump, and related roadway and parking area shall 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.

All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors to reduce glare and mitigate any visual impacts.

Volume of sound generated shall comply with the standards set forth in the COGCC Series 800 Rules and Regulations.

All lighting associated with the property shall be directed inward and downward towards the interior of the property.

All exempt pipelines installed to transport produced water to the injection well on Pad D shall obtain a Garfield County Grading Permit if the total disturbed area exceeds 6,000 square feet.

The Applicant shall adhere to the Best Recommended Practices for the Area Wide Stormwater Management Plan for Construction Activities and the required procedures detailed in the Spill Prevention, Control and Countermeasure Plan.

The Applicant shall adhere to the mitigation recommendations identified in the Wildlife and Sensitive Area Report.

The following recommendations and requests of the County Vegetation Management Department shall become conditions of approval:

The Applicant shall treat the infestation of Russian Knapweed and Chicory located north of the Pad D site no later than June 15, 2010 and a follow-up treatment no later than October 15, 2010

The Applicant shall comply with the Best Management Practices noted in Section 3 of the Integrated Vegetation and Noxious Weed Management Plan.

The following recommendations and requests of the Garfield County Road and Bridge Department shall become conditions of approval:

All vehicles hauling equipment and materials for this application shall abide by Garfield County's oversize/overweight Vehicles permit system.

All vehicles requiring oversize/overweight permits shall apply for them at the Garfield County Road & Bridge Department.

All vehicles requesting oversize/overweight permits shall have on file with Garfield County Road and Bridge Department a letter or e-mail from Antero Resources stating said vehicles could obtain permits under their road bond on file with Garfield County.

Prior to issuance of a Land Use Change Permit the Applicant shall provide an estimate for reclamation of that portion of Pad D that addresses the site reclamation requirements of Section 7-212 *Reclamation* in the Unified Land Use Resolution of 2008, as amended. The Applicant shall verify that the existing bonding requirements under the COGCC Series 700 and Series 1000 Rules for site reclamation and bonding cover these reclamation requirements and if not, a separate reclamation security will be required.

Discussion:

John Black stated he would like to address the issue of bonding; Antero has placed an existing blanket bond over both of facilities to the amount of \$25,000.00, which is lodged with COGCC. He believes the per well bond amount is \$2,000.00; however there is 4 wells on the D location and 8 on the F pad location. That \$25,000.00 bond is posted for the surface reclamation; there is an additional \$100,000.00 blanket bond posted for any plugging and abandonment. There is also a waste management facility; which is an individual, it is a \$50,000 bond and there is also another waste management facility of \$50,000.00, and all these bonds are being placed at the COGCC.

Commissioner Houpt asked; are the waste management bonds a proposal to the conjunction application and John answered yes. She also asked on the blanket bond; is that for surface for all of your activity in the county or for each pad.

John replied each pad.

Renee Holland wanted to ask about the noise; you are talking about a pump house and the noise, and they can hear whatever they have back behind them at night. She said when they bought there were covenants in place and Dixon said it will be quite at 10:00 p.m. and we all feel like they have been taken to the cleaners with this. Because we have the noise, the trucks, we have everything that was not supposed to be in there. In addition, she is concerned about the water; how will it affect their well, which is right down from these pads. Are you going to buy our land and our homes when you have destroyed that well, or are you going to come and drive by her house every day and fill that tank up with water. Why were not all of them informed of this; you sent letters only to certain homes that you felt impacted it. However, she feels they impact her water, so what you are doing, we should have all been given notice.

Chairman Martin said that notification is sent by the county in reference to the application and that was discussed in the very begging; the surface owners, the mineral right owners and the distance between the pad etc. and that is the requirements they followed.

Renee said she just wants to know about the water.

Commissioner Houpt said it sounds like you are not the only one speaking today. Are you speaking for neighbors as well and she stated yes. Commissioner Houpt asked if there was a community meeting to talk about the....

Renee stated no; actually, we did not have that because, the only reason they found out was that one of her neighbors got the notice. They do not understand what it means; they are right across the street from her and they did not receive a notice. She thinks they have no power, and it has been shown over and over again.

Chairman Martin asked if she had a homeowners association and she replied yes. Chairman Martin asked if they had any meeting, or anything at all, and she stated not about this injection well.

Bobby Hays trustee for the Town of Silt is here concerning issues. They presented their presentation last week, Monday night, to the Town of Silt, and the town did accept their proposal and approved it. He does not want to cause any kind of controversy; but he does have a concern because he did forget to ask some questions at that board meeting. Basically his concern is at the bottom of the well whether injecting their fluids; they never did get a classification or what kind of formation they are putting water into. He does have concerns that are not into the Eagle Valley or Leadville limestone that are coming in this area. The reason he has these concerns is that the Leadville limestone is basically the formation over here in and has big pockets of holes to allow water to flow and material actually will dissolve. The Eagle Valley is even worse; it has gypsum, which actually can dissolve with the moisture that is in the air. He wants to verify they are not pumping water into these formations that could potentially cause future damage in 30 to 40 years. He gave an example of the Eagle Valley evaporate; down at Cattle Creek they had formations that actually peaks up into a U shape, and that is caused from the weight of the overburden that is actually forced upon the formation below, and it's so flexible that it actually will give away. If we pump water into this formation, it is possible it could cause it to do something worse. He wants proof from a professional, or some writing or documentation. They did say it is on the Colorado web site; but he still has not gotten into that to see. For the record, he does approve of them putting it underground, over a mile and a half verses up on the surface because he believes it is in a safer location.

Commissioner Samson asked was it a unanimous vote by the Town of Silt.

Bobby stated he believes it was. This testimony will be for the next item also.

John addressed Bobby's concerns; neither the formations mentioned are the injectable formations, which they are dealing with. They are injecting water at 8,100 feet. He stated that Antero does hold annual community meetings; these are conducted where they notify their intent of their operations; typically held in January. The last meetings were attended by a limited amount of people. As for the element of concerns to the water wells Antero has recognized and has tested prior to any drilling or fracing of any of water wells. In that area they have set that as a base line data; as for the actual injection wells themselves, they are regulated under the APA Safe Drinking Water

Act. This is given to the COGCC under which a technical review addresses these concerns. If a permit has been generated by the COGCC to permit, and allow injection to take place; these concerns have been addressed. If there were any concerns the COGCC would not have given the permit.

Chairman Martin stated in discussing formations; you have a number of formations that you are going through, are those logged and verified through whom?

John stated through the COGCC technical review committee; they actually review as part of the permit process application.

Chairman Martin asked; the water that is being produced water and what have you is coming from which formation that you are drilling down to and then produce this water?

John stated that all the wells are part of the permit processing's; through the COGCC requires every well they want to collect water and inject back into their injection well, a water analysis has been taken and is submitted to the COGCC as part of the acceptance of the water they want to inject and where it has come from.

Chairman Martin asked which is what depth.

John stated predominantly over multiple formations anywhere from 8,000 feet to approximately the top of gas which could be anywhere from 4 ½ thousand to 5,000 feet.

Chairman Martin stated that part of the test is to make sure that there is formation above the injection forcing under the pressure and then migrate.

John explained that part of the process requires a veracity and calculation; which is also governed by the COGCC, which limits the injection test to no more than 10,000 barrels. This veracity matrix calculation actually determines the injection pressure, and title volume, which can be injected into the wells and limits the volume; it is calculated to ¼-mile radius.

Chairman Martin asked to get the test; are you using air pressure first or water pressure and John stated water pressure. Chairman Martin asked if they were putting down clean water or how are you going about it?

John said it is conducted over a series of incremental steps based on balance per minute, so the test would be started off at ¼ of a barrel per minute and the pressures are registered and logged. It is then stepped up to ½ barrel per minute and so forth to a maximum of around 2 barrels a minute; but no more than 10,000 barrels under that injection testing regime. Therefore that information is used by the COGCC technical review committee; which is assessing the permit, who undertakes and correlates the calculations for veracity matrix calculation, which in turn tells us how much water that rock can hold.

Chairman Martin asked if you have a drop of pressure, or a loss of pressure, or all together under that test; what happens.

John stated the test is stopped. Prior to the testing, there is a cement bond log; which insures the integrity of the cement, and there is also a mechanical integrity test which has to be witnessed by a member of the COGCC staff on location.

Commissioner Houpt stated she was going to ask some land use questions. How long term is this facility; originally it was just to drill the wells, and put them into production, now with the injection wells, how long will this pad be active?

John said there are two functions; this pad is serving a dual role whereby additional wells maybe drilled for gas and oil, and mineral extraction. The other purpose of this pad has an injection well placed on it. As for the duration and because of the pad serving a dual role; its either going to be until all well delineations slots have been exhausted, or the full well pad has been developed for mineral extraction. Or the other encumbrances, the total amount of injection has been reached.

Commissioner Houpt said that today they are talking about the injection well application. What she really wants to better understand is what kind of activity will occur on that pad now. People anticipated the wells, now we are talking about another function, so how long will that function be necessary?

Rick – Health and Safety Manager for Antero; he stated he is not an expert on operations, but he thinks a lot of this has to do with nuisance, noise, and just generalizations.

Commissioner Houpt said she has other questions about that. What she really wants to get at is the amount of time that activity will progress.

Rick said he believes the length of time, that the injection well will be in operation, will be no longer than the life of the wells on that pad. So it will not go beyond the life of the wells.

Chairman Martin stated anywhere from 20 to 30 years basically. You are looking at an overall drill plan based upon economics or whatever; you will have a presence of that time.

Commissioner Houpt stated this pad will service other pads for the next 20 to 30 years and John stated yes. She stated they are representing there will be a limit of 14 trucks, in and out, over that span of time.

John stated the existing pad, has 1 pumper vehicle, which undertakes a daily routine. Part of that routine will be incorporated as well as to check and record the operations of the injection well itself. There is; however, an inference where there will be additional oil skimming, which will be taking place. And that oil recovered shall be handled for a tanker under the existing oil accumulation which takes place. As for the amount of total oil accumulation; that's a secondary process and they believe it will impact very little to the total traffic count of what's already existing.

Commissioner Houpt said what is represented in your traffic report, with the 14 trucks in and out is accurate for the duration and John believed so. She stated the reason she has so many questions is because as she looks at the map of your activity across the county, and she looks at these two pads that are situated on a large piece of property; but right up against other people's property. Not only other people's property; but also, properties that have homes on small lots that disturbs her. In terms of finding long-term processing locations she is wondering how they came up with this location.

John said he guesses the main driver was to locate these types of facilities within the existing infrastructure. They had identified, and they know where the lines are and then we have identified for this concept to take place, and ultimately what they are endeavoring to do is a minimum impact approach. They want to remove trucks off the roads, and they want to ultimately dispose of salt water to the same formations, pretty much where it's coming from. As they work through this process; they have identified that to the east, there were two wells that were marginal or less than marginal, which were identified by their geology department for this use.

Commissioner Houpt stated that none of these other wells were good candidates.

John said there were many other candidates, which were taken into consideration. At an AIP meeting, it was mentioned that they were looking into the Elk Springs as a potential candidate; which he delivered a speech and a presentation to the members of New Castle, however working through these issues they found they were hydraulically challenged, which would have meant they would have had to transport their water by truck. There were other candidates to the west and they are still investigating the viability. Those candidates fall outside of the operating area, and that is the other point of issue, which they would have to work through.

Commissioner Houpt said she does not want to make assumptions on how you progress with your planning on this; but Antero was the company that came in and did the first community development plan. They sat down with members of the community and they said this is what we need to accomplish; how can we do so this so that it works. She said she is not getting the sense that this happened in this neighborhood, and that concerns her. What you are talking about, when you are talking about injection wells; you are talking about creating a whole new purpose for that pad and a whole new level of activity for a long time. When you created your facility layout her initial questions, she looked at the plat picture, why did they put everything next to the boundary of the other property site. Her sense is they did that so there would be less visual impact.

John stated noise as well; there is a natural barrier for a reflection of any continuation of noise to be reflected off and away from the residence.

Commissioner Houpt state; the noise levels are residential, as it is residential.

John said he should also state that these pumps are being powered by electrically driven motors, which ultimately reduces emissions as well as that consideration for noise component has been taken into consideration.

Commissioner Houpt stated as she was going through the report; they have great graphics and her question has always been to companies, why agree to do it on someone else's property. Because she has many visibility and odor questions as well.

Deb Quinn stated in connection with COGCC rules and regulations regarding odors and dust you will have condensate tanks are site? John answered yes. Deb asked if he know what level of VOCs per year will be generated from those once this injection well is fully operational.

John stated the tanks themselves have VOC devices in place and these specific VOC devices all flash emissions. From this application and what they intend to do does not present anything outside of what already exists on that location to support the production of the other four wells.

Deb asked; you will not have any greater VOC emissions than would ordinarily be produced from the wells themselves.

John stated no; because typically your wells produce at a higher level and there is an element called production decline, so you look at the production decline over the first year of a wells life, if it produces X amount then U2 is going to be X amount less 40%, and that will be your functional derivative of how you calculate the VOC components from there.

Deb said that what she has been referring to is the new COGCC Rule 805 B relating to odors and specific requirements for tanks that are located in Garfield, Mesa or Rio Blanco County and within ¼ mile of various facilities that are designated. Do you know whether you are within the thresholds of those rules and if so are you getting the CDPHE permits that are required?

John said he would have to clarify that position.

Deb stated she had a couple of other questions; one in connection with all of the pipelines, the pipelines were installed without county permits because we do not permit those types of facilities. They feel underneath our threshold; but her question is whether or not the easements you have for all of those pipelines through whatever private property you cross, include the use of those pipelines for produced water. This is something she discussed at a staff meeting and she asked for representation from you that they did in fact include produced water; transportation is a use, is that accurate?

John said it is accurate; all the existing pipelines fall within their existing waterways. Which were allocated through the provision of use for minerals as well as production water?

Deb asked; in connection with your COGCC bonding, she said from the testimony he gave earlier, that the injection wells will be used as long as wells themselves are going to be used; so that any reclamation that would occur would be, final reclamation would occur at the same time as the wells themselves, the whole well pad area is reclaimed; is that accurate?

John stated that is accurate yes.

Commissioner Houpt asked if there was any interim reclamation required.

John said if the pad is deemed that there will be no more drilling activity they have provision for interim reclamation; even with the existing injection well still being operational.

Commissioner Houpt asked if they had a plan for when you are going to be doing that.

Deb said in connection with noise; you are actively drilling wells on this pad now.

John replied no; it is between the two locations, Pads D and F, there is one pad located and is called E pad and they have current core operations in fracing at that location. Maybe the noise heard recently is due to those fracing operations and not that of operating injection wells.

Deb stated that typically operating injection wells is much less noisy activity than the actual drilling activity than the actual drilling, and completion of the gas wells.

Commissioner Houpt stated that one is short term and one is long term. A generator is involved in this too; but you said they were electrically driven and in buildings also.

John said they have provisions with Holy Cross to get permanent power to the location where the removal of the subsequent fuel tank will be taken off location and it is not part of the final surface plan facilities.

Chairman Martin stated conditions 2 and 4, 5, 6 and under rules under number 7; he thinks everyone has had to ask the same questions of staff and has come up with one way or another to address those concerns.

Commissioner Houpt asked what the pump house noise was that was referred to by Ms. Holland.

John stated the pump house noise; he believes Ms. Holland may have referred to. Due to the details and the unknown position of where Ms. Holland lives relative to their operations; he is assuming it is from the recent fracing activities conducted in that area.

Commissioner Houpt asked Ms. Holland if this was an ongoing noise you hear.

Renee stated there is a facility behind her subdivision that they can hear at night very clearly, and she does not know if it belongs to Antero at all. Her concern was if they do this pump house; what could of noise they would hear.

When they are drilling, you cannot open your window in the summer time and sleep through it. Her concern is if it will be noisier than that.

John said the pumps themselves would operate at a level just about what we are talking at the moment. The noise of this proposal will be within the COGCC regulations as well as the residential housing; however, it will be far less than what you have experienced during any drilling or frac operations.

Rick wanted to talk about the tanks within a ¼ mile; he thinks that is a COGCC requirement that it have an air pollution control device on it. The air pollution device exists now, so it would be hooked up into that and should be in compliance.

Deb said she did not think that Chairman Martin was correct when he said the existing conditions recommended by staff would cover that, so those rules do apply and you would have to comply.

Larry stated the conditions are generally acceptable. They do not understand the statement that a grading permit is required if the disturbed area exceeds 6,000 feet; but if that is part of county regulations; they will follow the county regulations. If not he does not believe it is appropriate to add something in this situation.

Chairman Martin said he agreed.

Commissioner Houpt said that is part of the regulations.

Tom stated that through the building code there is a requirement for grading, if you disturb a certain amount of soil. They have attached this because the engineer noticed that he had never seen any applications for grading permits in any of these pipelines, and they are true they are all sections that are below the radar, or the requirement that they have pipeline permits.

Chairman Martin stated that some of them maybe on the surface and therefore there is no disturbance.

Tom said he believes these are all subsurface if he understands correctly. Tom wanted to bring up a suggestion of a condition change by Ms. Quinn. He has two conditions, 10 and 11 that deal with; number 10 best recommended practices. Ms. Quinn suggested those be detailed point by point; if this project is approved he would like to make sure that is in the resolution as a per item rather than a blanket statement. Number 11 the same thing; mitigation recommendation identified in the wildlife and sensitive area report rather than having a blanket statement or condition that those will be point by point which would show up in the final resolution.

Deb stated in connection with the discussion on our impact analysis, and it is Section 4502 E7 ground water and recharge areas. It requires an analysis or an evaluation of relationship to the subject parcel to various things, and she believes staff targeted the fact that there would be no ISDS; she thinks that particular condition relates to more than just ISDS. It also talks about pollution surface runoff, stream flow and ground water. Because of the extensive COGCC rules and the technical aspects of those down hole rules; those pollution issues of the ground water, the questions about what aquifers might be affected and impacted, and the concerns about adjacent wells. Those are issues that are regulated by the COGCC; she thinks they are covered by the county's broad condition number 2 that says they have to comply with all applicable rules and regulations. She just wanted everyone to know that they can regulate those areas; it is not just limited, you know when we look at water pollution it is not just limited to pollution from ISDS or sewage and wastewater facilities.

Chairman Martin asked for a motion to close the public hearing.

Commissioner Houpt – So moved. Commissioner Samson - Second.

In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt said she has a lot of confidence in the new rules that have been put in place that protect the various concerns that have come forward today. The State is looking very closely at this activity and she is looking at land issues today. She is quite certain they are working closely with the COGCC, those rules are pretty comprehensive. She is really quite concerned as they see more injection wells all across the county that they are careful about where we allow them to be placed; simply because it does create a new use. It creates additional activity over a span of time and this particular pad, (she went back to the map, showing the acreage they are on and how they are adjacent to some lots that are rural residential). This is open landscaped and trucks will be coming in for the next 20 to 30 years; she is not convinced that additional use of a pad makes sense right next to a residential neighborhood. It is purely land use; she knows Antero has a great reputation on how they do their work. She thinks it would have been beneficial to sit down with all the folks and figure this out; but she is struggling with this.

Chairman Martin said this is not a new use in Garfield County; we have well over, he believes 80.

Commissioner Houpt said it is a new use for these pads. She is not saying it is a new use to production.

Chairman Martin said it is a location that is very well regulated; they have put extra precautions in place and gone through every step of the way to make sure it is safe for folks and they still have to test out to make sure that it is acceptable. Which the overall review will be the State of Colorado.

Commissioner Houpt said technically; she is not questioning the land use.

Chairman Martin said they will be there and they are going to develop, and we have encouraged them to put pipelines in to reduce traffic so that they can use this to recycle, re-circulate and fracing at a single location. It seems to be working fairly well, and it is actually safer than having trucks to and from each well site. He thinks this is the way to go; we also talked about other systems that this Board chose not to do, and that happens to be the evaporation and the recapturing of water vapors, and making distilled water. We have rather boxed ourselves in a corner; injection wells have been tested, monitored, and upgraded. It should really show the public they are safe and they are down 8,100 feet, the closest well, that he knows of, deepest he has seen is 400 feet, and your 8,000 feet down. Still, State certified pad, State reviewed, and we also have noise, pollution controls and if there is violation, we can handle those through the different methods, oil gas liaison. He thinks everything is covered; it is not his preferred method of produced water disposal. His was a new method making sure that produced water is turned into a beneficial use, which is either distilled water or surface discharge, with permits. We are not there this is a subsurface issue. He has no objection to it; just that it is not his favorite.

Commissioner Samson thinks that in future they will see different processes used to take care of this produced water. He is pleased to hear your comments about having faith in the COGCC rules and these things will be taken care of.

Commissioner Houpt stated that is half of the picture.

Commissioner Samson said the one concern he is thinking about; was the noise, because he thinks Ms. Holland has many concerns obviously; but one was noise. He believes Antero has, to some degree, tried to do the best they can with that. When you have industry, you will have some noise; but he commends them for having the elected generators and having permanent power put in there covering that. He agrees with Commissioner Houpt and he

thinks they could have done a better job with community relations. It would have been nice if you tried to explain to the people in the area more so than you did. He would encourage them in the future to do that more so. People throughout the county are concerned; it seems like we have three groups of people in Garfield County. Some people, for whatever reason, part of the populist says; we understand that gas and oil is here, and we have problems that we have to take care of. Then other people will say we do not want them here no matter what, and then there are people saying we do not understand it all. We do not understand why they are doing what they are doing. The more, not just Antero, you can educate people on what you are going to do and why you are going to do it, or ask that it be done; he thinks that will alleviate some of the problems. Some people, as he said, they do not want you here, they do not like you and they will fight you every step of the way. He thinks there is a large majority of people who would say; we understand, just help us understand the whole picture. He commends them with the noise, and he hopes that in the future, if this is approved that they will continue to work with those people. Even though you get all of this taken care of; try to meet with these people and their concerns. Ms. Holland says you are doing a pretty good job here; but she still has a concern with this. I move we grant the request for a land use change permit for the limited impact review to allow for handling material for the Transport Storage and Disposal of produced water, and into an injection well on approximately 2.02-acres of a 1,377-acre located off County Road 231 and Mineota Drive.

Commissioner Houpt – Second for discussion.

Commissioner Samson continued with his motion; with the terms and conditions as advised by the staff and we need to make sure we have the two on there; you said you wanted a point-by-point instead of general for number 11 and 12.

Tom said that was correct; if he understands the motion correctly, it is modifying condition 9 for all future exempt pipelines. Condition 10 to actually list the practices; condition 11 to list the mitigation measures in the resolution, and the last one, if he understands, there is no issue with the bonding and delete condition 14.

Commissioner Samson replied; if he understands number 14 correctly, the applicant will have to verify that these bonding requirements under COGCC cover those reclamation requirements.

Tom thinks the applicant has discussed that with the Board and talked about their bonding amount; he does not know if the Board is happy with that or not.

Chairman Martin stated they have \$250,000 bonds in place total that were identified by Exhibit L.

Commissioner Samson said his question is; is that what is usually done for the bonding of an injection well.

Chairman Martin said the weed management folks said there might be other issues.

Commissioner Samson asked if they were given a recommendation.

Chairman Martin said it was fewer than 12 in reference to vegetation management.

Tom wants to understand the motion and does it include condition 14 or not.

Commissioner Houpt asked Tom; do you believe that has been, she thought they.....

Tom said he wrote that because he was not sure how the Board felt about the application; the way it discussed their adequate bond. They say they have enough and here why, and then they had the discussion with you today. He is not sure if the Board is comfortable with that or not.

Commissioner Houpt said she did not know why you would not put 14 just to make sure; we have to do that anyway and then just share it with us.

Larry wanted to say something and Chairman Martin explained he could re-open the public meeting if he wanted to put in information. We have a motion on the floor but no seconds. Does the Board wish to hear Larry's comments? Commissioner Samson wanted to ask Commissioner Houpt a question first; are you comfortable with the bonding limits.

Commissioner Houpt said with the information she has; but she assumed that 14 was going to be part of the staff's request to the Board if we obtain more comprehensive, not just saying that there is a break of bond and the top scale of that bond; but have a better understanding of how that is accomplished. It is a little difficult to do because it is 20 years down the road; but they have already put bond into that and they should share that with us. She has not problem with leaving that in.

Commissioner Samson stated she is okay with that and she stated leaving it in.

Commissioner Houpt thinks when you are looking at land use issues, as we are; we go further than the COGCC will go. That is our job; we regulate land use in the county, they regulate down hole and they make sure that it is reclaimed. She feels confident that they probably already looked at this if they would just share it with us.

Chairman Martin thinks they have; references the disturbances, 2.02-acres you have \$250,000 covering the different levels of reclaiming and resurfacing vegetation etc. through that plan that is approved by the State of Colorado. He thinks if it is a 2.2-acre disturbance, and \$250,000.00 to accomplish that, governed by the state; that should take care of it.

Commissioner Houpt said they are not asking for additional money; we are asking for that plan so we can have assurance that the reclamation will take place.

Commissioner Samson said 14 takes care of that.

Chairman Martin asked if that was his motion then, and Commissioner Samson stated yes.

Commissioner Houpt – Second for discussion; she thinks with the information that they have to date on regulating of injection wells; the care that is put into that. We are here to question to a large degree the technical aspects of this because we know that the oil and gas commission has been looking at that very closely. But as a person responsible for land planning and approvals in this county; she has a real problem with this one. It is not because she does not think Antero does a good job and it is not because she does not think this may be one of the alternatives for dealing with produced water; but, we have received calls, she has concern of the impact to the neighborhood. This is just an add on to that impact and she isn't comfortable with the fact that these pads were pushed up against the subdivision, and she knows that was property owners decision when they worked with Antero. She is still not comfortable with the fact that all of the other locations that could have been considered including ones that are closer to commercial or industrial uses. Because of that, and because she thinks it is really important for all of us to remember the interaction that industry has with residential communities in the county as we move forward. We need to be aware of that and how we plan. She will not be able to support this today.

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

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT FOR LIMITED IMPACT REVIEW TO ALLOW FOR MATERIAL HANDLING FOR THE TRANSPORT, STORAGE AND DISPOSAL OF PRODUCED WATER INTO AN INJECTION WELL ON APPROXIMATELY 2.02 ACRES OF A 1377 ACRE PARCEL LOCATED OFF OF CR 331 AND MINEOTA DRIVE (FILE NO. LIPA 6031/PAD F). THE APPLICANT IS THE DIXON WATER FOUNDATION – TOM VELJIC

Tom Veljic, Deb Quinn and representing Dixon Water Foundation Rick Blankenship of Antero Resources were present.

Deb Quinn stated for purposes of the record for this injection well pad F; we will incorporate the record we made at the last hearing. Some of the comments made from people should be incorporated into this as well. Deb reviewed the notice and publications and determined they were timely and accurate. On injection of well pad F it was published in the Rifle Citizen Telegram on November 12, 2009, it included the legal description, the practical description, the name of the applicant, the specific request and satisfies our requirements. She stated they also have the same types of documentation and summary of the notification letters to all adjacent owners between 200 feet as well as mineral interest owners. The posting tendered in the last meeting served for both applications. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Tom submitted the following exhibits: Exhibit A – Proof of Publication and mail receipts; Exhibit B – Garfield County Unified Land Use Resolution of 2008 as amended; Exhibit C – Garfield County Comprehensive Plan of 200; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – Staff Power Point; Exhibit G – Email from Garfield County Development Engineer dated November 16, 2009; Exhibit H – Letter from Garfield County Road and Bridge dated November 17, 2009; Exhibit I – Memo from Steve Anthony, Garfield County Weed Management, dated December 4, 2009; Exhibit J – Letter from Orrin D. Moon of the Burning Mountain Fire District dated December 9, 2009; Exhibit K – Letter from David C. Moore, Mayor of the Town of Silt dated December 15, 2009; Exhibit L – COGCC Company Report Detail, Bonding Coverage, received December 14, 2009.

The property owner (Dixon Water Foundation) requests approval to construct a centralized water treatment and storage facility on their property that is used to treat, store and dispose of produced water used in their natural gas drilling operations. The well field is generally located south of I-70 with some well pads located north of the freeway (see Antero Built Waterline Map in Tab 12). Antero is the operator for this well field. Produced water from the well field is piped to the facility; the residual oil and condensate from the water are separated, and then transported off site to be sold. The water is piped into the injection well (Pad F) approved by the Colorado Oil and Gas Conservation Commission (COGCC).

The request (Application Tab 5) includes approval for a centralized facility for “Materials Handling”, six additional produced water storage tanks, and a natural gas powered generator, in addition to the existing site facilities, which include four produced water storage tanks, two skimming tanks, and a pump house.

SITE DESCRIPTION

The site is located south of Silt and is accessed via County Road 331 (Dry Hollow Road), Mineota Drive, and private access easements through portions of the platted lots of Mineota Ridge Estates Subdivision. Mineota Drive is a private road, which is maintained by Antero as part of the access easement granted by the Mineota Ridge Estates HOA and affected property owners. The access easement connects Mineota Drive to both Pad F and the adjoining Pad E, which is located at the northern edge of the Valley Farms property.

The site currently contains a number of temporary and permanent storage tanks and skimming tanks. The producing wells and injection well are centrally located on the pad and there are existing earthen berms located on the northwest, northeast, and southeast side of the drilling pad. There is a proposed 4-12 foot high hay bale screen on the southeast corner of the site. Once drilling is complete and all of the temporary tanks are removed only a portion of the pump house will be visible above the berm from the Mineota Drive. The produced water storage tanks are painted to blend into the surrounding landscape. A final site plan is shown below.

Staff Response (For items 1-3): The property has public access via CR 331 and a private road known as Mineota Drive. Mineota Drive terminates at the end of the Mineota Ridge Estates Development. There have been no issues with site access and the proposed injection well will accept produced water for treatment, storage, and disposal via pipeline. Once drilling is completed on Pad F there will be minimal traffic to the site with maintenance vehicles as the primary site traffic. Daily trips with a mid-sized tanker will occur to remove petroleum distillates from the skimming tanks. The applicant has adequately demonstrated the adequacy of the access easements granted from adjacent property owners and the Mineota Ridge Estates HOA. The Applicant’s Land Suitability Analysis is located in Tab 13 of the application and the Traffic Analysis is in Tab 14.

Staff Response: The property is located on an existing well pad approved by the Colorado Oil and Gas Conservation Commission and contains producing wells and supporting equipment and buildings. There are no additional changes proposed to the topography and slope of the site. The site is located on the edge of the moderate slope hazard area and no significant impacts have been identified.

Staff Response: The site was created as a cut and fill on the edge of a moderate slope to accommodate an oil and gas well pad. There are no significant natural features located on this well pad. Off-site, the slope gradient flows downhill to the northeast to an agricultural area known as Valley Farms and to the southeast to an open drainage ditch. The Colorado River is located approximately 1 ½ miles north of the site.

Staff Response: There are no natural or manmade water features on the site and there is no flood hazard identified for Pad F. An open drainage ditch is located to the southeast of Pad F.

Staff Response: The Pad F site does not have any historic water usage or other identified water demand. There are no potable water wells or other potable water intensive used proposed for operation of the site. The only on-site personnel will be during regular maintenance of the well pad facilities.

Staff Response: The site for Pad F is outside any designated flood plain or flood hazard area.

Staff Response: An on-site ISDS is not proposed nor any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well, proposed for operation of the site.

Staff Response: The Garfield County GIS maps identify the area of Pad F is located within an area of moderate “Slope Related Hazard”. There are no other geologic hazards identified on the site of Pad F.

Staff Comments: The Application contains a Wildlife and Sensitive Areas Report (Tab 21) prepared by WestWater Engineering which concluded that the facility will minimally affect wildlife and there would be no impacts to native vegetation on the project site due to the previous disturbance to create the drill pad. The project will contribute to the cumulative impacts to the wildlife populations in the surrounding area that are experiencing gradual habitat loss, fragmentation, alteration, and displacement through increased development.

The report does contain a variety of mitigation recommendations. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

Staff Response: The Application contains a “Class I Cultural Resource Overview” prepared by The Grand River Institute (Tab 22) which ultimately found that there are no archeological or historic sites identified within the project area.

Staff Comments: The Applicant provided an address list for property owners within 200 feet of the parent parcel for public notice from the entire Valley Farms parcel.

Staff Comments: Pad F is located on the northern edge of the Valley Farms Ranching operation and south of the Mineota Ridge Estates development. The site currently contains a natural gas well pad approved by the COGCC with producing wells and an injection well. The Applicant is proposing a 4-12 foot high hay bale screen on the southeast corner of Pad F as a buffer to an adjacent single family home.

Staff Comments: The relatively flat 2.02-acre site is located on the edge of a moderate slope and does not contain any significant topographic features. There are no streams or water bodies present.

Staff Comments: The project site was a “cut and fill” to produce a well pad site and much of the on-site soils have been disturbed. Soils in the surrounding area include those present in the Colorado River floodplain, which have been disturbed due to agricultural practices, road construction, and natural resource extraction. An on-site ISDS is not proposed nor any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well, proposed for operation of the site.

Staff Comments: The Garfield County GIS maps identify that the area of Pad F is located within an area of moderate “Slope Related Hazard”. There are no other geologic hazards identified on the site of Pad D.

Staff Comments: The site is proposed for “Materials Handling” and the transport of all produced water intended for final disposal will be accomplished via pipeline with minimal requirements for on-site staff. There are no potable water wells or other potable water intensive uses proposed for operation of the site. The only on-site personnel present will be during regular maintenance of the well pad facilities.

Staff Comments: The site is proposed for “Materials Handling” and the transport of all produced water intended for final disposal will be accomplished via pipeline with minimal requirements for on-site staff. An on-site ISDS is not proposed or any other wastewater disposal system, other than the sub-surface disposal of produced water into an approved injection well. The only on-site personnel present will be during regular maintenance of the well pad facilities.

The Application contains a Wildlife and Sensitive Areas Report (Tab 21) prepared by WestWater Engineering which concluded that the facility will minimally affect wildlife and there would be no impacts to native vegetation on the project site due to the previous disturbance to create the drill pad. The project will contribute to the cumulative impacts to the wildlife populations in the surrounding area that are experiencing gradual habitat loss, fragmentation, alteration, and displacement through increased development.

The report does contain a variety of mitigation recommendations. Staff recommends the Board require the Applicant to adhere to these recommendations as conditions of approval.

The Application contains a “Class I Cultural Resource Overview” prepared by The Grand River Institute (Tab 22) which ultimately found that there are no archeological or historic sites identified within the project area.

The Wildlife and Sensitive Areas Report (Tab 21) prepared by WestWater Engineering concluded that the facility will minimally affect wildlife.

There are no radiation hazards identified for this site.

The Application contains a Spill Prevention, Control and Countermeasure Plan (Tab 18) prepared by O&G Environmental Consulting, LLC in compliance with the U.S. Environmental Protection Agency. The plan details how spills are handled, emergency response, and training.

The property has public access via CR 331 and Mineota Drive, which terminates at the end of the Mineota Ridge Estates Development. There have been no issues with site access and the proposed injection well will accept produced water for treatment, storage, and disposal via pipeline. Once drilling is completed on Pad F there will be minimal traffic to the site with maintenance vehicles as the primary site traffic.

The application includes a Traffic Analysis (Tab 14) prepared by Kimley-Horn and Associates Inc. The analysis uses traffic counts from existing injection well pad, Pad T, located near Divide Creek Road to project future trips on the Pad F site. Pad T is not connected to the pipeline system installed by Antero and the trip numbers represent “typical” vehicle trips for an injection well site using trucks to move produced water. Regular trips with a mid-sized tanker will occur daily to remove petroleum distillates from the skimming tanks along with an estimated 13 pickup truck trips for a total of 28 trips per day.

The site is located on the northern edge of Valley Farms, which is an active agricultural operation. Single-family homes are located north of the site in the Mineota Ridge Estates Subdivision. The 2.02-acre site is an active well pad with intermittent gas well drilling and production operations including the storage, treatment, and disposal of produced water into an on-site injection well. During well drilling operations, the site does produce noise, dust, and traffic that impact the surrounding area. Once well drilling operations on the well pad are completed minimal traffic and noise from the pad site is expected. The applicant proposes that all produced water will be transported via underground pipeline limiting traffic impacts to the surrounding road network and residential uses. The Applicant is proposing a combination of earthen berms and a 4-12 foot high hay bale screen wall to obscure Pad F from the adjoining residential uses along with painting the produced water storage tanks to blend with the surrounding terrain. It is unclear how the hay bale screen wall will maintain integrity and offer long term screening of the site. The Applicant may need to revise this proposal by increasing the earthen berm in this location and reducing the height of the hay bale wall to maintain structural integrity. A condition has been added for a revision to this portion of the site plan. The proposed use meets the requirements of the ULUR of 2008, as amended. A cross sectional elevation of the site is shown below.

The existing well pad is approximately 2.02 acres in area and no additional site disturbance is required for the proposed Material Handling facility. The application includes a reclamation plan under the provisions of the

COGCC 1000 series rules and bonding under 700 series rules. The proposed site reclamation plan (Tab 20, Section IV) is intended to address long-term reclamation under the administration of the COGCC but does not address reclamation of the portion of the site used for Materials Handling if the operation ceases prior to the end of gas production operations and prior to final closure of the site. The applicant has not provided a reclamation estimate exclusive to Material Handling under the provisions of Section 7-212 (B) and Staff assumes the use to be a long-term facility. It would be appropriate for the Applicant to provide an estimate for reclamation for the portion of the site used for Material Handling and address whether the security under the COGCC rules are adequate to reclaim this site area. A condition has been added to address final reclamation of the site used for Materials Handling if that portion of site operations ceases prior to final closure, well capping, and reclamation of the 2.02-acre well pad.

STAFF RECOMMENDATION

The Applicant has applied for a Land Use Change Permit for Material Handling with the associated transport, storage, treatment, and final disposal into a COGCC approved injection well. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit. Staff recommends the Board of County Commissioners **approve** the request from Dixon Water Foundation for a Land Use Change Permit for MATERIALS HANDLING for the transport, storage, treatment, and disposal of produced water into an injection well on Pad F, on a property owned by Dixon Water Foundation located in the southeast quarter of Section 11, Township 24 North, Range 9 West, in Garfield County with the following conditions:

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.

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.

Vibration generated: the facility 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.

Emissions of smoke and particulate matter: the facility, generator, pump, or related driveway and parking area shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards, including CDPHE APCC Regulation 1 for dust.

Emission of heat, glare, radiation and fumes: the facility, generator, pump, and related roadway and parking area shall 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.

All equipment and structures associated with this permit shall be painted with non-reflective paint in neutral colors to reduce glare and mitigate any visual impacts.

The applicant shall revise the earthen berm and hay bale screen wall design by increasing the size of the earthen berm and lowering the hay bale screen wall prior to issuance of a Land Use Change Permit.

Volume of sound generated shall comply with the standards set forth in the COGCC Series 800 Rules and Regulations.

All lighting associated with the property shall be directed inward and downward towards the interior of the property.

All exempt pipelines installed to transport produced water to the injection well on Pad F shall obtain a Garfield County Grading Permit if the total disturbed area exceeds 6,000 square feet.

The Applicant shall adhere to the Best Recommended Practices for the Area Wide Stormwater Management Plan for Construction Activities and the required procedures detailed in the Spill Prevention, Control and Countermeasure Plan.

The Applicant shall adhere to the mitigation recommendations identified in the Wildlife and Sensitive Area Report.

The following recommendations and requests of the County Vegetation Management Department shall become conditions of approval:

The Applicant shall treat the infestation of Russian Knapweed located northeast, northwest, and east of the Pad F site no later than June 15, 2010 and a follow-up treatment no later than October 15, 2010

The Applicant shall comply with the Best Management Practices noted in Section 3 of the Integrated Vegetation and Noxious Weed Management Plan.

The Applicant shall treat the infestation of Russian Knapweed located northeast, northwest, and east of the Pad F site no later than June 15, 2010 and a follow-up treatment no later than October 15, 2010

All vehicles hauling equipment and materials for this application shall abide by Garfield County's oversize/overweight Vehicles permit system

All vehicles requiring oversize/overweight permits shall apply for them at the Garfield County Road & Bridge Department.

All vehicles requesting oversize/overweight permits shall have on file with Garfield County Road and Bridge Department a letter or e-mail from Antero Resources stating said vehicles could obtain permits under their road bond on file with Garfield County.

Prior to issuance of a Land Use Change Permit the Applicant shall provide an estimate for reclamation of that portion of Pad F that addresses the site reclamation requirements of Section 7-212 *Reclamation* in the Unified Land Use Resolution of 2008, as amended. The Applicant shall verify that the existing bonding requirements under the COGCC Series 700 and Series 1000 Rules for site reclamation and bonding cover these reclamation requirements and if not, a separate reclamation security will be required.

Discussion:

Tom stated the conditions are very similar but there are changes recommended so that condition number 10, for all future pipelines, not go backwards but go forward. Condition number 11; they actually list out the best-recommended practices and number 12, actually list out the mitigation recommendations.

Commissioner Samson stated the other application had fourteen recommendations and this one has 15.

Tom explained he added one specifically for the site plan and the wall. That condition is number 7; a revision to the berm and wall design so that it will actually stand and be a little more natural. This seems fairly narrow and a strong wind could actually knock it into the open drainage channel.

Chairman Martin said he doubted that. He said they should ask the applicant if they wanted to present an acceptable design and Tom agreed.

John agreed it was acceptable.

Commissioner Samson made a motion that they close the public hearing.

Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt stated again for the same reason she will not be able to support this application. She feels staff illustrated the impact clearly on this one. It is a factor of activity; it is also a factor of increased industrial structures on the pad and the additional change in use. When you are looking at well sites you really need to establish them in certain perimeters because you’re trying to access a resource, and she understands from Mr. Blacks testimony today that there are some restrictions in where you place injection wells as well; but she hasn’t been convinced there could have been other locations that wouldn’t be so close to their special use.
Chairman Martin asked if that was a motion to deny based on upon those finding and Commissioner Houpt stated it was. Chairman Martin asked if there was a second; there was none and he stated the motion would die. He asked if we had a motion to approve or another motion.
Commissioner Samson – I move we grant the request for a land use change permit for limited impact review to allow material handling for the transport, storage and disposal of produced water into an injection well on the 2.02-acres of a 1,377-acre parcel located off County Road 331 in Mineota Drive, file number LIPA6031/pad F; with the recommendations of staff attached.
Chairman Martin asked if he wished the clarification on number 7; do you wish to have removed or a change. To present an accepted design to staff.
Chairman Martin – Second. In favor: Martin – aye Samson – aye Opposed - Houpt – aye
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD
