JANUARY 4, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on January 4, 2010 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.

COUNTY MANAGER UPDATE: ED GREEN

REQUEST FOR INFORMATION: GARFIELD COUNTY PUBLIC TRANSPORTATION SERVICE – KENT LONG

Kent Long submitted a draft request on the provision of public transportation services for central and western Garfield County stating he would like the Board to authorize the publication of the RFI in various regional newspapers and the Rocky Mountain E-Purchasing System. The full introduction and purpose were presented saying the contemplated service would run between Glenwood Springs, Colorado and either Rifle or Battlement Mesa/Parachute, Colorado. The service would operate 7-days per week for approximately 8 – 16 hours per day. Along with the proposal, Kent presented alternatives A & B.

Commissioner Houpt – Discussed that we begin to look at other means of transportation and it has been requested in the past to look at a line up to Spring Valley. If we are looking at spending millions of dollars, I think we need to serve folks throughout Garfield County. We have areas around Carbondale and Glenwood Springs that are not served within the unincorporated portions of Garfield County.

Chairman Martin suggested we need to also look at service to Sweetwater and folks from Roan Creek all the way to Parachute. When we say Roaring Fork Valley that is where the population is located. We either look at the County as a whole or say we need to provide a countywide system or just concentrate on a system from Parachute to Carbondale; that is not a countywide system.

Kent suggested that we can add in alternative routes and Chairman Martin asked him to include Sweetwater in those estimates.

Commissioner Samson said he appreciates Kent's work and recommended to go forward and begin to explore.

Commissioner Houpt – Wants to wait, this is not urgent at the present. She preferred to hold off until the worksession scheduled for tomorrow, January 5, 2010 Worksession tomorrow.

AMBULANCE SERVICE LICENSING 2010, ANNUAL EMTAC REPORT, 2010 RETAC APPOINTMENTS – DALE HANCOCK

Carl Smith, Nancy Frizell, several members of the EMTAC committee along with Dale Hancock were present.

Original documents were provided for the Chair to sign for the Western Eagle listen

Dale also presented the Annual EMTAC Report and the 2010 RETAC appointments submitting a written report that detailed the activities and classes sponsored in 2009. He also mentioned that the EMTAC completed the process of approval and adopted a set of Bylaw.

Matt reviewed the report submitted in writing to the Board.

The changes to agency representatives for the EMTAC include Ken McCracken for Rifle and CME in Matt MollenCamp's place; John Gredig in CJ's place for Burning Mountains Fire, Greg Bak for Westcare in Aaron's place.

Officers of the EMTAC include Matt Olive – Chair; Doug Gerrald – Vice Chair; Nancy Frizell – Treasurer; and John Gredig – Secretary. The recommendations are for Carl Smith, Tim Hohon, Nancy Frizell as primary members and Matt Olive, Doug Gerrald, and Cleo Castle as secondary members.

Commissioner Houpt made a motion to approve the changes to agency representatives for the EMTAC as presented. Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to accept the appointment as presented. In favor: Houpt – aye Martin – aye Samson - aye

Dale Hancock submitted the ambulance license for 2010 for the following agencies:

Grand Valley Fire Protection District, Rifle Fire Protection District, Burning Mountain Fire Protection District, Westcare Ambulance, Glenwood Springs Fire Department and the Carbondale & Rural Fire Protection District. Dale stated he would come back with the WestCare and DeBeque licenses when the paperwork has been received.

Commissioner Houpt made a motion to approve the ambulance service licenses for 2010 as presented and later when Dale presents we will address the WestCare and DeBeque licenses.

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

STAFF RECOMMENDATION TO APPROVE THE RENEWAL OF A CONTRACT WITH GEOTRANS, INC. IN THE FIXED PRICE AMOUNT OF $188,168.00 FOR THE COMPLETION OF PHASE III OF A HYDROGEOLOGICAL STUDY OF THE MAMM CREEK AREA; AND, AUTHORIZE THE CHAIR TO SIGN THAT CONTRACT – KENT LONG

Judy Jordan and Kent Long presented the renewal contract for 2010 for continuation of Phase III of the Hydrogeological study of the Mamm Creek area. The current contractor is GeoTrans, Inc. and their proposal is for a not to exceed price of $188,368.00. Judy said they should start drilling these wells next week.

Commissioner Houpt made a motion to approve the renewal contract with GeoTrans, Inc in the fixed amount of $188,168.00 for the completion of Phase III of a Hydrogeological study of the Mamm Creek Area and authorize the Chair to sign. Commissioner Samson - Second.

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

PRATHER – POTENTIAL VIOLATION

Chairman Martin asked Judy if she had heard of a notice of violation being issues for the Prather Springs contamination. Judy said she had not but Chairman Martin asked her to follow-up and get back to the Board with an update.

STAFF RECOMMENDATION TO APPROVE A CONTRACT WITH RIVER VALLEY SURVEY, INC. IN AN AMOUNT NOT TO EXCEED $18,000.00 FOR DISCRETIONARY SURVEYING SERVICES – KENT LONG

Kent Long submitted the staff recommendation for the performance of discretionary duties regarding a licensed surveyor to Rifle Valley Survey, Inc. for a not to exceed amount of $18,000 for fiscal year 2010. Kent's office was asked to draft two contracts to a safety net for surveying. There are mandatory services, which only the County Surveyor can provide and there are others that are discretionary.

Discussion from Commissioner Houpt was in regard to whether this was consistent with the amount we have contracted for in previous years and Chairman Martin could not recall ever paying this amount. This is a just not to exceed amount for the budget.

Kent recalled the professional line item was for $22,000. He divided it 80/20 between the two surveying companies.

Commissioner Houpt called attention to the inconsistency in the amount to be awarded by $500.

Commissioner Houpt made a motion River Valley Survey Inc in the amount not to exceed $18,000 for the performance of as needed survey services throughout Garfield County for 2010 recognizing that this is our secondary County Surveyor. Commissioner Samson - Second.

Don – River Valley Surveying is the wholly and controlled by the County Surveyor and Peak Surveying is controlled by the Deputy County Surveyor. Statue specially authorizes the Board to set the levels of compensation for the County Surveyor and to contract for additional surveying services so long as those services do not conflict with the duties of the County Surveyor.

Commissioner Houpt confirmed that this is over and above the County Surveyor's budget.

Don confirmed a line item in the County Surveyor's budget and the salary level for payment of County Surveyor duties. This extra should be a there was a professional services line item in the County Surveyor budget for additional services. In favor: Houpt – aye Samson – aye Martin – aye

STAFF RECOMMENDATION TO APPROVE A CONTRACT WITH PEAK SURVEYING, LLC IN AN AMOUNT NOT TO EXCEED $4,000.00 FOR ALTERNATE DISCRETIONARY SURVEYING SERVICES – KENT LONG

Kent Long submitted the contract award for Peak Surveying LLC in an amount not to exceed $4,000 for the performance of contingent discretionary "as needed" survey services throughout Garfield County for 2010.

Commissioner Houpt made a motion approve the award of a contract for Peak Surveying LLC in an amount not to exceed $4,000 for the performance of contingent discretionary "as needed" survey services throughout Garfield County for 2010. Commissioner Samson - Second.

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

Commissioner Houpt added to authorize the Chair to sign those contracts.

STAFF RECOMMENDATION TO APPROVE AWARD OF TWO SEPARATE INDEFINITE DELIVERY, INDEFINITE QUANTITIES CONTRACTS TO SILT SAND AND GRAVEL, AND WESTERN SLOPE AGGREGATES IN A TOTAL NOT TO EXCEED AMOUNT OF $200,000.00 TO SUPPLY THE ROAD AND BRIDGE DEPARTMENT WITH ROAD SANDING MATERIALS – JAMAICA WATTS

Marvin Stephens and Jamaica Watts presented an award for multiple deliveries of indefinite quantity contracts to supply the Road and Bridge Department with road sanding materials in the total amount not to exceed $200,000 from January 4, 2010 through December 31, 2010. A complete list of materials for District One, District Two and District Three were submitted. The recommendation is to award to Western Slope Aggregate to supply District One and Silt Sand and Gravel to Districts Two and Three.

Western Slope Aggregates submitted a bid for $42.00 per ton and Silt Sand and Gravel a bid of $41.00 per ton. The other bidder was United for $42.50 per ton.

Commissioner Samson made a motion to approve the contracts to two separate indefinite deliveries, indefinite quantities contracts to Silt Sand and Gravel and Western Slope Aggregates in a tot not to exceed amount of $200,000.00. Commissioner Houpt - Second.

Don – What is each contract going to be for the budget? You have to have a contract for each.

Marvin - $100,000 for each was decided.

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

PROPOSAL FOR CONTRACT TRANSMITTAL MEMO – LISA DAWSON

Lisa Dawson presented the proposal for contract transmittal saying staff would be trained for presenting a contract before the Board. Commissioner Samson favors making it simpler.

Carolyn – There has been a lot of discussion. This is a contract that allows for multi-year renewals and asked if we needed to know the front end in that case, not that the dollar amount is budgeted three years out but that the department director is aware that this is something they would need to redo every year and we do not have an automatic rollover with each budget.

Chairman Martin assured the County Attorney's office that we do not extend a contract at the end of each year without some kind of action at the end of each year. We cannot by constitution.

Lisa explained that that the multi-year line item, in the budget we do have a line item asking if this contract was renewal but feedback from Don DeFord saying that since we do not do multi-year contracts it should not be inferred that we are doing a multi-year contract.

Carolyn – The initial language was, is this a multi-year contract.

Don – It did not say anything about renewals. This was his concern and as long as there is something to emphasis to the department head or whoever is responsible for the procurement that there is a need to come back to the Board and also to include in their budget for the next year that amount. He favors this as it makes the department consider if this is a multi-year action.

Lisa suggested adding a question, "Will there be a need to come back for renewals in future years".

Don – There is but his concern is that we are getting into a new procurement process and it would be helpful to emphasis to folks who are new to the process that they need to do that and this form would serve the purpose.

Commissioner Houpt wanted there to be a statement in the form that clearly defines this and not a question.

Lisa – These are reviewed by the purchasing department.

Commissioner Houpt – We would like to be transparent with the public on how we make decisions.

No motion was required; Lisa will make sure each department head is aware of the form and it is part of their process.

COUNTY SHERIFF UPDATE: LOU VALLARIO

23% Fee for Processing Invoices from Colroado State University

Lou Vallario gave his report stating the County Sheriff's of Colorado and the State Fire Agencies were hoping to eventually get the Commissioner's Association CML on Board and we are going after the indirect costs that are being charged to us for the fire fees. This is the 23% overhead fee that Colorado State University changes. There have been several meetings on it and there is a position paper being drafted in hopes to sit with Colroado State University to discuss the 23% fee which all of the sheriffs feel it exorbitant and try to come to something more realistic; or consider legislative or executive action to remove that responsibility from what ultimately is the State Forest Service who works for Colroado State University and put it in the hands of the Department of Emergency Services or Fire Service. That is in the works and we will provide you with an update. Currently we are searching for a legislator that would be interested in tackling this issue; meeting with the governor's office and meeting with the CSU Board of Regents president and resolve these issues. Everyone agrees that a 23% for processing invoices in not acceptable.

Model Traffic Code – We are good to go but are still waiting on the State of Colorado Transportation to give the okay on the Resolution and Ordinance. If they do not respond in 60-days, it is assumed to be good to go forward. It they do not respond in 60-days we are ready to go.

Chairman Martin – Members of the press and some energy companies confused about why this was adopted.

Lou – There was a newspapers west of here that apparently held the theory that Lou is out to get the gas companies. The gas companies gave us about $30,000 this year to enforce traffic on an overtime basis. The reality of the Model Traffic Code has nothing to do with the gas companies it has to do with those revenues generated off the fines that traditionally go to the state and will give us the opportunity to come back to the county. There are no surcharges of anything that go directly back to law enforcement.

Chairman Martin – There was what the article hinted at was that it supplements Lou's budget, but it is not for that purpose.

Lou – There are other counties and cities who have tacked on surcharges which go to a specific train line item in their budgets but Lou did not want to do that and when we had our conversations was that this money gets generated on behalf of the County and goes to the general fund.

Search and Rescue – Update on the status, things are running smoothly. Don drafted a very good agreement, we submitted to the Search & Rescue board, and they are reviewing it. There may be some changes. This will be more consistent with how counties operate with the Search & Rescue teams. This will be more consistent with how other counties operate with their Search & Rescue teams and it will be beneficial to both the team members and the Sheriff's office as far as clearly defined responsibilities and services.

Chairman Martin – Budget for the Search & Rescue, Lisa had contacted you in reference to the distribution of federal funds that have to go to that particular line item. He wondered if this was a sufficient amount regarding the school districts in reference to distributing that money. There is a portion of that federal money that has to go to Title III programs which is Search and Rescue, Fire, etc.

Lou – Looking at the budget under Title III, there is enough money in there for fire suppression to make sure they are covered. Because of this contractual agreement, there will be a defined amount of money that we provide for reimbursement, expense, etc to serve Search & Rescue on a yearly basis.

Vacancies – Staffing is good and we are down to about 5% vacancies presently. We have two or three people in the works.

New Facility in Rifle

Lou stated that the new facility in Rifle moving along well and we anticipate moving in March or April. The weather set us back but we are getting all the FF & E in place. It is a very nice looking building. We meet once a week with Randy and the builders. So far, there have been no glitches.

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 2009 $51,658.53 – Georgia Chamberlain
f. Authorize the Chairman to sign a resolution approving a one-year time extension for the Preliminary Plan for Eagle Ridge Townhome Subdivision until December 17, 2010. Applicant is Eagle Ridge investment Holdings, LLC – Molly Orkild – Larson
g. Authorize the Chairman to sign a resolution approving an amendment to the Special Use Permit for Extraction and Processing for a limestone quarry located north of the City of Glenwood Springs. Applicant is CalX Minerals, LLC – Kathy Eastley
h. Authorize the Chairman to sign a resolution related to a reconsideration of a Director Decision of Substantial Change for a proposed amendment to the Rock Gardens PUD. Applicant is Rock Gardens Mobile Home Park and Campground (Kevin and Kathleen Schneider) – Kathy Eastley
i. Authorize the Chairman to sign the Resolution concerned with the approval of a Land Use Change Permit for the Dixon Water Foundation, LIPA 6030, Materials Handling (Pad D) – Tom Veljic
j. Authorize the Chairman to sign the Resolution concerned with the approval of a Land Use Change Permit for the Dixon Water Foundation, LIPA 6031, Materials Handling (Pad F) – Tom Veljic
k. Liquor License Renewals for Glenwood Tramway LLC dba Glenwood Caverns Adventure Park and Nepal Restaurant – Jean Alberico

Commissioner Houpt made a motion to approve the Consent Agenda items A – K.

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

COUNTY ATTORNEY UPDATE: DON DEFORD – EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE LAND ACQUISITION OF THE 7TH AVENUE – DALE WILL NEED TO BE PRESENT

Don DeFord requested a brief executive session to discuss the land acquisition commenting there will be public action afterward. Dale Hancock and Ed were both asked to stay for the session.
Commissioner Houpt so moved; Commissioner Samson seconded.
In favor: Houpt – aye Samson – late Martin – aye
Commissioner Houpt made a motion to come out of Executive Session. Commissioner Samson - Second.
In favor: Houpt – aye Samson – aye Martin - aye
Action taken:
7th Street Land Acquisition – Counter Proposal for Purchase of Property within Glenwood Springs
Chairman Martin – Do we accept or deny?
Commissioner Houpt made a motion to deny the counter offer but hold on our offer.
Commissioner Samson – Well, I am against that, but I will second it for discussion.
Chairman Martin – This is in reference to the offer that we had, it is confidential but it is part of the future. Hopefully for the downtown for the County and it may be a positive step forward.
Commissioner Houpt – That was my thought.
Chairman Martin – I can understand that the fluctuation with the real estate market is something to consider.
Commissioner Samson – I agree with you, I think we could probably get it for a much lower price eventually.
Chairman Martin – It is a two-fold motion, to reject the counter proposal but to hold firm and re-offer our proposal.
In favor: Houpt – aye Martin – aye Opposed: Samson – aye
Chairman Martin – It is a split offer on this motion. It may not go anywhere but we will see what happens.
Carolyn – Commissioners, I would like to tell you that in terms of the re-offering, the owner of the property is interested in an earlier closing. Would you want your staff to negotiate an earlier closing along with the re-offer of your original offer?
Chairman Martin – It depends, it may be a moot point if it is rejected anyway but I do not see any problem with an earlier closing date.
Don – In terms of closing Carolyn, I need to ask you, are there issues in getting an ALTA (American Land Title Association) survey done by then to clear acceptance of title.
Chairman Maritn – Title insurance or title commitment.
Don – That would be the only glitch is there are issues in getting a title commitment and an officer ready to clear title objections.
Chairman Martin – Well, if those are an issue then we need to say no to your earlier closing, if not, I would not have any objections.
Commissioner Houpt – I think we should follow the standard procedure and make sure we have everything in order. I am never in favor of rushing something like that when we do not know the answers to that type of question.
Carolyn – We will not know until we get the title commitment.
Commissioner Houpt – Then I would not promise it.
Carolyn – Okay.
PUBLIC HEARINGS:
COMBINED PRELIMINARY AND FINAL PLAT FOR THE DOUG COFFMAN SUBDIVISION, CPPF 6060, REQUEST FOR PRELIMINARY AND FINAL APPROVAL OF TWO LOT SUBDIVISION INCLUDING APPROVAL FOR ACCESSORY DWELLING UNIT. APPLICANT IS THE REX ALLEN COFFMAN REVOCABLE TRUST AND THE JOANNE COFFMAN REVOCABLE TRUST - TOM VELJIC
Deb Quinn, Tom Veljic, Kelly Cave from Dan Kerst, P.C. were present.
Deb reviewed the public notification and notice of today's hearing and determined they were timely and accurate, and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Tom submitted the following exhibits for the record: Exhibit A – Proof of Publication, Mailings and posting; 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 – Letter from Garfield County Road and Bridge dated September 21, 2009; Exhibit H – Email from Dan Roussin, Colorado Department of Transportation dated September 22, 2009; Exhibit I – Email from Janet Buck, Town of Carbondale dated October 1, 2009; Exhibit J – Letter from Bill Gavette, the Carbondale & Rural Fire District, dated November 10, 2009; Exhibit K – Email from Steve Anthony, Vegetation Management Director, dated November 19, 2009; Exhibit L – Proposed Condition No. 8; Exhibit M – Vegetation Management Plan for Doug Coffman Subdivision; and Exhibit N – Draft Minutes pages 1-7, Planning Commission Public Hearing November 18, 2009.
Tom stated this Application, a "Combined Preliminary Plan and Final Plat", is for a two-lot subdivision with a request for an Accessory Dwelling Unit on Lot 2. The site is located east of Carbondale and south of the Roaring Fork River. The property owner proposes to divide his 149.763 acre parcel into two lots with Lot 2 at 9.127 acres and the remainder, Lot 1 containing 140.636 acres.
This subdivision is a re-division of Lot 4 of the Rex Coffman Exemption Plat approved by the Board of County Commissioners on August 11, 2003 in Resolution No. 2003-60. The proposal creates a new buildable lot and the remainder 140.636-acre lot includes a 38-acre conservation easement, which is controlled by the Aspen Land Trust. The general site vicinity is shown in the map below.
PLANNING COMMISSION RECOMMENDATION
During the public hearing on November 18, 2009, Planning Staff presented the proposed preliminary plan and final plat recommending approval with specific conditions. Following testimony by the applicant and his representative, the Planning Commission discussed the proposed condition Number 8 (Exhibit L) which detailed the recommendations from the Vegetation Management and Wildlife Management Plans. In their discussion, the Planning Commission considered the recommendations from both application documents, noted above, were too specific and asked staff to contact the Director of Vegetation Management for

additional input about weed management and requested staff to delete the recommendations from the Wildlife Management Plan. The Planning Commission draft minutes from the November 18, 2009 public hearing are attached (excerpts, attached as Exhibit N) with the detailed discussion about proposed Condition Number 8. The revision to condition Number 8 below reflects the recommendations from Steve Anthony, County Vegetation Management (Exhibit K) and includes the Vegetation Management Plan as Exhibit M with the Plan recommendations referenced and adopted as required conditions of approval. The Planning Commission recommends **approval** of the combined Preliminary Plan and Final Plat with Accessory Dwelling Unit, as conditioned.

1. That proper publication, public notice, and posting was provided as required by law for the hearing before the Garfield County Planning Commission and the Board of County Commissioners.
2. That the public hearing before the Planning Commission and Board of County Commissioners was extensive and complete; all pertinent facts, matters and issues were submitted; and that all interested parties were heard at those hearings.
3. That the proposed subdivision of land is in compliance with the recommendations set forth in the Comprehensive Plan for the unincorporated areas of the County.
4. The proposed subdivision of land does conform to the Garfield County Unified Land Use Resolution of 2008, as amended, and does comply with all applicable Development Regulations.
5. The proposed use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.

RECOMMENDED CONDITIONS

1. That all representations made by the Applicant in the application and as testimony in the public hearings before the Planning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. Prior to recording the final plat the conservation easement shall be identified by hatching or some other marking method to adequately demonstrate the full extent of the easement.
3. The applicant shall contact the Roaring Fork RE-1 School District and request documentation on the amount of land dedication or payment in lieu of dedication that is required. A copy of said documentation shall be submitted to the Garfield County Planning Department and is required prior to recordation of the final plat.
4. The Applicant shall include the following additional text as plat notes on the final plat:
   a. *"All future lot purchasers / builders that they are required to submit an "elevation certificate" performed by a registered surveyor licensed to practice in the State of Colorado that shows the building envelope is outside the 100-year floodplain with the building permit application. If a building envelope is found to contain portions of the 100-year floodplain, no building permit shall be issued until an Administrative Floodplain Development Permit (or equivalent adequate land use permit) has been obtained.*
5. The Applicant shall provide documentation from the Carbondale and Rural Fire District that the $704 impact fee for Lot 2 has been paid at the time of final plat and prior to final recordation of the final plat.
6. Prior to the signing of the plat, all physical water supplies shall demonstrate the following as part of the final plat submittal:
   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) If the well is shared, a legal well-sharing declaration addressing all easements and costs associated with operation and maintenance of the system and identifying the person responsible for paying costs and how assessment will be made for those costs.
   d) 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.
7. The Applicant shall graphically depict the easement associated with the entire length of the Slough Ditch on the final plat.
8. The Applicant shall comply with the Vegetation Management Plan recommendations noted in the Tab 13 of the Application and is incorporated by reference and attached hereto as Exhibit M.
9. The Applicant shall treat the Russian Olive Trees using a cut-stump method and contact the Garfield County Vegetation Management staff to verify treatment. The Applicant shall contact the Vegetation Management staff if assistance is needed to identify the Russian Olive Tree and not confuse it with the native Silver Buffaloberry shrub.

Kelly Cave offered not additional comments stating that Tom hit all the highlights. The wildlife issue is covered by the Conservation Easement. The free roaming cats is excessive.

Commissioner Samson – You would like to see the free roaming cats go away.

Commissioner Samson made a motion to close the public hearing. Commissioner Houpt - Second.

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

Commissioner Houpt moved to approve the proposed combined Preliminary Plan and Final Plat of the Doug Coffman Subdivision with Accessory Dwelling Unit, with the 9 recommended conditions. Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson – aye

RECOGNITION TO LEO JAMMARON FOR HIS NUMEROUS YEARS OF VOLUNTEER SERVICE GIVEN ON THE BOARD OF ADJUSTMENT – FRED JARMAN

Fred Jarman presented a recognition award to Leo Jammaron on behalf of the Board of County Commissioners for the 30-year tenure. A celebration was held today at 1:30 p.m.

Fred Jarman – Pleasure and bringing all the cases before you. Mark Bean wishes you well. During the first few years. It weighed heavily on your shoulders. One was that the US President Jimmy Carter bailed out Chrysler, also the US presidential election bought in Ronald Reagan. I have enjoy4ed working with you and wish you the best.

Special Meeting Tomorrow - RFTA and PILT Workshop.

Ed stated that on February 2 it would be a long day as there are many topics to discuss in the worksession.

Linda Morcom's going away party is this Thursday from 2 - 4

Houpt – Oil and Gas on January 11 and 12 and will not be present at the meeting on January 11.

Adjournment

JANUARY 11, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. on January 11, 2010 with Chairman John Martin and Commissioners Mike Samson present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Jean Alberico Clerk & Recorder. Commissioner Houpt was absent.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Steve Smith – Thanked the County for their position on the South Bridge project. He noted that at City Council last Thursday the decision was made to continue the Environmental Assessment for a pre-determined route even before the analysis was completed. Steve appreciates the position the County Commissioners took on the South Bridge to discourage the study. Steve encouraged the Board to continue their position against going further into the study. Steve's motivation to oppose this single option is because he would have a major highway in front of his house. He does not feel this is a smart decision or a good project. It is important that studies are be done but the approach the City is talking is slip shot and he feels County government needs to use their money wisely. The purpose of the secondary access was to improve safety in that part of the County and he feels the City has lost that foresight in this decision.

Chairman Martin stated he has always felt the scope of this project is too small.

COUNTY MANAGER UPDATE: ED GREEN

A. **STAFF RECOMMENDATION TO AWARD AN INDEFINITE DELIVERIES, INDEFINITE QUANTITIES CONTRACT TO SANDY'S, INC. IN AN AMOUNT NOT TO EXCEED $150,000.00; AND TO AWARD AN INDEFINITE DELIVERIES, INDEFINITE QUANTITIES CONTRACT TO STAPLES, INC. IN AN AMOUNT NOT TO EXCEED $150,000.00 – KENT LONG**

Kent submitted the 2010 Office Supplies bids stating that three bids were received. Two were very close bids and procurement is suggesting a split appropriation. Kent Long presented the summary of solicitation and explained the procedure used in these recommendation, which is to award to two companies, Sandy's and Staples in equal amounts of $100,499.00, a not to exceed total amount of $200,998.00 for the year 2010.

Discussion

Commissioner Samson inquired if this had ever been done before.

Chairman Martin informed the public that at various times we have used other vendors and referenced the clerk's decision to use a special vendor for ballots.

Carolyn reminded the Board that we had different vendors for printing bids last meeting.

Jean implied that in the past if Sandy's Office Supply did not have a special item we have purchased from Staples, however, most often we have used Sandy's.

Commissioner Samson referenced in the bidding proposals that Staples had used substitutions items whereas Sandy's had not.

Mike Husaluk stated he and his wife are co-owners of Sandy's and have been in this business for many years. An office was established, in Glenwood Springs, 10-years ago to meet the needs of this community. Sandy's did not submit a bid for any substitutions in the bid request. They were very specific.

Kent answered the question that both companies do have a principle place of business in Colorado however, Staples is a national company with many locations. Their main offices are in Massachusetts, Maine and Delaware. Sandy's is only in Colorado and their main office is in Aspen.

Don stated according to state statute s we are to award to a supplier whose principal business is registered in Colorado. His concern was if a price for the supplies is equal to or less than, because they are identical contract, it gave him concern for an out-of-state registered business.

Chairman Martin asked if the motion would be for a split award or an individual award.

Commissioner Samson made a motion that we award the bid for office supplies to Sandy's in a not to exceed amount of $200,998.00 for the year 2010. He stated his main issue for awarding to a single bid was due to Don's concerns that Staples was not a locally owned company whereas Sandy's is only a Colorado owned company.

Chairman Martin agreed and seconded the motion. In favor: Samson – aye Martin – aye Houpt – absent

B. **STAFF RECOMMENDATION TO APPROVE AWARD OF A SOLE SOURCE MAINTENANCE CONTRACT TO NEW WORLD SYSTEMS IN A TOTAL NOT TO EXCEED AMOUNT OF $54,805.00 FOR 2010 FOR MAINTENANCE TO THE NEW WORLD SYSTEM SOFTWARE – MATT ANDERSON**

Matt Anderson presented the summary of contract award for the 2010 fiscal year as a sole source maintenance contract to New World Systems in a total not to exceed $54,805.00 for the year 2010.
Matt referenced the situation of the software noting it was specifically for maintenance. We have to agree to their terms and conditions and we will not be using our standard contract form. He would ask that this award be contingent upon legal review for the standards and conditions. One of those reasons is that it is implied as a multi-year contract and we can only do one renewal per state statutes.
Don called attention to the typical software-licensing language. These are standard provisions that we routinely see in software licensing agreements. There include severe limitation on liability and warranty provisions done in July and the Board has previously given the County Attorney's office direction 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. Currently, the way the way this contract is set up it is a violation of Tabor.
Commissioner Samson made an award for contract to New World Systems in a not-to-exceed amount of $54,805.00 for the software for 2010 for a maintenance contract contingent upon legal review.
Commissioner Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent

C. **STAFF RECOMMENDATION TO APPROVE AWARD OF A SOLE SOURCE MAINTENANCE CONTRACT TO ERSI IN A TOTAL NOT TO EXCEED AMOUNT OF $50,438.36 FOR 2010 MAINTENANCE AND LICENSES FOR THE GIS SOFTWARE – MATT ANDERSON**

Matt Anderson presented the GIS software license award as a sole source maintenance and licensing contract to ERSI in a total not to exceed $40,438.36. This is the license and software. We are not using our standard form and would like to have legal review.
Don DeFord reiterated that the legal department review probably would not result in changes. The Board is in a position to accept the severe limitations on liability and warranty.
Commissioner Samson made that we would approve the sole source maintenance and licensing contract to ERSI in a total not to exceed amount of $50,438.36 for the year 2010 contingent upon legal review.
Commissioner Martin – Second. In favor: Samson – aye Martin – aye Houpt – absent

D. **STAFF RECOMMENDATION TO APPROVE AWARD OF A CONTRACT TO BEACON COMMUNICATIONS IN A TOTAL NOT TO EXCEED AMOUNT OF $61,182.00 FOR 2010 FOR THE INSTALLATION OF A NEW AUDIO SYSTEM AT THE GARFIELD COUNTY FAIRGROUNDS – MATT ANDERSON**

Matt Anderson submitted the summary of solicitation, necessary board action and staff recommendation which includes that the Board approve the award of a firm fixed price contract to Beacon Communications, LLC in the amount of $61,182.00 for the design and installation of the Fairgrounds Audio System. They submitted their qualifications.
Ed stated this current system often fails and therefore we do need a new system.
Matt stated Beacon did a site visit. We had four bids. Beacon's bid included an abstract. They are a Denver based company. The staff, at the Fairgrounds, are happy with this company.
Commissioner Samson made a motion that we approve the award to Beacon Communications, LLC in the amount not to exceed $61,182.00 for the Fairgrounds Audio System as presented. Commissioner Martin– Second.
In favor: Samson – aye Martin – aye Houpt – absent

E. **APPROVAL OF ANNUAL EMPLOYEE LANDFILL COUPON AND EARTH DAY EVERY DAY – KATHERINE ROSS AND MARVIN STEPHENS**

Employee Coupons for Landfill

Katherine Ross and Marvin Stephens submitted the annual employee landfill coupon and earth day every day packet of information to the Board. This has worked extremely well in the past and the recommendation for the Board is to continue the practice.
Marvin gave the statistics for the landfill.
These two programs are interrelated. The coupons that employees have been receiving are considered a benefit. It entitles each employee to two coupons and the employees would receive these in their February or March paycheck. Last year, Marvin stated they processed 178 vehicles and of those employees, 42 came twice for a total of 62.5 tons and a total of $3,000.
Chairman Martin believes this to be a very good program and support it.
Commissioner Samson made a motion that we approve the annual employee coupons for two free visits to the landfill with the coupon program as presented. Chairman Martin - Second. In favor: Samson – aye Martin – aye Houpt – absent

Landfill – Earth Day

Marvin stated the County used to have one free day for the County citizens. It was an overwhelming event and it overran us with traffic. Traffic was backed up to I-70 and that is when the staff came up with this idea of earth day every day. This has helped with the workload and the citizens appreciate being able to come whenever they need to dump a load. This has been very popular. Marvin explained they mail a postcard to every Garfield County resident using the bulk mailing system, which does not cost a lot of money.
Marvin stated last year they mailed out approximately 45,000 postcards to residents of the County and last year 3,000 were used.
Commissioner Samson made a motion that we approve the earth day everyday coupon for all county households excluding commercial loads. Commissioner Martin – Second. In favor: Samson – aye Martin – aye Houpt – absent

Worksession
February 2, 2010 - The plan is to discussion increase in rates structure for the landfill; talk about cost data with building a cell for pit liners and the cost of admin or court facility. Commissioner Houpt has asked to add to our agenda a water discussion. It was also mentioned that we might need to discuss the local improvement district in reference to the New Energy Communities Special District.
March 2, 2010 – Discussion of Re-1 Affordable Housing; Fairboard on Planning; a 2-hour segment talking about Budget and Revenues; Expenses related to Capital Improvement; and a Discussion with the Board on the Format of the Minutes exploring opinions of how we do the minutes.
Commissioner Samson asked if it would be possible to have the Worksession on February 2 in Carbondale. Chairman Martin said we would wait and see how the meeting turns out in Rifle on January 18 before deciding to do any more in other locations.
ED EXECUTIVE SESSION ITEMS – Contract negotiations with Battlement Mesa Partners and seek legal guidance on contract. He would like to have Dale, Randy and Marvin to participate in that discussion.
COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Provide legal advice regarding the Grand Valley Cemetery District; status of Overlook Mine LLC claim; Deb would like to discuss the Marathon Communication Tower; and Cassie on the Sills Claim. Don stated they may be public action afterward.
Commissioner Samson moved to go into Executive Session. Chairman Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent.
Commissioner Samson moved to come out of Executive Session. Chairman Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent
Action Taken:
JB Court in Glenwood Springs
Don would like to have a motion authorizing the Building and Planning Department to waive and excuse certain fees and expenses that have been incurred through their department
Commissioner Samson made a motion to waive any and all fees and charges related to 0539 JB Court, Glenwood Springs because of extenuating circumstances as talked about in Executive Session. Chairman Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent.
COMMISSIONER REPORT:
CONSENT AGENDA:

a. Approve Bills
b. Authorize the Chairman to sign the Land Use Change Permit for the Dixon Water Foundation, LIPA 6030, Materials Handling (Pad D) – Tom Veljic
c. Authorize the Chairman to sign the Land Use Change Permit for the Dixon Water Foundation, LIPA 6031, Materials Handling (Pad F) – Tom Veljic

Commissioner Samson made a motion that we approve the consent agenda items a – c. Commissioner Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent
PUBLIC MEETINGS:
COMPREHENSIVE PLAN 2035 UPDATE PROGRESS REPORT – TAMRA ALLEN
Tama Allen gave the update regarding the Comprehensive Plan with consultants Winston and Associates.
Update by County Staff
Staff has been working with Winston Associates (WA) to construct the alternative land use scenarios to be presented during the February 2, 3 and 4th public meetings. These scenarios will previewed by the Planning Commission at a January 14th Work Session at 6:30 p.m. in which WA will remotely present via Web-X the alternatives and seek comments from the Planning Commission during the session.

Staff has also been working on scheduling the next round of public meetings, which will held in February. In addition, two round table discussions with dates TBD will also be held in February and March to seek regional elected and appointed official's input. Staff continues to work with Winston Associates to construct an affective public outreach and advertising campaign prior to the February meetings.

Meeting Type	Meeting Date	Area	Time	Specific Location
PC	Thursday, January 14	Glenwood Springs	6:30 p.m.	108 8th Street, BOCC Meeting Room
Public	Tuesday, February 2	Glenwood Springs	6:00 p.m.	Glenwood Springs Community Center
Public	Wednesday, February 3	Rifle	6:00 p.m.	Health and Human Services Building
Public	Thursday, February 4	Parachute/Battlement Mesa	6:00 p.m.	Battlement Mesa Activity Center
PC and BOCC Roundtable	Thursday, February 4	Glenwood Springs	12:00 to 2:00 p.m.	108 8th Street, BOCC Meeting Room
CAC	Monday, February 8	Rifle	6:00 p.m.	Health and Human Services Building

Update by Winston Associates
WA continues to summarize the input obtained during the initial Community Dialogue Key Pad Polling and Chip Game process and Focus Group Sessions held in November. WA is incorporating the input into a summary matrix highlighting key findings from the public and Focus Group participants. These summaries will be provided to staff for distribution prior to the end of the year.

WA has confirmed the scheduled Web-X conference call for January 14 to discuss the initial alternative growth scenarios with staff, Planning Commission and BOCC members. This review is intended to obtain initial input prior to the next scheduled CAC meeting on February 8.
As a part of the Community Profile and background data gathering, WA is continuing to reach-out to individuals identified by staff and the Delphi Process to obtain additional information regarding land use planning and growth scenarios. Input will be summarized as a part of the Community Profile Report and made available to staff and the CAC in January.
The WA team has released the first of three online Sounding Board surveys and initial results are currently being gathered. The online survey represents an ongoing effort to gather additional feedback from area residents on critical issues associated with the Comprehensive Plan. To date, a total of 141 responses have been received and an additional reminder will be sent out before the holiday. With the first survey a number of open-ended responses have been received, which suggests people are involved and taking time to think about the process. WA will send out an additional reminder after the Christmas holiday.
WA is also working with the Colorado Mountain College (CMC) Glenwood and Rifle campuses to reach out and engage young adults in the college communities to participate in the Garfield County planning process. While not currently confirmed, WA is anticipating the scheduling of two events to conduct the Key Pad Polling and Chip Game exercises at the CMC campuses during the week of February 2-4.
For more information, please visit the Garfield County website and link to the Garfield County Comprehensive Plan 2030.

Update by County Planning Commission Representatives

Phil Vaughan Update: No update for this two-week period.

Greg McKennis Update: I have been receiving input from the agricultural community and there is concern over the open space/preservation of farmland goals from the non-agricultural community in regards to property rights issues.
Brief summary on the 2030 series of meetings held in November. Public meeting and on-line survey groups – various avenues – information – some coming up in Feb in Glenwood, Rifle and Parachute. Setting up land use scenarios – 3 -4 different scenarios – information from the public; back in late spring for more information.
Planning Commission Work session on February 4 from noon to 2:00 pm in the BOCC meeting room.

REVIEW AND EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND AMOUNG TOWN OF SILT, GARFIELD COUNTY AND THE STATE OF COLORADO BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION FOR THE UNITED STATE HIGHWAY 6 (SILT) AND RIVER FRONTAGE ROAD ACCESS CONTROL PLAN, MP 97.946 – MP 102.481 – TAMRA ALLEN AND DAVID SPRAGUE WITH PBS&J

Kathy Eastley, Betsy Suerth from the Town of Silt, Dan Roussin from CDOT, Deb Quinn and David Sprague with PBSJ – Traffic Program Manager out of Denver, Colorado were present.
A power point was presented on the US 6 and River Frontage Road Access Control Plan.
The plan was put together jointly by the Town of Silt, CDOT, PBS&J and Garfield County. It focused on the area from Ukele Lane to the east and to the first bridge over I-70 to the west just east of Mid-Valley Lane for a total of 4.5 miles. This also included the River Frontage Road from just west of 9th Street to the same bridge over I-70 for a total of 3.8 miles.
This study was applied before the potential growth and increased traffic was anticipated. Safety was a major concern. The interchange is already starting to back up especially in the evenings. Air pollution in the area was another concern and cars idling pollute the air. Numerous studies have proven that congestion is a major impact to small communities.
The Town of Silt and the County set goals and the consultants used these goals to make sure there was no landlocked land.
The focus was extended to bicycles and pedestrians. The future development needs of the Town of Silt were considered. The Town wanted to not only widen the roads but to make sure traffic would not be impeded without a huge amount of pavement. A phased flexibility plan was considered and an interim approach was put into place.
David has done about a dozen of these types of transportation plans around the state and he keeps everyone involved in the process for key decisions. A huge outreach process was implemented with presentations to the elected officials and updates were posted on the website available to the public.
In his summary of recommendation included in his presentation was to limit the access points from 130 to 41. He reiterated that the people's access was not taken away but they used consolidation of access points. There were some signals involved and some roundabouts recommended.
Chairman Martin said there is a need to do something with our access plan and this is a planning tool. There is an IGA with the Town of Silt, this is a step forward and we have done the same thing with Rifle. This is a planning tool we can depend upon.
Do we have a motion then to either approve or disapprove the Intergovernmental Agreement adopting the transportation access control plan?
Commissioner Samson – I will move that we approve. Commissioner Martin – seconded.
Deb Quinn – Authorize the Chair to sign and also include the Resolution that was submitted.
Chairman Martin – It is so implied.
In favor: Samson – aye Martin – aye Houpt - absent

CONSIDER A REQUEST TO REVISE THE PLANNING COMMISSION HEARING DATES FOR AN APPLICATION TO VACATE A PORTION OF COUNTY ROAD 121 (COULTER CREEK ROAD). APPLICANTS ARE JAMES AND HENSLEY PETERSON – KATHY EASTLEY

This application was presented to the Board of County Commissioners on October 19, 2009 at which time a Planning Commission hearing date was established. That hearing did not occur as Staff was working with the Applicant to amend the request. A new hearing date is requested for the Planning Commission review on February 24, 2010.
An application was submitted requesting the Board of County Commissioners vacate **and relocate** a portion of the right-of-way dedicated for CR 121 (Coulter Creek Road). The right-of-way was deeded to

the County in 1904; however, the physical roadway was not constructed within the described right-of-way. The map above provides the general location of the area in the southeast portion of the County. The GIS aerial photo to the left indicates the specific area requested to be relocated.
Staff requests that the Board of County Commissioners reschedule this application for review by the Planning Commission at their scheduled hearing on February 24, 2010.
Schedule of meeting
Commissioner Samson made a motion that we approve the recommendation of staff and schedule this before the Planning Commissioner on February 24, 2010.
Commissioner Martin - Second. In favor: Samson – aye Martin – aye Houpt – absent
CONSIDER A REQUEST FOR A COMMUNICATION FACILITY TO BE LOCATED 8 MILES NORTH OF THE TOWN OF PARACHUTE IN THE GARDEN GULCH AREA, SECTION 5, TOWNSHIP 6S, RANGE 96W. THE FACILITY WILL BE OPERATED BY MARATHON OIL COMPANY AND LOCATED ON PROPERTY OWNED BY CHEVRON USA, INC. – KATHY EASTLEY
Kathy Eastley, Deb Quinn, Craig Richardson, Consultant to Marathon Oil were present.
Deb Quinn reviewed the notice, notifications to property owners and mineral owners, public notification in the Rifle Citizen Telegram and advised the Board they were timely, accurate and the Board was entitled to proceed.
Craig explained the error in noticing and Marathon renoticed. Should anyone challenge it would be Marathon's responsibility to handle the issue.
Chairman Martin swore in the speakers.
Kathy submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Unified Land Use Resoltuion of 2008, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000, as amended; Exhibit E – Application; Exhibit F – Staff Report; Exhibit G – Staff Presentation; Exhibit H – Memo dated December 14, 2009 from Steve Anthony, County Vegetation Manager; and Exhibit I – Memo dated December 1, 2009 from Jake Mall, County Road and Bridge and Exhibit J – Facsimile dated 1-11-2010 from Allen B. Crockett, Supervisory Natural Resource Specialists.
Chairman Martin entered Exhibits A – J into the record.
GENERAL PROJECT DESCRIPTION
Marathon Oil Corporation currently operates a consolidated communication system in the Garden Gulch area of Garfield County in support of Oil & Gas operations in the area. This system allows for remote access communication with various Oil & Gas-related activities in the area for a radio Ethernet network necessary for the Supervisory Control and Data Acquisition (SCADA).
Tower Number 7 is currently being requested and that facility is proposed to be a 22' high tower on a 20' x 20' concrete pad. The facility will be located at an elevation of 8,100 feet in order to provide a 'line of site' to the Valley Pump Station (VPS) thus allowing remote access to information and data. The applicant seeks use of this facility for a period of thirty (30) years.
The electricity necessary for operation of the tower is proposed to be provided by an on-site solar-array and batteries.
LOCATION AND SITE DESCRIPTION
This site is located eight (8) miles northwest of the Town of Parachute, approximately one mile west of County Road 215. The area is dominated by mountain valleys surrounded by steep slopes. It is the very nature of the topography that necessitates the location of Tower Number 7 so that line of site may be achieved with existing facilities in the area.
Should the BOCC decide to approve the request for Marathon Tower Number 7 Communication Facility, Staff suggests the BOCC make the following findings:
1. That proper public notice was provided as required for the hearing before the Board of County Commissioners.
2. That the hearing before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted or could be submitted and that all interested parties were heard at that meeting.
3. That for the above stated and other reasons, the Land Use Change Permit for a Communication Facility is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County if recommended conditions of approval are required.
4. That the application can be in conformance with the applicable Sections of the Garfield County Unified Land Use Resolution of 2008, as amended, if recommended conditions of approval are required.

STAFF RECOMMENDATION
Staff recommends the Board of County Commissioners **approve** the request for a Land Use Change Permit for a Communication Facility (Tower Number 7) to be operated by Marathon Oil Corporation on a property owned by Chevron USA, Inc. located in the Section 5, Township 6 South, Range 96 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. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
3. No construction may occur on this site between March 1and July 31due to potential impact to Sage Grouse;
4. The Applicant shall install a triangular device, as recommended in the wildlife analysis, to prevent birds perching on the communication tower.
5. This facility shall be included in a weed management program that includes annual monitoring and treatment of Garfield County listed noxious weeds.

Craig stated Marathon needs to work with Chevron for the access plan and they plan to have the tower installed and completed by March 1, 2010.

Commissioner Samson made a motion that we close the public hearing. Commissioner Martin – Second.
In favor: Samson – aye Martin – aye Houpt – absent
Commissioner Samson made a motion that we approve the request for a land use change for a communication facility tower #7 to be located 8 miles north of the Town of Parachute in the Garden Gulch area operated by Marathon Oil Company on property located in Section 5, Township 6S, Range 96W owned by Chevron USA, with the conditions recommended by staff.
Commissioner Martin – Second. In favor: Samson – aye Martin – aye Houpt – absent

Adjournment

JANUARY 18, 2010
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 18, 2010 with Chairman John Martin and Commissioners Mike Samson and Tresi Houpt 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.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Williams Energy – Violation – Battlement Mesa Concerned Citizens

Ron Galterio appreciated the convenience of having better access to the meetings in Rifle. His comments are regarding the notice of alleged violations of the Colorado revised statutes filed by the Williams Company. He is also co-chairman of Battlement Concern Citizens wanting to speak in support of their decision that as a condition of granting a special use permit for their operations in Battlement Mesa. The concern and request is that Williams be required to remove any materials resulting from extraction and processing operations on well pad GV 82-5 and not left onsite. They believe the county has the authority to make that requirement under the zoning regulations in effect at the time of approval of the Battlement Mesa PUD and continue to govern the provisions of the special use permits within the PUD. The operator would have you believe that the materials they want to bury on site are merely rock and soil extracted from the earth during their drilling operation. However, these materials also contain many chemicals that are harmful to human health and the environment. As the planning staff pointed out in their recommendations during the special use process, location of this well is in an area zoned for public use; therefore, there is a potential for future development to this location would unearth this material. Battlement Concerned Citizens feel that the oil and gas industry, or any other organization that intends to conduct a mineral extraction operation within a densely populated area needs realize it will not be business as usual. The Battlement Concerned Citizens wanted to thank the commission for making the public health, safety and welfare a primary concern during times of heavy industrial development in this county. They hope this concern continues to guide and influence the Boards decisions.

Commissioner Houpt wanted to recognize it is Martin Luther King Day and asked everyone to think about the great impact he had on moving civil rights forward and what it means to all of us individually.

Commissioner Samson thanked everyone for being here. He was talking to Marvin, who has been with the county for 37 years, and this is the first time they are having a regular meeting in Rifle. Commissioner Samson tried to make this a big part of why he ran and wanted to spread the meetings out a bit. I hope that we can have meetings in other places as well.

COUNTY MANAGER UPDATE – ED GREEN

4H UPDATE – KIM SCHRIVER

Kim Schriver, Bill Ekstrom and Pat McCarty were present.

Kim is asking that February 7 through February 13 that the Board adopt these days as 4H week. On the second page at the bottom, you will see a quick overview and what they are trying accomplish with Garfield County 4H week. They are trying to raise awareness of what 4H is and have that week focused on 4H.

Commissioner Samson asked if they had a resolution drawn up and she stated the Board would have to draw one up. Commissioner Samson moved that we as a commission to recognize and declare 4H week as February 7 through February 13 in Garfield County.

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

Bill said they highlighted what they feel they have done throughout the county last year and what they will do in 2010. Most of these are new things they have not done before and some they have. They would like to ask the County Commissioners to think about activities that would assist them. During the course of the year, they have people who come to them such as 4H leaders, advisory groups and County Commissioners who offer suggestions of what they would like to do. Last year they saw a good growth in their 4H numbers, about 30 plus kids and close to 20 new leaders. By doing after school activities, you will see another increase. Last year kids in the county went on a leadership trip that was targeted toward the younger kids. In the past, 4H was targeted as just livestock and that is not true anymore. They are big in science education, leadership development and you will see them doing more things after school, during school, during special programs during the summer and leadership camps. He referred to Pat doing a lot for leadership and the master gardener program. They have 9 people signed up already. They are trying to find additional money and the mini trip did not take one dollar from the county. It came from the kids and private donations; they will continue to do look for money.

Commissioner Samson clarified that last year they went to Washington.

Kim said it was the second to the last week in June and Commissioner Samson asked if that was a yearly thing. Kim said it is a Colorado yearly thing; but the kids have to apply. It cost about $2,000.00 for the trip for each kid who wants to go.

Commissioner Samson - As I remember you had five kids go last years.

Bill explained they had several different trips last year; Washington D.C. was one. Caley Fox was invited to two events, so we only had two go to Washington D.C. and then Caley. Normally the Washington D.C. trip will allow one kid per county, sometimes you can get two.
Chairman Martin said one of the projects he is looking at is taking a community kitchen and opening it up as an activity for the whole county. Set-up a kitchen and make it sterile. Another program is teens on farms. The kids actually go on someone else's land to do projects and show how to use their science. Might be they do cooperative and entrepreneurship; live with the folks and learn their trades and bring it back to teach the classes.
Bill said this is a concept they are pursuing now. It is just a question of coming up with additional funds.
Commissioner Houpt thinks there are many exciting things happening around the State.

GLENWOOD SPRINGS 125TH ANNIVERSARY COMMISSION – KATE COLLINS

Kate presented a letter to the County Commissioners on January 12, 2010 to inform them that they have put a committee together representing each facet of the community to devise and implement some strategies for the birthday celebration and promotion. The birthday festivities are designed to add value, interest and vitality to a destination and vacation experience. The vision is to incorporate all existing events into the theme, and to leverage our history and heritage. The City of Glenwood Springs awarded a grant of $15,000.00 in funding enabling a great start. They are seeking a $15,000.00 grant from Garfield County to augment their efforts. A tourism promotion with generous free offers for visitors and locals has been set up at http://visitglenwood.com/birthday-coupons or $125.00 packages at http://visitglenwood.com/package with activities and lodging for guests. A list was given to the Commissioners of many ideas in the development for the 4H program.
Kate hoped the presentation was comprehensive enough to show how they want to celebrate this anniversary. They have gathered a committee together, not just tourism but also every facet of the community. They have many initiatives planned; some are funded and some are not. Commissioner Samson has volunteered for the committee. They did take a hit on the budget for tourism promotion this year. They are here to ask the Board to consider incorporated that 125th birthday in your website. Also into the fair and rodeo and consider contributing matching funds for the City of Glenwood Springs which is $15,000.00.
Commissioner Samson was impressed with what they are doing. There are many people from CMC, the hospitals and it is a good group to work with and thinks they should help them out financially. I make a motion we approve an amount to match Glenwood Springs $15,000.00 to go for the 125th anniversary for funds as they see necessary. Let them use the money as best they see fit.
Commissioner Houpt asked Commissioner Samson if would he like them to include marketing materials and he stated yes. He also asked Abe if it would be a hassle to put on the county's website and Abe said it could work.
Commissioner Houpt – Second. Chairman Martin said the money would be from the Commissioner fund.
Don asked if they needed to specify the source and Chairman Martin said they did.
Don asked if the motion included authority to sign. Commissioner Samson stated that would be incorporated in his motion.
In favor: Houpt – aye Martin – aye Samson – Aye

UPDATE ON COLORADO RIVER WATER CONSERVATION DISTRICT BOARD MEETING – DAVE MERRITT

Dave is entering his second year of his term. They will be meeting on Tuesday and Wednesday this week; Jim Martin, Jennifer Gambel and Alex Davis will be there. Jim Martin is the new executive director. If anyone has been following the snow pack, lately there are many concerns but we are tracking a little better than 2002 right now. It is not just an issue of how good skiing is; it will be an issue of how much water supply we have to deal with this summer unless we have some substantial storms. Most of the basins are running in the 70% to 73% level. We are going to have to look at managements options; not just water conservation. It will be a big concern and from a big basin perceptive, it will be a concern for the lower basin. There is something called equalization between Lake Powel and Lake Mead. Dave explained how the basins worked, what water they would need, and how many acre-feet they will need. In August, there was about 70% change of equalization coming here and that change is down to less that 50% now. The district is very active in interstate issues as well as intrastate issues. They will talk about the Front Range tomorrow. Trying to protect the flows they have and the uses in western Colorado while recognizing there are increasing demands on the Front Range. Identify what are going to be their critical flow periods and how we ensure we will have water for our uses. In the backdrop also from the State prospective, the Colorado Water Availability Study to determine how much water we really have for future uses. Do we have the 15 million allocated or is it less than that as well as how our future demands mesh. Dave explained the many questions they had on how this will impact Colorado.
Commissioner Houpt stated do we have to get to the point there is a crisis before we start looking for solutions. Some people would argue we are already over allocated.
Dave said they are trying to avoid over allocation but there is over allocation and overdevelopment. In terms of the utilization, Colorado is not believed to be in the over development standpoint of the Colorado River.
Commissioner Houpt said she noticed you would have a discussion with director. There is a concern with Ruedi Water and Power about the timing of discharges and the Commissioners will lend some support on that issue.
Dave said the River District is involved. He talked about the 15-mile reach.
Commissioner Houpt said that is fine but there is the timing issue.
Dave said, it needs to be addressed and they are going through the environmental assessment process right now.
Commissioner Houpt - On the ballot issues, she would hope they would support opposing all three issues.
Dave said those are very scary for the future of Colorado. We cannot expend any funds, but they can vote to oppose.
Commissioner Houpt stated she would be at the meeting Wednesday.

OIL AND GAS 4TH QUARTER 2009 REPORT – JUDY JORDAN

Judy presented the following charts:

Complaints - 14 for October – December

Drilling Activities – October – December She included charts for APD's reviewed, approved, drilling permits and number of active wells by county.

Judy reported on **activity levels** saying, according to the Oil and Gas Journal of January 8, US drilling activity increased for the second week, up by 31 rotary rigs to 1,220 working this week, adding to the 11-rig gain last week; but still down from 1,589 rigs working in the comparable period in 2009. Colorado added 2 rigs for 43; compared to 98 in Oklahoma, 50 in New Mexico, 38 in Wyoming and 66 in Pennsylvania. The latest rig count for Garfield County is 14.

Special reports/studies – With the help of the Road and Bridge Department, they have located the sites where their contractors will install monitoring well nests for the Third Phase Hydrogeologic Assessment of the Mamm Creek Study Area. They are planning to begin drilling on January 19.

Site Visits:

- In November, the Oil and Gas Department attended a site visit at the BBC Kaufman Pad during fracing operations.
- In November, Nikki attended a site visit to the Jolley Federal Pad location, which is a pad included in the Gibson Gulch Master Development Plan with the Glenwood Springs/Silt BLM, COGCC, and the CDOW.

Conferences/workshops attended:

- National Association of Royalty Owners meeting in October
- Oil Shale Symposium in October
- Stormwater Management for the Oil & Gas Industry class in October
- BMP workshop by CU Natural Resources Law Center in October
- OSHA HAZWPOER Training in December

Presentations:

- Judy was interviewed by KSUN (Parachute) on December 2 to familiarize listeners with Oil and Gas Liaison role

Other:

- The Oil and Gas Department/consultant completed an overhaul of the complaint database in December to make it more user-friendly and intuitive to enter and retrieve data. The database is now connected to the County's GIS, which was a huge undertaking. This will allow for the mapping of complaints and spills that they learn about.
- Judy met with the operators at their monthly Operator's Meeting on December 3. Among other things, they indicated that they would like to arrange for staff in the Building and Planning Department to accompany them on some rig and facility tours in order to familiarize them with industry operations.
- The Oil and Gas Department submitted comments to BLM on their Flatiron Mesa Master Development Plans.

Department Goals Accomplished in 2009:

- Hired/trained Oil and Gas Representative
- Began responding to Building and Planning and BLM requests for comments
- Acquired field monitoring equipment for use in responding to odor and noise complaints
- Attended Odor School at CDPHE and gained certifications
- Began attending BLM site visits to improve our institutional knowledge of sites and operations
- Began meeting with BLM offices to improve communication and coordination
- Began meeting with operators to improve communications
- Revised EAB resolution and by-laws and released and recruited citizens representatives
- Hired consultant and upgraded the complaint database to make it more user-friendly with help of IT department
- Mapped well pads, compressor stations and UIC/injection wells
- Assisted operators with COGCC Rule 305 waivers and well pad density waivers
- Implemented system for processing royalties with help of County Attorney's and Treasurer's offices
- Met with DOE and resolved technical issues on Rulison, clarified position and gained assistance of Federal legislators on behalf of property owners, operators
- Coordinated hydrogeologic assessment of Divide Creek seep and presentations to COGCC
- Identified and hired consultant to begin Mamm Creek Hydrogeologic Assessment Phase III
- Assisted in the resolution of and documented 65 citizen complaints

Wendy Swan and Nicki Reckles were present along with Judy.

Judy went over all the above information with their graphs. Judy stated they would explain how they deal with complaints. Complaints go into any three of them in their office. One phone goes to Wendy and she decides if she can handle the complaint or pass it on for more investigation.

Wendy explained the straightforward complaint is usually a dust complaint and it is easy to determine what operator dominates the area. She calls the operator to talk about it and the majority of the time they agree to send a water truck to water down the roads. She calls the complainant back and lets them know when this will happen and enters the complaint into a database.

Judy explained if the complaint requires an investigation then they would usually conduct a site visit. Nicki maps the site on the GIS and conducts a site visit. She will take any necessary noise and air quality measurements. If they can identify the potential sources or the operator, they will contact them. Most recently they received a noise complaint so she went to the site; however, she was unable to obtain a reading but she noted this, called the operator and they took a reading. The operator took a reading and they were under the COGCC permissible levels. She reported this to the complainant. The operator did call back, stated the fracing operations would resume, gave their schedule and said they would attempt to mitigate noise.

Judy said, typically they are trying to facilitate communication; there is not a whole lot more they can do. It is usually an exercise to see which operator is close by and try to contact them to alleviate the problem. They then enter that information in their database and they have a record for the future. They did update their database this year. Judy went on to explain graphs showing the number of Form 2's (applications for permits to drill) and Form 2A's, which is a new form. It is an assessment of the location where a new disturbance is going to take place. You can see there are more Form 2's than 2A's and that is because there are existing pads out there and a lot of operators are simply just moving the rig to an existing pad without existing disturbance. She wanted to give them a sense of what is involved with their review of permits. COGCC has instituted an electric form notification process. They send her e-forms and she passes them on to Wendy and Nicki to review.

Wendy explained the packet they receive from the COGCC. They look at all the areas for hot spots like Rulison and she makes sure all the proper documentation is there. This process takes about 10 hours per month.

Judy stated it was not real demanding; if Wendy was out of the office, she could take over.

Nikki showed how she logged into the COGCC website. She then enters a document number, reviews the application completely, reviews the permit, looks for hot spots, mineral use owners and attachments. This process takes her about 19 hours per month.

Judy explained how much time they spent on these processes. They are working through all the issues with the COGCC.

Commissioner Houpt found this interesting because looking at the screen, seeing the attachments and not having massive files of papers coming to the office is good. Her question or request is that they think about how the state is in the process of setting up a new system because everyone is going the paperless system. She feels this is a good direction to move into and makes a lot of sense not having all the paper.

Judy agrees but it takes a lot more time to go through these if they return to the levels they had last year.

Commissioner Houpt asked will it or is it just a process of adjusting.

Judy feels that the paperless takes much longer and the emails take too long.

Chairman Martin said it would take several years to get adequate.

Judy continued with her slide presentations. The activity level is an increase in drilling rigs in the US. That has been steadily rising in Colorado as well. Judy went over pricing. They are beginning the well drilling for an assessment on Mamm Creek.

Commissioner Houpt expressed her appreciation for everything Judy and her staff has done in terms of your computer programs. She also appreciates the fact that new systems take longer to address but she is confident you will all work together to make it as easy as possible.

Judy thanked the IT department for all their support.

Lorenzo Scherer stated in September they reported a liner up on Mamm Creek that Antero operates where the liner was breached. The liner was supposed to line the pit and it is floating out in the middle of the liquid pond. It is not lining the pit and the material is going out into Mamm Creek. There is nothing they can do about evaporation on this pit; it is constantly evaporating and you cannot be near it at all. He has had to get rid of his goats that he could have sold and he had to kill them because he could not let people eat them or drink the milk. He stopped using the milk himself. What water is going into Mamm Creek and the Colorado River is polluted. The only thing Antero has done is lock the gate. He just wanted someone to know about this and do something about it. If no one does anything within the next 60-days he will go to lower basin states, have some people come up here to look at it and we will get it in court that way.

Judy said she will call the COGCC about Antero's Well.

Lorenzo said to his knowledge a refinery has to hold the permit to store it in this manner. He would like the air and water cleaned up.

RECOMMENDATION OF EAB CITIZEN REPRESENTATIVES – JUDY JORDAN

Three letters were submitted to the Board for their consideration as a representative for the EAB. Those letters were from Brent A. Buss (Rifle/North Rifle), Howard Orona (Parachute/Parachute Creek) and William Cole Edwards (Battlement Mesa/Battlement Creek).

Judy said they changed the process to bring these recommendations to the BOCC. She asked the EAB to convene a committee to help Judy review the candidates so they could make a decision as a group. She requested a volunteer from the EAB and they had a representative from the municipalities, one organization, the industry and herself as well. They requested letters of interest and submitted those. They called each of those people to come in and asked the same questions of each person. The list of people she submitted is the recommendation from Judy to the Board.

Commissioner Samson asked how many people applied and Judy said 11. Commissioner Samson asked if this will complete all areas and Judy said no, there are four areas that need a representative.

Commissioner Samson – I move we accept the recommendation of the EAB and appoint Brent A. Buss, Howard Orona and Wm. Cole Edwards. Commissioner Houpt – Second. Do you think there is no interest because of new areas?

Judy explained they actually mailed the entire areas individually for letters of interest. They have done ads in the newspaper and posting on the website. Some folks who interviewed were asked what they would do to make themselves known to the community so they could come to them with comments or complaints. Someone suggested having a reception, some type of social gatherings where the public is invited to introduce EAB. Judy thought it might not be a bad idea.

Commissioner Samson thought that perhaps it would good to put an ad in the paper, explain what EAB does, and list all the areas. In favor: Houpt – aye Martin – aye Samson – Aye

STAFF RECOMMENDATION TO APPROVE AWARD OF AN INDEFINITE DELIVER, INDEFINITE QUANTITIES CONTRACT TO MASTER PETROLEUM WITH A TOTAL AMOUNT NOT-TO-EXCEED $570,000.00 TO SUPPLY GARFIELD COUNTY WITH BULK MOTOR FUELS – JAMAICA WATTS AND MARVIN STEPHENS

An invitation for bids was posted to the Rocky Mountain E-Purchasing System and the Garfield County website on November 23, 2009, in the Post Independent on November 3, 2009 and December 7, 2009, and in the Citizen Telegram on December 3, 2009. Four companies submitted bids, all were reviewed for

compliance and were found to be responsible and responsive. They are asking the Boards approval to award to Master Petroleum in an amount not-to-exceed $570,000.00 and authorize the Chair to sign.
Commissioner Houpt – I make a motion we award indefinite quantities and indefinite deliveries contract to Master Petroleum in an amount not-to-exceed $570,000.00 for the fiscal year 2010.
Commissioner Samson – Second. He asked why Master Petroleum is going to charge more from Grand Junction than Denver.
Marvin said he did not ask that question. In favor: Houpt – aye Martin – aye Samson – Aye

STAFF RECOMMENDATION TO MODIFY THE PREVIOUS AWARD OF A FIRM, FIXED PRICE CONTRACT IN THE AMOUNT OF $23,973.00 TO WASTE MANAGEMENT OF COLORADO, INC. FOR COUNTY WIDE TRASH AND PAPER RECYCLING SERVICES FOR FISCAL YEAR 2010 TO ADD COUNTY WIDE GLASS AND PLASTIC RECYCLING SERVICES IN A NOT-TO-EXCEED AMOUNT OF $3,068.00 FOR AN AMENDED NOT-TO-EXCEED CONTRACT AMOUNT OF $27,141.00 – KENT LONG

On December 14, 2009, the Board awarded a firm fixed price contract to Waste Management of Colorado, Inc in the amount of $23,973.00 for the fiscal year 2010. At the time the award was made Commissioner Houpt requested the Office of Contract Administration to obtain additional cost and pricing information from the contractor on additional recycling services. The contractor has provided that information. The cost varies based on the number of "polycarts" at a given location and the number of times the polycarts are serviced by the contractor. The current glass and plastic recycling needs of the county are not known. Therefore, to provide the most flexibility to the Board until actual needs are established, one additional polycart should be located at each of the 12 county locations now serviced by the contractor. The initial frequency of servicing would be once a week until the actual needed service level can be determined. The additional charge for glass and plastic recycling services at this service level is $3,168.00 for fiscal year 2010. Staff is looking for approval to award the contract to Waste Management Services of Colorado, Inc. in an amount of $23,041.00 for the fiscal year 2010.
Commissioner Houpt was under the impression a few years ago, this was part of the Waste Management contract and she thinks it is important to recycle. This is important this county recycles and is an important commitment to make.
Kent said they are recycling paper.
Commissioner Houpt said she knew that but thought they were also dong more.
Chairman Martin explained they would need to train personnel and ourselves.
Commissioner Houpt – I make a motion to approve the award for a firm fixed price contract in an amount of $27,041.00 to Waste Management Services of Colorado Inc., for the fiscal year 2010. Commissioner Samson – Second.
Kent this would be a not-to-exceed amount.
Commissioner Houpt said she would say not-to-exceed. In favor: Houpt – aye Martin – aye Samson – Aye

STAFF RECOMMENDATION TO AWARD A REAL PROPERTY LEASE AGREEMENT TO FARNUM-HOLT FUNERAL HOME IN THE ANNUAL AMOUNT OF $12,000.00 FOR OFFICE SPACE FOR THE GARFIELD COUNTY CORONER FOR FISCAL YEAR 2010 – KENT LONG

On January 11, 2010, the Office of Contract Administration received an accounts payable voucher from the Department of Finance for $12,000.00 for "yearly rental" "use of building". After investigation, it was determined that the accounts payable voucher pertains to the lease of office space for the Garfield County Coroner. Discussions with the lessor occurred on January 12, 2010 to confirm the history of the lease. It has been concluded that a current lease for this office space does not exist. The lessor provided additional information to the contract administration office on January 12, 2010. The first draft of the proposed lease was completed on January 13, 2010. It appears from the APV that the lessor is requesting to be paid the annual rental amount in its entirety at the commencement of the lease term. Payment of the entire annual rental at the inception of a lease term for commercial real property is not an industry standard practice. Staff is recommending that the Board award a commercial real property lease with Holt Family Funeral Home, Inc. in the amount of $12,000.00 for office space for the Garfield County Coroner for fiscal year 2010. Staff takes no position on the possible advance payment issue pending a justification from the lessor.
Kent explained the draft is under review with county attorney's office.
Commissioner Houpt stated to Kent that he made a comment about his concern regarding the process, where do you stand on that.
Kent explained that from the invoice the lessor is requesting upfront payment. The industry standard for commercial leasing and residential leasing is, as we know you pay at the start of the month.
Commissioner Houpt asked; historically, as a county, how have we approached this.
Chairman Martin and Ed both replied; both ways.
Kent said it would appear that the historical practice is it is paid up front. Again that is contrary to what you see in commercial industry.
Carolyn explained this is the other way around from the counties other properties you are talking about; you are the lessee not lessor. Another question to consider is our standard lease when we are we are leasing something out to a non-profit or some other entity we allow them to do improvements, allow them to do tenant finish at their cost; but she is wondering perhaps they should have a paragraph stating there will be no such thing. She has to assume the property is the way the coroner wants it to be.
Kent said he specifically deleted the tenant finish paragraph because he did not believe there was any tenant finish at this point in the relationship.
Carolyn is wondering if they should just drop out all of that language.
Chairman Martin stated he owns it as well.
Carolyn said they can take out all of that language but they still need to know if you want to pay on the front end, or do you want them to pay on a monthly basis.
Commissioner Houpt said she had no preference on that.
Commissioner Samson – I move that we approve the $12,000.00 for office space for the Garfield County Coroner for the fiscal year 2010 and it be paid in one lump sum.
Commissioner Houpt added; and we delete the language and authorize the Chair to sign. Second.

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

STAFF RECOMMENDATION TO APPROVE A 2010 CONTRACT RENEWAL LETTER WITH COLORADO STATE UNIVERSITY, OFFICE OF THE STATE FORESTER, IN THE AMOUNT OF $57,160.00 TO CONTINUE THE COUNTY'S PARTICIPATION IN THE EMERGENCY FUND – KENT LONG

The county entered into an intergovernmental agreement (IGA) with Colorado State University, Office of the State Forester in 2007 to participate in the Emergency Fire Fund (EFF). The IGA is authorized by various Colorado Statutes and Rule 5.5 of the Garfield County Procurement Code (GCPC). The EFF compensates the County for reimbursable expenses it incurs in containing and extinguishing forest fires in any given fiscal year. The IGA has a five-year term subject to annual renewals. The current contract renewal letter is for the fourth of those five-years. The current amount of the 2010 contract renewal letter is $57,160.00. Staff recommends that the Board approve the execution of a 2010 contract renewal letter with the Colorado State University, Office of the State Forester in the amount of $57,160.00 and authorize the Chair to sign.

Lou stated they have been in this for several years and Garfield County has definitely gotten their fair share and benefit.

Commissioner Samson – I move we approve the contract renewal letter with Colorado State University, Office of the State Forester in an amount not-to-exceed $57,160.00 and authorize the Chair to sign.

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

STAFF RECOMMENDATION TO APPROVE THE STATE IGA BETWEEN GARFIELD COUNTY AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE SOUTH CANYON TRAIL PHASE 2 PROJECT – JEFF NELSON

Staff has presented this IGA along with exhibits A through J, which detail the provision and stipulation, the County; CDOT must adhere to in order to receive this funding. The government construction estimate for the project is included with this document. Staff indicates, the risks in the IGA may be addressed by the County Attorney and was forwarded to the BOCC on August 26, 2009. CDOT has indicated everything it needs from Garfield County and has provided a local agency contract administration checklist detailing everything it requires. Staff recommends the Board approve the IGA between Garfield County and the Colorado Department of Transportation to provide funding for Phase II of the South Canyon Trail project and authorize the Chair to sign.

Don would like to provide legal advice concerning the status of the contract for the South Canyon Trail Phase II contract. He would like to take the opportunity to have the finance department provide documents concerning the budget and staffing issues for the Treasurer's office.

Commissioner Houpt - I make a motion to go into executive session to discuss the two items.

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

Chairman Martin asked for a motion to come out of executive session.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

Don said he does not know if Kent, Jeff, or Matt would want to have any input; but there have been discussions with CDOT concerning a specific section. Section 29 in your contract, and whether or not it should be made applicable to Garfield County. It concerns generally a requirement that the county participate in the State Contract Management system and they need to have further discussions with the State if that should be applicable to us. Kent has succeeded, at least a little bit, in getting their attention and they think they would like the opportunity to carry those discussions forward. One way or the other they will bring this back to the BOCC at next meeting and would like to defer decision today.

Commissioner Houpt asked if they needed a motion.

Chairman Martin said they needed a motion to defer.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

TREASURER UPDATE – GEORGIA CHAMBERLAIN
DISCUSSION OF BUDGET/STAFFING ISSUES

Georgia is requesting another person for her office as her goal has been to run a professional, efficient, customer service office and is challenged with the staff she has now. She does not feel she is properly staffed. There has been a dramatic increase in the workload in her office. Foreclosures have gone from 108 (2008) last year to 408 (2009). They do not know how much the foreclosures would increase and when you look at statistics in the early 80's; it took 2 1/2 to 3 years before the foreclosures peaked. She knows the economic timing is different now; it is much more unpredictable than it was then. However, that would mean their foreclosures would escalate to 2011 to 2012. Those are just predictions; I hope that this sad situation will not escalate as it did last year. With our poor economy, the tax sales have also increased. It increased to over 100 this past year and would be the same with the tax sales; it would take a couple of years to escalate. Along with this comes a lot more work. She has a good staff now that is able to help people. She wants to keep the Rifle office off open 5 days a week. She has been down an employee since July and two employees have asked for changes in their duties. Her chief deputy is working ¾ time and is intending to retire at the end of this year or the first of next year and is anticipating taking extended periods off this year. Another employee has requested a job better suited to her life at this time. She is also experiencing restructuring in her office. She has had an independent review to improve office processes, staffing and procedures, and that is not completed. One thing that has come up in that review is the need to restructure to separate the duties of handling money and recording money. In a small office, it is a challenge.

Commissioner Houpt asked what level of clerk she is requesting.

Georgia replied a Clerk III.

Commissioner Houpt appreciates the explanation and the thought she put into this; obviously, your department is seeing a great deal of work and it makes more sense. It did not go thru the budget process; but staffing needs are not always anticipated.

Chairman Martin wanted to talk about the steps they have to go through and asked Lisa Dawson to come forward. He wanted Lisa to go through the processes they have to do for budgeting.

Commissioner Houpt said we also have to recognize other years when the sheriff has experienced this issue and seen an increased need after the budget was approved as well.
Lisa gave an overview of the documents given to elected officials and department heads. They start the budget process in spring with a kickoff presentation. Part of the information she has are public documents that explain the process handed out in the June 16 meeting. They did make changes to the budgeting process for personnel last year and it was explained through presentations and handouts they gave attendees. That explains the payroll projection worksheet that was sent out to every department and explained how the wage line items were affected. The also sent every department a payroll projection worksheet through email and it showed the number of positions in the department as well as the budget associated to that department. If they did not get a response back, then they would go with the worksheet as presented to them. Every elected off and department head received a personnel budget information worksheet which asked for any new job position in the department for 2010 or any promotion plans, such as having one person progress to other levels. After they received the information they sent it to all departments, a proposed budget for their wages and the only difference between that work sheet and the one presented to the BOCC in December, was that there was the 2% increase included. She just wanted to remind everyone what the process was just to show we did have a number of discussions about staffing and wages. The last piece of information presented was the minutes to the budget meeting you had with Georgia on November 5.
Commissioner Houpt agreed as Commissioner Samson pointed out she brings in a great deal more revenue than her budget spends. She knows they have a process, she also knows that they give people ample opportunity to look at what their needs are going to be into the new year. But, she also knows that every day brings new information and new insights. It would be difficult to argue with Georgia that her workload is not expanding or has not in the past year. Therefore, this is why she supports her request and she does appreciate the process Lisa put in place. She also thinks there are times when we need to be flexible.
Chairman Martin said the difficulty is what we told our employees that we would do no increases for pay for performance, said we will not create new positions, that we would fill those positions, phase some out through attrition, and actually trying to cut.
Commissioner Houpt she understands.
Chairman Martin asked Georgia if she had any positions open at this time and she explained they hired someone last week. He asked her if she was doing a reorganization of her operation and she stated yes. He stated that is the other dilemma he has opening up and putting a position in before you do your reorganization. He thinks the finance department took over some of treasurer's duties.
Lisa said the treasurer was helping them and finance took them back over.
Georgia said they are still doing a big portion of certain areas.
Commissioner Houpt stated, you are doing a restructure of your staff and you clearly see you will need a certain level of people to meet the needs of the community.
Georgia said she has been elected to run her office.
Commissioner Houpt stated there are many counties where they do not have this level of cooperation with budget and she applauds the different elected officials in Garfield County. I make a motion we approve the request for a new FTE for the treasurer's office as requested by the Garfield County Treasurer.
Commissioner Samson – Second for discussion; but he is a little concerned. We had this budget hearing, you were there, we went through it, and he applauds her for running a good department that brings in $4 million and only spent $770,000.00. But we went through this and he thinks it was a unanimous decision by us as a commission that we would try to hold spending and we would not create new positions, and we would try to eliminate through some attrition, which has happened. Times are going to get tough. He was the one that lead the charge that employees will not be given a 2% raise. Commissioner Houpt made the motion to give them a 1 ½ % raise
Commissioner Houpt clarified it was not a raise it was a merit bonus.
Commissioner Samson voted against that and so did the Chairman because his rational was it was not prudent with so many other municipalities, counties and school districts letting people go. With that in mind plus as we look at the document here when we had our budget review, we asked you specifically if everything was okay within your budget. As far as I can see and that was just two short months ago, and you said everything was fine. He feels she knew all the foreclosures were coming; we talked about that a year ago. Therefore, he is perplexed as to why all this has become known now that it is all approved.
Georgia said one thing is the change in the jobs of the employees; they were struggling on what they wanted to do. One had already gone down to ¾ time, the other situation just recently has become known. Also the issue of how do you train to replace the employee who has been the right hand person in that office who is retiring. It is not a job you can just have someone step into; it requires there be some extensive training. It is difficult and that is what has happened. Thus, the reason she is coming to them. If you look at her history with budgets, she has stayed within her budgets and not asked for big raises. She has been a very conservative office as far as spending. In this past year she had unanticipated expenses, which you all know of and she chose to remain within her budget without having to add more to it even though you granted her additional budget. She takes her job seriously and is not spending a lot of money in her department. She runs a tight ship and her history shows that to be true.
Commissioner Houpt thinks it is important as they look at the budget process to make sure that we do not set up the system where elected officials and department heads know they cannot come back to us. They have to anticipate what could potentially happen and ask for more employees than they actually need. Because there is no opportunity to come back, she thinks there is a balance there that we need to recognize and not put them in a position of padding their budgets so they will have enough in the event there is a need.
Chairman Martin said we do have a relationship but we also have a relationship with the other elected officials. He is prone to allow the process of reorganization, get new personnel trained and thinks they need to allow what is in motion right now to go forward and get the true recommendation.
Commissioner Houpt said we are assuming that we can better determine what the treasurers needs are better then she can and she thinks that is unfortunate.

Chairman Martin said he did not say that at all. He thinks she is in the process of making the best decision. After the process is finished, he is supporting that process to make a true recommendation.
Commissioner Houpt said it is a true recommendation today or she would not be sitting in front of us.
Georgia said she has had a vacant position for 6 months plus the one-quarter time missing with Jean Richardson.
Chairman Martin asked if we are confusing a position that has been allocated that you can fill.
Chairman Martin said he argued the same point with Lou because he had so many allocated positions, even though he does not fill them there are still positions that can be filled.
Georgia said she has attempted to run the office with fewer employees and found it was not prudent.
Chairman Martin said when he was looking at the spreadsheet, you just hired someone last week, because that was the only position you had and it was a Clerk II. He is looking at the number of positions authorized during the budget. You have 8 employee now but you are asking for 9th position to be created.
Georgia explained she has one is half time employee, so it is really 7 ½ employees.
Lisa confirmed.
Chairman Martin said so you are asking for another full time and the half time and it goes back to his point that you are creating a new position.
Commissioner Houpt said her motion was to approve that new position.
Commissioner Samson stated he is inclined to go along with Chairman Martin's line of reasoning. Let the process continue as it was intended to do and if in 3 months Georgia needs to come before us and explains what she has done but still needs another person, then we will review it once again.
Commissioner Houpt said she would like to remind the commission that we are talking about an elected official's office. They are elected by the public to serve in that capacity. Yes, we are elected to be the stewards of the assets of the county and responsible for the budget. However, she thinks they are going beyond their capacity. It is different from an elected official when they come in front of us and outline why they are requesting a certain change in the budget.
Chairman Martin said he appreciates that but he does not think they are going outside their capacity. I think they have put a guideline together for the entire county and they have to live by it. It is not totally denying anyone of anything. I just want to allow the process to be completed then bring it back to us so we can reevaluate our position. If the study shown a need in what Georgia is doing then we will reconsider as we have done with Lou and everyone else. We were asked to be a little more prudent and a little more cautious in our approach that is all.
Commissioner Houpt thinks we will find with this down turn in the economy, there will be certain departments that have higher demands on their employees than other and that has to be taken into consideration.
In favor: Houpt – aye Opposed Martin – aye Opposed Samson – Aye
Chairman Martin stated when she has finished the study; bring it back and let us reevaluate.
Georgia said she wants to run a good office and she will bring this back.
Chairman Martin said what it amounts to is that it is a difficult time and we are trying to send out a message to everyone else.
Commissioner Houpt said we also have to be practical about where the needs are in this county.

COUNTY SHERIFF UPDATE – LOU VALLARIO
APPROVAL TO REPEAL SEARCH AND RESCUE RESOLUTION

Lou indicated he thinks the purpose of this resolution is no longer there and would like to eliminate this fund.
Lisa stated there was approximately $85,000.00 in this fund.
Lou said they have accurate records of how much of that is county money.
Kathy advised there was $2,700.00 to Search and Rescue.
Don explained once this resolution is repealed it will cease to exist and the money that is coming to Search and Rescue Inc will remain there.
Commissioner Houpt – I make a motion we approve the request to repeal this resolution. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye

Approval to Eliminate Search and Rescue Fund

This was approved above.
Don will prepare a resolution for the Board to sign.

COUNTY ATTORNEY UPDATE – DON DEFORD
CONSIDERATION AND APPROVAL OF AMENDMENT TO THE RESOLUTION ESTABLISHING THE OIL AND GAS MITIGATION FUND – DEBORAH QUINN

Deb suggested a work session to discuss the indicated funding. The resolution has specific language to use those monies for funds not available elsewhere. That is not the case in this situation. If you wanted to use that fund then you would need to modify or change particular portions to indicate other needs that it would cover.
Commissioner Samson asked if they needed to amend it.
Don stated if that is your desire; his recollection when this was passed was language specifically included to make sure the revenue was not expended until actually needing to do so.
Chairman Martin explained we also said they wanted to keep it active and to use it to authorize payment for administrative costs associated with the oil and gas department.
Commissioner Houpt said there were very specific guidelines and she read those. We also were very concerned that this fund could not be drawn down quickly and not tapped into it every time a new project occurred.
Chairman Martin explained it was to do those studies.
Commissioner Houpt explained they would have to show that there is no other money available or talk about changing the resolution.
Don clarified this fund would be available to discuss those purposes.
Ed - If we were to build a cell for pit liners and only use the existing fund at the landfill, it would draw down their fund balance.

Chairman Martin - This resolution and fund would allow that to cover the cell as it is related to the oil and gas issues. Therefore, it would take care of the downward spiral for the landfill fund balance.
Commissioner Houpt asked if there was funding available for a health study.
Ed stated yes these funds could be used to specifically deal with oil and gas issues.
Commissioner Houpt agreed and this health study would fit it.
Don reiterated the fund is there because the board wanted it to tie its hands.
Chairman Martin thinks they have funds that are identified and available for that study in the general fund dollars.
Deb said her suggestion is that Mr. Rada comes back before the Board and identifies the cost.
Chairman Martin said his opinion would be to come back to this oil and gas mitigation fund only if no other funds were available.

CONSIDERATION OF A RESOLUTION TO AMEND ORDINANCE ADOPTING MODEL TRAFFIC CODE TO CORRECT SCRIVENER'S ERROR

Cassie explained that the proposed resolution; in the last clause of the ordinance, there is an extra number and requests that be removed.
Commissioner Houpt –So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye

Executive Session:

Don needs to give legal advice on the Model Traffic Code and the Williams alleged violation; to provide/discuss property acquisition on 7th Avenue in Glenwood Springs and legal advice with the city; advice/direction on IGA for South Bridge Development; status of negotiation – Battlement Fire Station; final direction on the cemetery district; Carolyn would like to discuss acquisition or condemnation at the airport; and closure of CR 319.

HUMAN SERVICES COMMISSION:

HSC EXECUTIVE COMMITTEE INTRODUCTIONS – KAY VASILAKIS

Kay requested approval of the Board on the executive committee members for the Human Services Commission - Cindy Flemming, Heidi Pankow, Micaela Folsom, Pat Horowitz, Susan Ackerman and Barb Donnelly.
Commissioner Houpt – I make a motion we approve the executive committee members as presented.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Kay explained there will be a Humanitarian Awards dinner tentatively on April 12 and she is asking for a contribution from the Board of County Commissioners for $5,000.
Commissioner Houpt stated this is a wonderful evening. I make a motion we approve the request for the award dinner.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

APPROVAL OF EBT/EFT DISBURSEMENTS FOR DECEMBER, 2009

For the month of December 2009 client and provider disbursements for allocated program totaled $278,569.96. Client benefits for Food Assistance and LEAP totaled $515,254.40. Total EFT/EBT disbursements for December totaled $793,824.36. A copy of the certification summary has been included in the Board 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

CONSIDERATION AND SIGNATURE APPROVAL ON 2010 LEASE WITH CHILDHELP, INC.

Rent for the facility is $8,000 on a quarterly basis, which will continue to be offset by services provided specified in the renewed contract with Childhelp, Inc. in the not-to-exceeded amount of $32,000.00.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION AND SIGNATURE APPROVAL ON CONTRACT AMENDMENT NO. 5 WITH THE STATE OF COLORADO'S DEPARTMENT OF HEALTH CARE AND FINANCING FOR SINGLE ENTRY POINT AGENCY FUNCTIONS

Due to the State budget reductions, the Single Entry Point program received a contract amendment reducing the not-to-exceed amount of the current SFY10 contract to $480,718.96. This represents approximately a 7% total decrease. The department is requesting the Board's approval for signature on the amendment.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION AND SIGNATURE AUTHORIZATION ON A CONTRACT AMENDMENT WITH COMMUNITY HEALTH INITIATIVES FOR THE STATE COMMUNITY PREVENTION PARTNERS GRANT

In December, approval was provided on a subcontract with Community Health Initiatives, Inc. for the continuation of the State grant working on community-wide prevention policy efforts in the area of substance abuse. The original contract amount was $110,000.00. After the last Board meeting, a funding change letter was received from the State increasing the amount of the grant (term 9/30/09 through 9/30/10) by $30,800.00. A copy of the funding change letter and the revised budget page for Community Health Initiatives in the not-to-exceed amount of $140,800.00 is in the Board packet. The department is finalizing a contract amendment to reflect the additional monies. They are requesting signature authorization on the amendment of the contract with Community Health Initiatives, Inc.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

PROGRAM UPDATES

Child welfare staff attended trainings on the Front Range the first week of January in preparation for participation in the State's Differential Response Demonstration and Research grant.

The department will be filling a caseworker position to support work required for the new Juvenile Justice grant. The position will be coordinating a community juvenile evaluation team and providing case management to adolescents.

BOARD OF HEALTH:

ASPEN TO PARACHUTE DENTAL HEALTH COALITION PRESENTATION

Mission: Create a comprehensive dental system including access, education, prevention and treatment for the indigent and underinsured population from Aspen to Parachute.

In 2008, the Aspen to Parachute Dental Health Coalition (APDHC) formed to address the unmet need for affordable dental health services in our region. In Garfield County, there are over 13,600 people under 250% of the Federal poverty level (a family of four earning less than $55,000 per year falls below 250% poverty). The Colorado Health Institute estimates that 23% of Garfield County residents are uninsured. Even those with health insurance may lack dental coverage leaving many children, adults and seniors without the ability to treat their dental health needs. Members of the Dental Coalition are listed on file. In 2010, the Aspen to Parachute Dental Health Coalition will take a two-pronged approach to address its mission. With funding from the Colorado Department of Public Health and Environment, Pitkin County and Garfield County, the coalition will hire an oral health consultant to implement and expand prevention-oriented programs in the community. The APDHC will also contract with the experienced indigent dental organization Dental Aid, to conduct a feasibility study and develop a strategic plan for a proposed indigent dental clinic in our region.

Proposed budget expenses:

Consultant	$43,680.00
Mileage	$ 3,000.00
Training	$ 500.00
Computer/Supplies	$ 1,700.00
Cell Phone	$ 750.00
Phase 1, 2 contract with Dental Aid	$30,000.00
Total Expenses	$79,630.00

Projected Revenues:

CDPHE Oral Health Unit	$20,000.00 (secured)
Pitkin County	$30,000.00 (secured pending match)
Garfield County	$30,000.00 (proposed)
Total Revenues	$80,000.00

Proposed Timeline:

Post Consultant position in February 2010
Hire position in March 2010
Initiate Step 2 (contracting with Dental Aid) August-October 2010

Project Sustainability:

- Funding to sustain the consultant position will come from a two-year commitment from the CDPHE, future grant writing efforts, existing grant funds (already awarded to support current prevention-based programs), as well as future requests to county entities.
- The work developed by Dental Aid will determine the future feasibility of an indigent dental clinic in our regions. However, if the project is determined to be feasible, Dental Aid will provide the APDHC with assistance in creating a financial model for sustainability.
- Forward progression with this proposal will require the APDHC to submit invoices and frequent progress reports which will be shared with the State, Pitkin, and Garfield County Commissioners.

Sandy Swanson Family Visitor Program Director, Carrie and Liz Stark from Pitkin County were present.
Liz gave a presentation to the Board and stated she would respectfully request $30,000.00.
Commissioner Houpt – Dental Aid has been in the Boulder area; how do you fund them.
Liz – We bill Medicaid and have private grants.
Carolyn – This sounds like we need an IGA with several government entities. Does your coalition have separate funding and/or you set up for 5013C. They answered no.
Carolyn stated we could not give money to an entity that does not exist. They could create an advisory board and then all the money could be ran thru the finance department. The Department of Public Health is not to be responsible unless you want to take personal responsibility. She suggested that Mary sit down and perhaps the coalition needs to become advisory board
Chairman Martin suggested bringing this back to Board on Feb 1, 2010.
Sandy – After 25 years, she is willing to do this in order to get this off the ground.
Carolyn asked if Sandy could contract with Dental Aid. Sandy – Yes.
Mary said the state is requesting that we pass the dollars to the County.
Carolyn – Okay, if the state allows you.
Don – Do you have a contract already with the state? Mary – Yes.
Sandy – We can work on this and get back to you on February 1, 2010.
Don asked Mary if it flowed through her budget and she answered yes.
Commissioner Houpt –I make a motion that we do commit $30,000.00 from the general fund that would go through the Public Health and all the details will be worked out with legal and finance and brought back to us. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

SUPPLEMENT #1 TO THE ADOPTED BUDGET – THERESA WAGENMAN

Chairman Martin asked if noticed was and Theresa stated yes.
Don stated the actual publication speaks for its self and it is appropriate to proceed.
Chairman Martin swore in the speakers.
Theresa presented Exhibit A, supplemental #1 requesting the BOCC allow them to make changes.
Chairman Martin asked for a motion to close public hearing.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion to approve the resolution as presented.

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

CONSIDERATION/ADOPTION OF ORDINANCE 2010-1, ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR TRANSIT SERVICES BETWEEN THE ROARING FORK TRANSIT AUTHORITY AND GARFIELD COUNTY

The amount of this IGA is $614,000.00 for the Hogback corridors.

Don said this was actually published; it is not a public hearing for this discussion. It was published on Christmas Eve. The Board needs to approve this ordinance and then publish then 31 days after publication it will become effective.

Commissioner Houpt asked if both parties approved.

Don stated yes, fully.

Commissioner Houpt – I make a motion to approve an Ordinance, 2010-1 for an IGA for transit services between the Roaring Fork Transit authority and Garfield County. Commissioner Samson – Second.

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

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to Sign a Resolution and Land Use Change Permit for a Communication Facility to be Operated by Marathon Oil Corporation on Property Owned by chevron USA, Inc. – Kathy Eastley
f. Authorize the Chairman to Sign a Resolution Concerned with the Approval of a Combined Preliminary Plan and Final Plat for the Doug Coffman Subdivision, CPPF 6609 – Tom Veljic
g. Authorize the chairman to Sign the Resolution and Special Use Permit Concerned with the Approval of an Accessory Dwelling Unit for a Property Owned by Ron Perau and Located at 1963 County Road 210 – Fred Jarman
h. Authorize the Chairman to Sign a Resolution Concerning Hydraulic Fracturing – Supporting Exemption from the Safe Drinking Water Act – Don DeFord.

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

Commissioner Houpt asked to set aside letter g for discussion.

Chairman Samson – moved to approve all but g. Commissioner Houpt – Second.

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

Commissioner Houpt stated she could not in good conscientious vote on this one.

Commissioner Samson – I move we authorize the Chairman to sign the resolution.

Chairman Martin – Second, understanding the safeguards for water are in place and enforceable by the State of Colorado.

All in favor – In favor: Samson – aye Martin – aye Opposed: Houpt - aye

COUNTY ATTORNEY - EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated all items were previously discussed for ex. 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:

DIRECTION TO OIL AND GAS LIAISON ON MARATHON OIL APD – JUDY JORDAN

Don stated this is a matter, which Commissioner Houpt may not want to participate.

Commissioner Houpt said she would recuse herself from this discussion as she did in executive session.

Don said the direction he is looking for regarding the APD is at this point, a couple of things to consider. One is to send a request of the commission staff stating your position regarding drilling in the vicinity of Prather Springs, then await further action by staff and if that goes forward you have the opportunity to request a hearing.

Chairman Martin would like to have this Board reiterate their opinion, if there is no response from the Oil and Gas Commission, and keep the options open and have a public hearing on the resolution.

Don asked Judy if that gave her enough direction to know how to correspond.

Judy reiterated what she heard saying you want me to submit comments and those are of the nature of the resolution. Judy will submit those comments in the resolution. She asked what if they decide to issue a permit anyway.

Chairman Martin – Just ask the COGCC to answer the questions in our resolution.

Judy said if they fail to do so she will be back asking specifically about a hearing.

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

CONSIDERATION OF NOTICE OF ALLEGED VIOLATION OF C.R.S. SECTION 29-20-203 – WILLIAMS PRODUCTION RMT COMPANY

Don stated you have received a copy of a letter of correction from Williams regarding a hearing you held previously, concerning activity in the Battlement PUD. In their letter under the statute, alleges a violation of that statute and requests that we take certain action concerning your previous condition of approval. At this point, there are two things to consider. 1) The letter itself should be made a public document. 2) It is his understanding they will agenda this for further discussion in the first meeting in February.

Chairman Martin stated there is no need for any more action.

PROPERTY ACQUISITION ALONG 7TH STREET

Don would like the Chair authorized to sign the documents regarding the property acquisition.

Carolyn said she is asking for ratification signature on property disclosure, closing instructions and we will reschedule in February for full authority.

Commissioner Houpt – So moved. Chairman Martin – Second.

Commissioner Samson said it is too much money.

Chairman Martin said to look at it as the future.

Commissioner Houpt said it allows for a solid partnership.

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

SOUTH BRIDGE

Don wanted direction on a letter from Glenwood Springs concerning participation in further studies on the South Bridge and his understanding is that the Board wants that set for further discussion at the next meeting.

NEW COUNTY BUILDING

Regarding the development of the new judicial facility or the administration building in Glenwood Springs, it is his understanding the Board wants that set for the next meeting.

Chairman Martin said the reason those are set on the agenda is for the public participation.

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

DETERMINE BY FACTUAL FINDING IF THE RIGHT-OF-WAY OF COUNTY ROAD 312 PREVENTS JOINT USE OF THE AFFECTED, PROPOSED EXEMPTION LOTS FOR THE SMITH-ORR PARCEL – OWNER/APPLICANT; LACY ORR AND GIL SMITH, REPRESENTED BY JOHN TAUFER AND ASSOCIATES, INC. – MOLLY ORKILD-LARSON

Molly Orkild-Larson, John Taufer and Deb Quinn were present.

Molly submitted the following exhibits: Exhibit A - Garfield County Unified Land Use Resolution of 2009, as amended; Exhibit B – Garfield County Comprehensive Plan of 2000, as amended; Exhibit C – Staff Memorandum and Exhibit D – Exemption Plat Mat.

Project Background

The 78.4-acre parcel is split by County Road 312 (CR 312) with the majority (58.4 acres) of the property situated north of CR 312. Historically, the larger parcel has been used for agricultural purposes (irrigated alfalfa and grasses) whereas the smaller parcel consists of native vegetation (Gambel Oak, Pinon, and Juniper). The alignment of CR 312 creates steep cut/fill slopes along the subject property resulting in a situation whereby access to the smaller parcel from CR 312 is questionable.

In 2007, the Applicant submitted a Major (4-lot) Exemption and Public/County Road Split application for the same parcel but withdrew it due to an outstanding issue regarding the location of one of the existing wells on BLM land. At that time, County staff was recommending approval to the BOCC.

Recommendation of Findings

The application meets the requirements of Public/County Road Split (Sections 5-202 and 5-403) the Garfield County *Unified Land Use Resolution of 2008*, as amended.

Staff Recommendation

Staff recommends the Board to find that the road right-of-way prevents joint use of the proposed Exemption Lots.

John Taufer filed an exemption application requesting 5 lots on a 78 acre parcel located on CR 312 approximately 6 miles south of CR 331 and 312 – as result of the rd location it bisects the property; John described how the property was situated, how many acres on each side of the road. Because of the road going through the parcel, there are some steep cut and fill slopes and to access it is very difficult.

Chairman Martin asked if it was vacant land.

John stated it is except for one house built back in 1972.

Chairman Martin explained the road has created a hardship.

Beth Cook stated she lived up there for over 40-years and it is very beautiful; Lacy has a beautiful piece of property. The County Road goes through there and there is no connection going from the larger piece to the smaller piece.

John Taufer stated that staff has received approval. In 2006, he submitted a similar application and the lot has not changed. At that time, staff also recommended approval as well.

Commissioner Houpt said they have seen situations where the road does not disrupt the use of property; but looking at the photo here, it does. I make a motion that we make a factual finding that the County Road right-of-way prevents joint use of the affected use exemption lots as presented by staff. Commissioner Samson – Second.

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

CONSIDER A REQUEST FROM PLANNING STAFF TO SCHEDULE A BOARD SITE VISIT FOR ROAD VACATIONS; RVAC 6060 (IRON ROSE LAND AND CATTLE, LLV) FOR COUNTY ROAD 153, RVAC 6061 (IRON ROSE LAND AND CATTLE, LLC) FOR COUNTY ROAD 165, AND RVAC 6091 (COLORADO ROCKY MOUNTAIN SCHOOL) FOR COUNTY ROAD 106, ALL LOCATED IN THE CARBONDALE AREA – TOM VELJIC

On October 12, the Board set a schedule for three road vacations being CR 153, CR 165, and CR 106. On January 13, the planning commission had its first hearing and recommendation, which will come to you on April 5 and the other two are scheduled for February 10 before the planning commission. At the October 12 meeting it was discussed they would have a site meeting date set for all three sites. He restated they have a hearing coming up April before the Board of County Commissioners.

They decided on Tuesday, March 16 at 9:00 a.m. for everyone to meet at Tom's office at the administration building.

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

DISCUSSION AND CONFIRMATION ON COUNTY LAND USE REGULATORY REQUIREMENTS REGARDING REMOTE FRACTURING ON COGCC – APPROVED WELL PADS – KATHY EASTLEY

Kathy sent a brief memo regarding some direction that staff is seeking regarding regulating requirements for centralized facilities related to oil and gas production. Williams is here today with a presentation. Centralized facilities are activities the county has regulated in the past and we now have remote fracing that is occurring and need direction on regulatory requirements.

Ann Lane explained that remote fracing is not a new operation and has been going on in the county since 2006 by Williams and other operators as well. They were not aware that the staff believed that this would be an activity regulated by or requiring permits through the County simply because Williams has read the code and no one has ever brought it, for permitting to the county. To them it clearly fits in the definition of a use by right. She wanted to mention it is covered by the COGCC. They have gone through extensive rewrites of the regulations in Colorado and they are the most stringent throughout the United States. The

other good news is that remote fracing is good for the county. Williams pioneered this here and it has been used in other states. They have received many awards from the COGCC and the BLM. It reduces their footprint on the well locations, the time on the locations and substantially reduces truck traffic. When she looks at the county's old and new code she goes to Section 3, Zoning. It provides in the Land Use Code that when oil and gas drilling and production on sites approved by the COGCC it is a use by right in all zone districts. Flipping back to the definition of oil and gas drilling, it is any operation utilizing equipment, which advances a borehole into substrata for the purpose of discovery, development and production of oil and gas. That is exactly what remote fracing does. It is not an accessory to drilling and production; it is, by its very nature, the purpose of fracing is to advance the borehole. After they finished drilling the well, they pull out the drill pipe and then they have to make a determination; do we complete the well or do we plug and abandon the well. If they make the decision to complete the well then the completion operations consist of putting casing in the hole, we prep it, we frac it, which is the remote fracing and then they set surface equipment. We have to do all those steps in order to produce the well. In the Piceance Basin, they would not be able to come up with an economic well if they did not go to the fracing operations. When their analysis was of whether this required being reviewed by your staff; they looked at the code and it fit squarely within the definition of oil and gas activity on an approved drill site by the COGCC. Ms. Eastley mentioned in her report that there are certain uses that the county does regulate on an oil and gas site. She does not disagree. One of them is the temporary employee housing; but they think the difference here is while temporary housing is very essential she thinks it is distinguishable because it is not an operation utilizing equipment, which advances a borehole into the substrata. Remote fracing is. Other sections in discussions with staff they talked about material handling or pump station. Again, they do not believe it really fits within those definitions. They do not believe that was the intent when put into the code. Another issue, there are impacts relating to remote fracing. They do not argue there are impacts to remote fracing; however, they do say that the county has chosen its own regulations not to regulate activities on oil and gas sites as you have very wisely recognized there is an extensive regulatory process at the state level. She does not believe impact should be the issue here. With respect to material handling, it comes under industrial use or activity but when you look at that code the industrial use or activity, industrial use or activity is defined as uses engaged in processing or manufacturing of material from either extracted or raw material. Remote fracing does not fit into processing or manufacturing; it is part of the drilling process. It is not like a pump station or a compressor station. It is not a fixed or permanent installation of equipment. It is very temporary in nature whether it is a remote location fracing for one well pad or many pads. There is no substantial difference from fracturing on site or by remote; it is the same exact operation. She mentioned that the COGCC has always been regulating this; however, under the new regulations they are required to file for a Form 2A. This is a surface location permit and is in addition to the APD, which is really for the down hole purpose. The surface location permit requires us to provide extensive information, notify landowners, and consult with the Department of Wildlife and Public Health and Environment. The county always receives a copy of this form 2A. They can request consultation at any time. We have that obligation to consult with the county if they request it; we are always open to the county.

Steve Harris – Gave a power point presentation on remote fracing.

Ann stated as shown, the remote fracing is no different from being on the pad or off the pad; it just has a longer flow line between the two. Through this process, it is a win win situation for everyone. Less impact to residents, less surface disturbance, less time on rotations, fewer water trucks, less damage to roads, and less dust. Many of the landowners want this process; they like this process and request it. This is already covered by your regulations because it is a use by right and approved by the COGCC.

Commissioner Samson asked what safeguards they have so there would not be a problem.

Steve said when they do construction, they start with the random x-ray and the biggest thing is the pressure test. They pressure test 10,000-PSI makes sure line is secure and before every frac job they pressure test again. They have pressure-monitoring equipment, on both sides, at the well pad and the remote pad. If they do have a leak, they will shut down immediately and they have people who walk the line.

Deb - Once the well is drilled and they make a decision to abandon or complete the drilling isn't that what advances the bore hole.

Ann said the drilling does advance the borehole, but when you are fracturing into the zone that is also advancing the borehole.

Steve said once the well is drilled they have to log it and see if the zones are there worth completing. If the zones are there, then during the completion process they do the perforating into the zones of interest and connect the zones of interest. Then, they have a fracture stimulated. The fluid they pump actually creates the fracture, actually creates the crack and then they pump sand with the frac fluid and the sand stays with the fracture and keeps it open. Without it staying open, it would not be a commercial gas well.

Deb stated that Ann used a couple of different terms, one was well bore and bore hole, is there a difference.

Steve stated the borehole is what was bored with the drilling bit.

John Savage, retired attorney was present representing the Savage family interest and said we have remote fracing. Williams has one and they are very happy with the process. It does make a market difference in the reduction of the overall impact of well drilling. It is one of those things the industry is doing to make their operations less impactive on the community and landowners. They do not think the county has a real roll to play in the permitting of this operation. COGCC does cover it in part with the pad location permit; it is a temporary operation. He does not think county permitting is necessary in this instance.

Sam Potter – Rulison. He has had experience with the impact of gas production for the last several years. A few years ago, when he was the chair on the Energy Advisory Board (EAB) they had a lot more issues with surface problems than currently. In the time spent on the commission, they have seen how impacts of operations have been reduced significant. Just a few years ago, they were having hearings here in Glenwood Springs about acre spacing, well pads on 40 acres; that has all gone away. It is all an evolutionary process and part of that process has been the development of those frac pads that allow for less impact on the surface. On his place, Williams used a frac pad on one of the drill pads and significantly reduced the impact on the Potter's place. This saved them another 3 or 4 acreage impact. This is an issue between the landowner and the operator to work something out that would benefit each. In one case, one of his neighbors allowed the intrusion of a frac pad along with a drill pad. He does not think the county needs

to be involved in this and does not see it as a long-term issue. It is beneficial for truck traffic and he thinks it is a positive thing.
O'Brian works for Williams and she passed out picture of a drilling location to owners in the audience. This drilling site is undergoing drilling operations and there is no frac movement on this location. Had they placed fracing equipment on there it would have interfered with his crops for that year. They would have had dust issues from the trucks going in and out. When they went to landowner and asked for their planning options and their concerns with the development on their property; they asked are you going to frac on our property, where else can you do it, what size is that pad.
Commissioner Houpt asked how do you find the ideal location for the frac site and has that been problematic for people who live close by.
Steve said that obviously, we look at the impacts and from a technical standpoint; they try to frac from low end to high so it will flow downhill. Some pads have timing limits, exclusionary zones; it is pretty much a negative process with landowners and gives them options. He explained all the options.
Commissioner Houpt really appreciates this and it wonderful for people who do not have fracing on their property. She wonders how it is working for them finding locations for fracing.
Steve said so far very easy. Sometime they do not use tanks; they use a frac pit and if they do that, they follow the COGCC rules for the Form 15 and try to stay ¼ mile away. That is one of the big determining factors if we use a pit or use tanks. If within a ¼ mile of a residence there is going to be additional regulations on the Form 15 side and that requires them to use tanks. On the pit side they feel they get a better use of the fluid; it is a single process instead of every one of the 40 or 50 tanks that have to be treated separately. He only has to treat one pit; it keeps the smells down. They will put the frac location as far away from people as they can. Any time they do remote fracing, it usually allows them to get further away.
David Loveland a member of West Chapter of Colorado Oil and Gas said his organization is also a member of the Grand Junction Area Chamber, which has a set of policy statements. They have a subcommittee that is the Energy Committee and determined this fits within their area of interest. He read the letter previously sent into the record and gave a copy to the Clerk and Recorder, Jean Alberico. His organization supports the best use practices in technology and view fracing as a hallmark of a technology.
Sher Long had a question for Steve. The concern is that if they have this new added layer of permitting, it can be quite burdensome because of time the sensitivity in fracing. Therefore, would the permitting process perhaps make it necessary for us not to consider the remote fracing in certain instances?
Steve said if they did not have remote fracing they would have to make the pads bigger in order to accommodate the equipment on site. When they go through the permitting process for negotiating with landowners and agencies to fit this jig saw puzzle in to make this work, if they cannot be certain they can get a permit for remote fracing, then he would be asking for a bigger well pad so he could make sure he has room for all the fracing. If he has a remote frac, when they do the planning cycle he will recommend they do not need that much area. Yes, it would affect the permitting process.
Keith Hale - Engineer for Chevron, they have been doing remote fracing in California since the late 1980's. It is a desired way to perform the work and their number one goal is safety. Having to place the lines by hammering is probably the most unsafe thing they have done. Welding of lines is the way to go as it lowers the impact and they still do that in California. They brought that here to Garfield County in late 2008. They do everything on Chevron fee owned land but they still believe it is the way to go.
Larry Kent of Halliburton said they talked a lot about the aspects of safety and he would like to say they perform about 100,000 hours of work in a month on William's locations and the hand and finger injuries are the most common they have. The remote sites allow them to reduce those impacts on their employees. That is evidenced and they maintain their recordable incident rate. In 2007, it was in the 3 to 3 ½ injuries for 200,000 hours worked. In 2009, when they were completely on the remote locations, their recordable injury rate was less than .5 for 200,000 hours worked. A lot of that is attributed to the number one injury they experience; the hand and finger injury. The most dangerous thing they do is to drive. They had several rollover accidents in 2007 and 2008. By reducing the number of miles and the number of times traveled over remote roads, they were able to reduce the possibility of heavy vehicle accidents. The question today is whether to permit fracing. From a service company not from an operator, anytime there are additional regulations put on the operators that pay them to come out and do work, it eventually affects the service company and the employees. As far as regulating, they appreciate the efforts of Garfield County and Mesa County on the COGCC, who is putting forward to regulate their industry. If it is duplicitous, he would ask the Board to reconsider putting a permit fee.
Ed Hoagland stated that recently Williams completed a pad and they had to access his property; the remote fracing tremendously slowed down traffic.
Cheryl Chandler– Who is going to regulate this. They are short on employees as it is in Garfield County and no one is trained for this.
Kathy wanted to make a few comments. Remote fracing is one issue; but there is also centralized fracing and there is quite a difference between the two. If you remember the GVA-82 well pad that came before you, the well pad size was not sufficient to allow the fracing operations to occur on site. They used an adjacent well pad and they considered that a removed facility. The adjacent well pad was used to house the equipment and the fluids were pumped over to the GVA-82 well site. A centralized facility is a vast difference; it is when one site is used to frac multiple well pad locations. It is not just an adjacent pad. Kathy was not sure what the distance is but it is fairly great. The temporary aspect of the potential impacts then get extended because a new well pad comes in and they have this already disturbed area they can use for fracing. Certainly, staff is not saying there are not immense benefits that come with that but there are also land impacts to resolve. Our land use code talks about the BOCC reviewing those impacts. The new technologies that come about are always a benefit but there are some things that need to be considered with them. Our code does not define remote fracing; it does not define it other than saying advancing the borehole for oil and gas production activity. Clearly when fracing occurs on the site where the drilling and production have occurred, we have not in the past nor will we in the future look at regulating. However, when there is a centralized site that is going to be used there are property impacts and other land use issues that are not part of the COGCC and those are the responsibility of the Board. Because these issues came up with Battlement Mesa, this is new to staff to understand those potential impacts and what the COGCC

reviews. That is the reason they brought the issue to the Board. It is certainly seen from William's presentation that there are many benefits but it is not a reduction in traffic per se because the water still has to get to the site. Whether it is the individual well pads or a remote fracing facility, the well still requires over 500,000 gallons per well for the fracing. Therefore, the fluid has to get to the site somehow. Unless it is done through piping, truck traffic will result. It would be diminished due to the frac tanks or other methods and a pond on the site will not require moving those frac tanks from well pad to well pad. Reduction of traffic could occur but the timing issue does extend the disturbance on one area. If there are adjacent properties on the area, those impacts will result for a substantial period even though it may be considered temporary in nature. Other issues are whether there would be potential impacts based upon the zone districts in which this occurs. What they have heard about here are fairly remote locations that have these centralized facilities. Some other discussion points she has brought up are the zone district limitations and the land use impacts versus the COGCC regulatory aspect, which may result in some duplicitous review. She does not think that the COGCC is necessarily looking at the land use issues that the county typically focuses on in our code. The fact that a centralized frac facility does not necessarily have to occur on an old COGCC approved well pad; it could occur on private land that was not previously disturbed. Is that reviewed differently than if it is on a COGCC approved well pad?
Ann said one comment Kathy made was if it was not on a COGCC improved pad. They had a situation like that before the new regulations came into effect and they came and talked to the county because they did want to put a remote frac location that was not on a previously disturbed drill site pad. She did recognize that under the County's own regulations that it would be evaluated differently. She would now consider under the Form 2A any sort of surface disturbance area is approved under the county that they would have to permit through the COGCC that separate location and it would be an approved site. Before the new regulations came into the COGCC level, there was a difference. One other great benefit, we have fewer service people getting lost with your roads. There is a significant reduction in the trucks if you bring the water to a centralized location and you are using it to frac certain wells, and then using it to frac other wells so you are using that water repeatedly. There is an amazing decrease in traffic by doing remote fracing as you no longer have to truck that water to the locations, truck it away and then come back. Kathy mentioned she was not sure how far they could go but it is less than 3 miles. They do try to centralize and as Steve mentioned it reduces the time on a well site location because of the drilling then coming back and having more of a surface disturbance requiring you to be out there longer. Typically, on remote frac locations, it is not like there are ongoing operations every day. We go out, stage our frac, it is already disturbed as it is already a drill site location and when they have to frac the next well site they go back in. It is not a day-to-day operation.
Commissioner Houpt stated historically this county has permitted centralized facilities and this is a new discussion for the Board. We have permitted other types of facilities because of the long term. Talking about centralized fracing, do you go thru the CDP process with the COGCC so you will have a comprehensive development plan? You are really talking about more than one APD and it seems like it would fit really well with that. If you have selected a fracing location, you need to put a plan together.
Ann said she does not believe they have done an APD with the COGCC; but under their initial BLM fracing location that was what they called cluster development.
Commissioner Houpt said it appears to her that this might be an approach that could engage the county at a level of comfort. We can actually have a sense of where that land use is going to be.
Steve stated that none of the remote frac sites they have has been under the new rules; but the plan is we would say here is the location for the fracs, here is the well pad and where the lines will go. That process has already been negotiated with the landowner. We will have multiple pads in an area and that is exactly what the plan does. We do negotiate with BLM that this is our year round drilling period saying we will move and go into this canyon and let this one sit for the winter. Then we move into the next canyon so there is a wildlife management plan and we say here are the locations and the areas we will drill in and here is where the frac location will be for all of the pads in the area.
Ann stated she does not believe they have gone through the comprehensive drilling plan process yet.
Commissioner Houpt thinks it might be a better opportunity for the county to be engaged at the planning level that staff is most concerned about and we would be more consistent with what they have done in the past, which are permit-centralized facilities. We do look at the long term impacts and want to make sure that the land use provision of our code are considered. What do you consider the life of a typical centralized facility because you can keep coming back for years? What does temporary mean?
Steve said it depends on the gas price. They went in with a drilling plan saying they would develop over a three-year period and they had 20 rigs planned. Suddenly, the gas price dropped and they released all the rigs. Now they have all this disturbance out there; they have all these pads built and all the production equipment sitting waiting on the gas price to go up so they can drill again. This is part of that flexibility they would like to have in the 2A process. We can tell you what we would like to do, subject to gas prices but at least you would have a plan of what we would like to do.
Chairman Martin said they did see this presentation and they looked at all the possibilities of it and went through the same ground years ago. He said they found it is more advantageous and this board encouraged that it is not a new process. He remembers this was a benefit to the landowners and that is why they supported and encouraged it. This is an old argument; it needs to stay under the oil and gas permitting process. We do not have the expertise and we do not have the staff. The oil and gas folks have their permitting process at the State, they inspect it, self inspect it and self report it. After of all of the years in Garfield County he has not seen one discharge or one failure. We have not had any violations that he is aware of in reference to remote fracing. There have not been any reported violations. He thinks it is a good process and it makes it go fast.
Commissioner Houpt thinks that Chairman Martin misunderstood her statement. What she meant, she is quite aware it is not a new process, the notion of discussing how we are going to approach it with our code is a new conversation for us. She does not think there is any question that this could be a huge benefit. She does not think that staff is asking us to regulate the technical end of this. They are talking about land use concerns, land use impacts, anything the Board would look at in a regular land use application only because it is centralized and there is a longer period of impact and disturbance. She thinks there are ways of

approaching this with the new oil and gas rules and opportunities to bring the county into the discussion. She thinks there needs to a willingness in this community too to recognize that the county wants to weigh in on the land use concerns as well. She certainly would entertain the notion that working within the COGCC rules as long as they know they will have greater opportunities than in the past to weigh in on the concerns as they relate to centralize fracing. She would like to hear more from staff on that if there is a concern about that. She thinks there is a tool in place now that really does bring the county to the table.
Commissioner Samson agrees with Chairman Martin; he thinks there are tremendous pluses with the remote fracing. Truck traffic cut by 90%, footprint 30%, reduces noise, dust, odor, impacts to wildlife and the BLM and DOW wants it. They have used it 6,000 times since 2006 and not a single line problem. It seems you have safeguards in case they are needed. He thinks they need to support the findings and we do not need to regulate remote fracing. Leave it to the COGCC. He wanted to address Tresi's concerns; the county receives a copy of Form 2A and we can consult with them. He thinks that is a safeguard for the county. We do not want to hire people to go around and take care of all the problems; he thinks that should be left up to the COGCC.
Commissioner Houpt said the CDP is a COGCC also and did not know if he understood that. She thinks when you have a long-term centralized facility that will be service for many wells that seems to be a really good way.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

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FEBRUARY 1, 2010
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 1, 2010 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.

COUNTY MANAGER UPDATE – ED GREEN

- **A. Potential Location of the Administration Building in Glenwood Springs – John Martin**

Chairman Martin stated in light of everything that is going on with the economy and the uncertainties he does have a desire to move forward with a new building, he thinks it should be for judicial; but again, there are the others to consider such as administration and the elected officials. We are talking about a location within Glenwood Springs and he does not think they have everything together yet to put a time line on this. He believes we need to do more work. He is hoping they can work with the City of Glenwood Springs but take the pressure off both the City and the County. We need to work out the details and the possibilities and secure the locations so we have control of where we want to put this building and when.
Commissioner Houpt and Chairman Martin disagreed about the building, the timeframe, the type of structure, who it was to be built to accommodate and where it would be located. There were no materials placed in front of the Board today so a decision would have to be postponed.
Chairman Martin wants to work more closely with the City of Glenwood Springs, staff and have a better cost analysis.
Commissioner Houpt stated she felt that staff has done a cost analysis, put materials together and prepared a presentation to the City a few weeks ago.
Chairman Martin wants to complete the Sheriff's Annex and the Human Services addition prior to moving forward with this new structure in Glenwood Springs. This new building in Glenwood Springs will take a little more time to work out the details to make sure they do the right building. Another option on the table is the Henry building. We need to do something there; we have issues that we have talked about for years. The other one is in Battlement Mesa. We need to look at our Comprehensive Plan on where we are going with our capital needs and to evaluate each one of these locations.
Ed said they did provide a packet of material at the joint meeting with the City. It included the schematic of each option, and the cost of each option so we do know what it would look like and how much it would cost. The best alternative from the cost and sighting standpoint is the location directly behind existing courthouse. As you saw in the analysis, the cost for an administrative facility is approximately $12.8 million and the cost for a court facility is around $14 – $14.5 million.
Chairman Martin stated that was just for the building. The other issues that came up in that meeting that really put a damper on it for him was the expectations, the needs for parking improvements, more secure property, parking needs expanded and felt we need to work with the City of Glenwood Springs. That really does go into long range planning because you are talking about the building and the other items that need to be included. This is a cost of $25 to $30 million dollars that really needs to be looked at and to do a decent job of scoping. He is most concerned that we make sure we satisfy the impact and the needs in the area right now. He would love to build a building right away and put everyone in it. It would be shortsighted because they are making impacts that we cannot mitigate. We need to be able to work with the City to mitigate those impacts of parking more than we are right now. It will take a little more time. It may take some more property acquisition.
Commissioner Houpt stated she is not sure they need to acquire property at this time but we need to sit down as a Commission with all of the material in front of us and have this discussion. A special work session was suggested. The three of us need to go through these materials together with the treasurer, assessor and the clerk in on the discussion.

Chairman Martin said the other issue is that you are leaving out the court system.
Commissioner Houpt said she is not leaving out the court system. There is a courthouse in place, and the State does not assist us. The State does not assist them with building courthouses and justice centers; we need additional space for the treasurer, clerk and recorder, assessor and Commissioners as well as administration. Nevertheless, we absolutely will continue to accommodate the courts; but she wants to look at the most cost effective approach in moving forward.
Ed thinks the thing that participated this more than anything was a request by the courts to go from four to seven courtrooms. You look at the budget for the State; that does not seem like a viable scenario any more. Maybe John is right and we have to reevaluate whether we have enough space right now.
Commissioner Houpt said that can be part of that discussion as well; but she felt they did not have enough information in front of them today to make that decision.
Commissioner Samson said it sounded like they were both saying the same thing. Do we have this subject on the agenda for tomorrow?
Ed stated no it was taken off the agenda.
Commissioner Samson asked if they needed to schedule another.
Chairman Martin stated it is a major expenditure. The other issue is the timing of it; the economy and what are we doing to the downtown area. What is the perception of the citizens? Is this building necessary at this time and at this point in our financial situation? He said that is why he brought it up. He wants more discussion on it to get different points of view and if you feel we need to continue the work session, okay. Later today, a new date will be set for a work session.

COUNTY ATTORNEY UPDATE – DON DEFORD

- **B. Glenwood Springs Request for Funds for Environmental Assessment for South Bridge – John Martin**

Commissioner Martin received a letter from Mayor Bruce Christensen stating at the January 7 meeting Council voted to proceed with an environmental assessment for the South Bridge and road. Alternatives to be considered in the environmental assessment include 8b and 10b however, alternative 5 was omitted. The City has an intergovernmental agreement with Garfield County for the environmental assessment for the South Bridge and road that anticipated a completion in April. Because the environmental assessment will not be completed by April, an extension to complete the assessment will be needed if Garfield County wishes to continue to be a partner with the City to complete this work.
Chairman Martin believed they had a budgetary item to assist and we have spent $89,000.00. We did take a vote at a public meeting to discontinue that because based upon the finding and that the scope was too small. We were trying to put too much into the earmark; however, the City wishes to go forward. According to this letter, they want to know if we are going to continue with them.
Commissioner Houpt said it was a 2 to 1 vote. Chairman Martin and Commissioner Samson need to help her understand the extent of that motion. The motion did not include funding; but she does not know if that meant that if the city decided to move forward we were not going to support them.
Commissioner Samson said the fundamental problem he has with South Bridge is the lack of funds and where the money is coming from to complete this.
Commissioner Houpt said the issue with transportation projects is the same across the country. There is a process you go through to be able to begin to identify funds that are out there for transportation programs. You cannot do that until you are at a certain stage. She has two issues, one is the city and the county made a commitment to move forward to identify alternatives and to do an Environmental Assessment. We have established a fund for that and we are halfway through that process. We have already spent a good deal of money and now we have decided not to move forward. The shelf life of that data we spent money on is 6 months. If we shelf that data it is gone after 6 months. To her it makes sense to create that document, finish the process and do the environmental assessment. From that assessment, if it is discovered that those alternatives are good ones, then fine. The other thing it does, it advances you in the process and it allows you to apply for monies that are out there when you would not be able to otherwise.
Chairman Martin said the State of Colorado is not participating and not paying anything. It would be totally up to the local governments to pay. The issue he brought up and they voted on it yes, there may be a need for an emergency under the earmark but that is not where this project is going. It is way beyond what it should be. What we should do is put together a larger scope using the Quarter Optimization Study, making sure the alternatives are there or what we are wanting it to be. It is to be a by-pass and that is where it was headed. We also need to make certain we are putting it in the right spot. He said they are trying to mix two things; the by-pass and an emergency escape route together and the earmark is not specified for both. The earmark is for a specific item; yes, it can be adjusted somewhat on request. However, it still does not give you access to total funding through the highway user tax. It will still be up to the local entities to pay for it.
Commissioner Houpt said there are Federal funds out there for bridges and transportation routes. However, you cannot qualify for those monies unless you have your Environmental Assessment (EA) completed and they look at it as a serious project. The discussion of this project has been that it is more than an emergency access, and the consultants who were hired recognized that and that is why they call it local access too. She thinks it is in place for moving forward to an EA. I make a motion we commit the funds to complete this project at the request of the City of Glenwood Springs.
Commissioner Samson asked what kind of funds.
Commissioner Houpt explained it was what they committed in the IGA.
Chairman Martin said he thought those funds had already been expended.
Commissioner Houpt said only a portion of those funds has been expended.
Don said he included the IGA in the packet of information to the Board and he thinks the original contract amount was $200,000.00. There is a letter request, which was honored in 2008 for $89,313.00. The question he has is whether or not in the 2010 budget if the remaining amount was budgeted and appropriated.
Chairman Martin said that he thinks based upon the decision not to go forward it was not moved to 2010.
Don said the agreement is dependent on appropriating the funds for it in any given year.
Lisa said it was not appropriated in the 2010 budget.

Commissioner Houpt said they could accomplish that by amending the budget.
Don said if you are doing that, then you are doing a budget supplement and they need to identify sources of funds and the usual. Commissioner Houpt said it is not in excess of what they agreed to commit to this project. We have spent $89,000.00 and the commitment was $200,000.00 so the city is just asking for the balance.
Don clarified her motion for the balance and not any additional funds.
Commissioner Houpt stated correct.
Commissioner Samson said he could not see any sense in going forward with this the way it is.
Chairman Martin – Second for discussion.
Commissioner Houpt asked Commissioner Samson if he was familiar with the area. Have you been over there?
Commissioner Samson explained that he went over to look at the proposed by-pass. He is not happy with any of the alternatives, to be honest. He thinks it was very prudent for the Board not to go forward with alternative five (5). He thinks something like this needs a lot more than what we see in the initial proposal.
Commissioner Houpt stated this has been an extensive process and no one can say until you get further down the road with the EA whether it will work or not. These two alternatives came from a long list of alternatives, with many people spending a lot hours over the past year and a half. She would say it was very extensive and inclusive of community members in Glenwood Springs.
Chairman Martin said he did not disagree but the scope is excessively small. He said they need to go ahead and put what needs to be put on the table and work with the by-pass taking care of the circulator through the City process. It needs more than one bridge and it needs more than one road. The scope is too small; we need to go back and say the scope needs to be widened and include a lot more from I-70 on through what you are trying to accomplish and do it right.
Commissioner Houpt said they are going through a travel management and how it interrelates with each other. By moving forward with the EA, they are not making a commitment to any alternative. They are studying it further to make sure that they are viable alternatives.
Chairman Martin said he understand the process. It is too small and that is the by-pass and the larger road.
Commissioner Houpt thinks there are some huge safety issues that would be addressed. This is her district and she is sorry they do not understand the critical nature of this discussion. It will come up every time there is another development application that comes in front of the Board. We are stopping in mid-stream and it will be a reoccurring or, when another rock fall occurs, or some other issue occurs and we are stopping a process in midstream. We spent a lot of money up front, that data is going to go away, and when this comes up again with a different group of elected officials, they will have to spend that amount of money again. She thinks is wasteful.
Chairman Martin said he understands and respects her point of view but also he does understand the process and he still feels it is too small. They can accomplish very little out of this; the bridge is still in the County and it is out of the city and they need to look at what really needs to be done and work towards that. Put the question to the people and work it through a real comprehensive issue of collecting money, putting it aside, and not always going to Federal Government to bail us out. Solve our own problems, work with each government, and identify the issues that need to be resolved. Not just putting an earmark in place and using it for a small locating bridge, this is outside the scope.
Commissioner Houpt explained that transportation infrastructure is too expensive for local governments to pay for. We use federal money for all of our road maintenance.
Chairman Martin disagreed.
Commissioner Houpt said we use HUTF Funds, it is all supplemented with federal monies and to pretend that we do not use other funds to keep our infrastructure going is not a good representation. It is very expensive to build bridges, roads, and highways; that is why the federal and state governments work closely with local governments, it is expensive.
Commissioner Samson said he would like to talk to CDOT director Dan Roussin and table this until next week.
Chairman Martin said that was fine; table and come up with a final decision in reference to this.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Discussion of Remote BOCC Meetings – Mike Samson**

Commissioner Samson stated he has been working to see if they could get the BOCC meetings throughout the County. He feels it is important and one of the things he heard from his future constituents when running for this office. He heard nothing but good about having the meeting in Rifle.
Commissioner Houpt said it was a hassle for a lot of the staff members and not just Kathi.
Commissioner Samson said the people in Rifle, Parachute, and Battlement said thanks for doing that. He would like to continue this and set up some kind of schedule so that the people of the County would know in advance, where we would be going. Next time maybe is Carbondale; looking at the information that Ed gave them, some communities it does not look like a good possibility for Silt. New Castle could work, Carbondale definitely and Battlement Mesa definitely. He thinks they need to go ahead and put a schedule together to spread these meeting over the County.
Commissioner Houpt said that Fred Jarman was here and she had a question for him. Before we start talking about what kind of a scheduling they would put together, she wanted his input on what kind of lead-time Fred needs.
Fred said they are scheduled through the middle of March for these meeting.
Fred said the land use code has time lines that need to be held within certain time limits. You may end up with a meeting that starts here; but let's say you have to continue it; you possibly would continue it by default to Battlement Mesa. If you are okay with that then he just wanted them to be aware that could happen. You may get items that are geographically located in Missouri Heights; but you will discuss them in Battlement Mesa. The time lines will require Fred to set a schedule so wherever that meeting will be held. Right now, they do not have anything beyond March.
Chairman Martin said that April 13 is looking good.
Commissioner Houpt said they would be looking at Carbondale next.

Ed suggests Carbondale during warmer months.
Commissioner Houpt said she was thinking Parachute during warmer months. She said it depends on whether it makes sense to do outlying communities during the winter or whether staying central makes more sense. She asked Fred if they had an application on Battlement Mesa.
Fred said they do not yet. He suspects they would want to have those here.
Chairman Martin said why don't we target April 19; see if Carbondale can host us or not. If not then we can get Battlement Mesa.
Jean explained what it takes to do this remotely. She suggests we should do something once a quarter rather than once a month. The other thing is, are you really sure you want it to be the third meeting of the month. That seems to be such a packed meeting. The third meeting is filled with human services, sheriff report and public health. What makes the most sense for which meeting we should be doing.
Ed said the second has the least on the agenda.
Jean said the other comment about having at Human Services Building is that it is a long day from 8:00 to 3:30 and it makes more sense town council would have comfortable chairs. It is difficult for staff if not set up with the proper tables, it physically gets difficult sitting all day long and trying to take notes like Kathi is doing. We can live with it if it is only so often therefore Jean is suggesting they try it once a quarter. It might make it easier for Fred to fit into his schedule if you know that far ahead of time and discuss whether it makes more sense to have it on a different day; the second meeting would be better rather than the third.
Ed said the one thing they talked about was the potential of having future Rifle meetings at the sheriff's new building. It would be a larger room.
Lou said it was set up for 60 people in attendance with tables and 100 seating in chairs. It is not quite as big as this room.
Jean asked if it was at a point that you could make sure it has recording capabilities.
Randy explained all the wiring is there; it is a matter of what equipment you need.
Commissioner Samson stated to Jean that he thought she had said that Carbondale met on the first and third Mondays. Jean explained they meet on Tuesdays; they have court on a couple of Mondays, she believes it is the first and third and you have to be out by 5:00 p.m.
Commissioner Samson stated if we meet the second Monday in April, we should be okay and Jean stated they would need to check. Commissioner Samson asked if this required a motion and Don stated it does, because the meetings are set now in Glenwood Springs as the County seat.
Commissioner Samson – I move that we direct Jean to check to see if Carbondale is available to have a regular scheduled commissioners meeting on Monday, April 12th (the second Monday of the month) in the Carbondale Town Hall, and if so, we do such.
Jean said she would have to make sure it does not interfere with the City elections and she will let the Board know.
Commissioner Houpt – Second. She likes Jeans idea of quarterly until they figure out the logistics.
Commissioner Samson said that is fine. In favor: Houpt – aye Martin – aye Samson – aye

- **D. Garfield County Libraries "The Big Read" – Amelia Shelley**

Amelia Shelley, Executive Director of Garfield County Library District and Emily Hisel, Outreach Coordinator is present. Amelia wanted to let everyone know that the "Big Read Program" starts today.
Emily gave an overview; on Thursday, they are bringing in Tim Hamilton who adopted a novel to a graphic version. He will be coming to talk with different high schools throughout the County. They will be going to Roaring Fork High School, Coal Ridge, Rifle and Grand Valley High School. This Thursday, Tim will be at the Glenwood Springs Community Center for an open public talk. They will also have an art opening that evening. They have programs including book discussions and movie nights. There is a Spanish discussion in Silt.
Amelia said the fire department would be coming out to read to the kids.
Emily said this Friday, in Carbondale; they will have a bond fire and fire dancers with some spicy food.
Amelia explained she is doing two programs in Silt and Rifle on censorship; titled Book Banning Made Easy, How Liberians Control What You Read. In August, they will have a meeting in Parachute and in November, they will have 150 in Rifle.
Commissioner Samson attended the ground breaking for the addition for the Parachute Library. They had 50 plus people there.

- **E. Request Approval for Highway Users Trust Fund – Coley Clarke**

Coley submitted the improvements done on county roads, which include asphalt, chip seal, Battlement Mesa chip seal, gravel, changes/edits, future roads, adds, deletes and mileage. He also submitted was the Garfield County road inventory report.
Ed explained that roughly 10% of Marvin's budget is funded through the Highway Users Trust Fund - $3.6 – $3.8 million.
Coley explained they had a few name changes; for example, County Road 103B was changed from Deer Park to Deer Path. Coley went over the changes they did adding a road in Battlement Mesa and Rifle annexed the road, so they lost .25 miles of county road.
Commissioner Houpt asked if this was when they talked to Road and Bridge about these projects.
Ed said that would be another time. He explained that each year they budget 25% of Marvin's budget for improvements, paving and chip seal projects. It averages about $6 million a year spent on these improvements.
Commissioner Houpt wanted to talk about chip sealing and she had a question as to whether these are projects that meet the needs.
Don said that his office has questions about two roads but they are included in the list.
Commissioner Houpt asked Marvin if there were projects that could not be completed because of funding shortfalls.
Marvin explained this is a completion list along with the 5-year plan.
Commissioner Houpt said this is not the meeting to talk about plans for this year.
Ed said no that will be the March work session.
Marvin will try to have everything on a map for March to present to the Board.

Ed explained that often what they accomplish is based upon the price of asphalt and chip seal. Last year was a great year for this; the budget came in about 2/3 the cost they anticipated and they were able to accomplish work clear into November.
Don asked about two roads but specifically, 317A Scribner's Lane. It is Don's understanding that road has not been accepted as public or a county road and he doesn't know if they should include it in a list of roads that someone reads as indicating it is a public road. He knows they are not claiming funds for it yet in the HUTF report.
Marvin explained that the legal work has not been done.
Chairman Martin stated it is under the heading future county roads and it has not been adopted yet.
Marvin stated they have two roads that have to be adopted and that is one of them. They talked about the old road is a non-maintained county road and the other one connects with the JQS Road.
Don said it was going to include the Favre Road; but we should because that is a road that has not been accepted by the Board as a public and county road. Although that road is probably public; because it is substantially on BLM property.
Marvin said no; it crosses deeded land on that too.
Don stated that 317A is a specific segment that they are trying to resolve contract issues. He is concerned about indicating that is a public road.
Rob explained that they designated it as a future county road. It is just a placeholder.
Don said that he understood that; but on the actual listing, there are many roads that have asterisks and are shown as not being eligible for funds. Most of those, in fact, he thinks are public roads but not eligible for funds. His concern is putting 317A in the same category as those roads and it is not a public road either.
The other road, 333A runs from 352 through the county property (road and bridge shop). The road and bridge has been very specific that they do not want that to be a public road and Marvin stated that is a fact. He said he never did put it out there to be a public road. Don thinks in the same manner as 317A; 333A should be deleted from this list.
Chairman Martin said they would note those two corrections. We need to make a decision; we need to send this to the State Highway Department.
Commissioner Houpt – I make a motion that we approve the highway users trust fund listing as presented with the deletion of County Road 317A for Scribner Lane and 333A. Commissioner Samson – Second.
Marvin explained to Commissioner Samson how this was prepared.
Chairman Martin suggested that maybe Mike could sit down with the crew to see how the formula works.
Marvin said he thinks they are one of the first counties that send all this information in electronically.
In favor: Houpt – aye Martin – aye Samson – aye
Don wanted to explain this is not the official road map for the county; it is submitted for reimbursement for the Highway User Trust Funds (HUTF). This is a discussion Don has annually with the Board. We need to adopt a county primary and secondary road map. Don does not know if they want to try to address that this year but it has been pending since we adopted the road use regulations several years ago.
Chairman Martin said they had attempted to do it a couple of times. He thinks it should be one of their goals that they accomplish it this year along with the update of the heavy hauling road system. He wants to make it a goal between now and hopefully before they do budget next year in December. Chairman Martin explained the heavy haul route as being the only designated roads in Garfield County that has been adopted by this Board.
Commissioner Houpt said, we need to go through that again to make sure it still makes sense and Commissioner Samson has not had that discussion with this Board.
Marvin asked if it should be a work session and Chairman Martin stated yes.

- **F. Request $15,000.00 in Supplemental Budget Funding for Comprehensive Plan - Tamra Allen**

Tamra Allen and Fred Jarman submitted a letter to the BOCC. In 2009, the BOCC budgeted $250,000.00 for the completion of the Garfield County Comprehensive Plan Update. The County contracted with Winston Associates this amount to provide professional consultation for the plan. The contract covered costs incurred by the consultant for the plan drafting, meeting facilitation and creation of the document. However, costs not included in this contract were the additional cost for the comprehensive plan process to provide for public outreach, publicity and holding public meetings. These costs include such things as advertising, renting meeting spaces, providing food and beverage at public meetings/roundtable sessions/focus groups and other costs like purchase of materials and printing fees. In the first round of public meetings held in November 2009, the planning department incurred approximately $3,600.00 in plan expenses that included both public meetings and publicity. For 2010, the planning department underestimated the amount of these additional costs and would like to request a supplemental amount of $15,000.00 to cover anticipated costs as well as additional media outreach and print advertising for the public meeting and numerous roundtable meetings expected in 2010 as part of this Comprehensive Plan update process.
Tamra Allen stated, as the memo indicates there was an under estimated budget in 2009 rolling into 2010. They have tried to increase their publicity as far as print media, on line publications and other outreach costs to the county.
Commissioner Houpt asked if it would come out of general funds and Ed stated yes.
Fred said they had the money in 2009; but did not build a buffer in for 2010. Fred felt this was the cleanest way to do this. As you know, this week is our second round of gauntlet meetings in all the jurisdictions. February 2, 3, and 4 are the meeting dates. This budget items helps them make the meetings a better experience for the citizens.
Commissioner Houpt – Appreciated Tamra keeping them up-to-date. I make a motion we approve the $15,000.00 to the budget supplement request to cover costs for the Comprehensive Plan public meetings and that money be identified through general funds.
Commissioner Samson – Second. He asked if she received an e-mail from an individual in Rulison who had a concern that the meetings were all at night.

Tamara explained this is something they are exploring for the third round. February was already planned and scheduled and it is always a challenge of what time of day is most convenient for the majority of the population.
Chairman Martin said the best turnout was between Battlement Mesa and Silt. He thinks there will be more participation and attendance because of the advertising and the calling. His only issue is he wants to spend the money to do the right thing on this; he wants to make sure they have checked Fred's present budget to see if there is any other fund available before we take money out of general funds.
Commissioner Houpt thinks they need to thank all of the department heads and elected officials for the tight budget they put in place for this year. She feels it will come out of the general funds.
In favor: Houpt – aye Martin – aye Samson – aye

- **I. Staff Recommendation for Conditional Approval of a Lease Agreement with Konica Minolta for a Copier for the Department of Finance at an Annual Rental of $4,068.00 Subject to Negotiation of Terms Acceptable to the Office of the County Attorney; and, authorization for the Chair to Sign the Lease Agreement Upon Successful Negotiation of Terms Acceptable to the Office of the County Attorney – Kent Long**

The finance department currently leases a copier from Konica Minolta that will expire on or about February 15, 2010. Staff is recommending that the Board conditional approve a lease agreement with Konica in the annual amount of $4,068.00.
Kent stated they would like to use this as a starting point with Konica Minolta to develop a master lease agreement. Don's office has identified some concerns with the current language they would need to negotiate and are identified in your agenda. They are asking for is conditional approval to negotiate final terms with Konica Minolta both as a master agreement and for the specific lease.
Don said hopefully they would have success in altering the language; particularly in appropriation that they are using on the standard forms. If not they will have to come back to the Board on this issue but right now they have in some manners addressed the concerns. It is very broad and very onerous for the county right now. If they are successful, they would like authority to go ahead with this if not they will have to come back to the Board. Don said Kent is asking for authority to go forward with the lease subject to approval of final language by Kent and Don's offices.
Chairman Martin said if it is acceptable meeting the TABOR issues, the constitution and budget issues.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Ed stated in addition to an executive session item he and Don also agree that they need to have an executive session to talk about negotiations with Battlement Mesa Partners; legal advice regarding after school programs for RE1 and RE2; restructure the work session for March and add a couple of items and compress the schedule. He said, we need to add the review of the CEBT rates for the ensuing year beginning in July and that should take about 30 minutes. There is a significant rate increase and we need to talk about options; cell phone acquisition strategy and that should take about 30 minutes. This relates to the SF 14 recovering planning to adjust what we currently have, the Fairboard planning and they have planned an hour; mid-term budget review for about 1 hr and 30 minutes and Jean has asked for 30 minutes associated for a format for the Board meeting minutes.
Chairman Martin would also like to throw an attachment to Jeans; instead of having Commissioner Reports, he would like to make it Commissioner Issues that need to come forward.
Commissioner Houpt said we need to schedule that time so it is not an afterthought.
Carolyn clarified the work session was scheduled for March 2. She said she had written down the RE1Affordable Housing Project.
Ed said they are not prepared to discuss this issue.
Commissioner Samson wanted to know exactly what they are talking about tomorrow in their session.
Ed explained it is landfill rates, look at the pit liner costs; discussion of water issues with the various water districts.

COUNTY SHERIFF UPDATE: Lou Vallario

Report delayed unitl next week.

COUNTY ATTORNEY UPDATE: Don DeFord

- **A. Consideration/Approval of County Attorney Legal Services Contract with Assessor's Office**

The term of this contract shall be from January 1, 2010 through December 31, 2010. The County Attorney shall provide the Assessor with legal and associated services as described in the contract. On a monthly basis, the County Attorney will bill to the Assessor the costs of the services to be provided by the office of the County Attorney. In addition to the rates, the County Attorney may bill for litigation costs, including fees for service of process, filing fees, deposition fees, expert witness fees and other fees associated with litigation, travel expenses, costs of deposition and other charges. Payment for these services will not occur until taxes have been collected based of the ongoing audits.
Don stated this is a contract done with the Attorney's office to provide legal services on the ongoing audit for property valuation on oil and gas interest.
Deb explained there is a statute that provides that the County can recover its costs when it does certain audits and collects taxes based of those audits. This will allow us to recoup some of those costs.
Commissioner Houpt – I make a motion we approve the County Attorney Legal Services contract with the Assessor's Office as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. Authorize Chair to Sign Annexation Plat – County Road 296, City of Rifle**

Don stated the Board has already authorized the Chair to sign the petition relative to these annexations. We are now at the next step, which actually accomplishes the annexation of these roadways. We need authority for the Chair and Clerk to sign the annexation plats to go to the City of Rifle. Don has reviewed the dedication language and with the modifications they have made regarding our right-of-way interest, this is acceptable. If the Board is in agreement with this annexation that Don is recommending, then the Board could authorize the Chair to sign the annexation plat for County Road 296. The plat describes how CR 296 and 7th Street would lay within the City of Rifle. These should be made in two different motions.

Commissioner Samson – I move we authorize the Chair to sign the annexation plat for County Road 296 in the City of Rifle.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **C. Authorize Chair to Sign Annexation Plat – 7th Street, City of Rifle**

Commissioner Samson – I move to authorize the Chair to sign the annexation plat for the 7th Street in the City of Rifle.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **F. Direction Regarding Representation of Grand Valley Cemetery District**

Don stated this item was carried forward from the last meeting. The Board asked for more information about the exact location of the district, the cemetery, what we are really talking about on this. Don has a request to consider having his office represent this district. There may be some issues regarding potential conflicts; but mostly there is some concern about the County Attorney representing other legal entities. This is a district formed by the Board of County Commissioners by statute. The Boards role is to form the district, appoint the board of directors and that remains your only role in the district. It is a separate government district; it is a special district, although it is not what is commonly called a Title 32 district. It is a unique special district. They are involved in some legal issues that could become contentious. Rob assisted in the preparation of the plat you have been given. Don thinks the Board has the information you have requested, and he is asking for direction from the Board as to whether or not they should represent this district.
Chairman Martin asked if that was within the PUD of Battlement Mesa.
Don said it includes the PUD but as you can see, it covers quite a bit of territory including the Town of Parachute.
Commissioner Houpt said it appears to her that any district can come to the Board and make a request that our County Attorney represent them if we agree to do this. She is concerned about opening that door.
Commissioner Samson asked if we have every done that before.
Don replied they have not.
Chairman Martin made a suggestion in reference to one of the attorney's that is down in the unincorporated area but within the PUD. He asked Don if he was able to contact Chris Coyle and Don said he was not.
Chairman Martin stated he suggested Don contact Chris regarding this issue; he believes the cemetery is in Battlement Mesa. He thought Chris Coyle would be better to represent the issues there instead of Don.
Commissioner Houpt said she missed the initial discussion of this but from what you just suggested it does not appear to her that it is appropriate.
Don said he should elaborate more as she was not available. This request came from Mr. Carter, who is currently the attorney for the district and he is starting to reduce his legal practice. They are searching to have someone come in and do active representation.
Commissioner Houpt said they could find any attorney they wanted to. She asked if this requires a motion.
Don said it should because he received a formal request. He needs a motion giving direction as to whether we should undertake legal representation of the cemetery district.
Commissioner Houpt – I make a motion that we do not formally represent the Grand Valley Cemetery District.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Executive Session

Don stated the remaining items he has set for public discussion potentially do require public action, but they also do require legal advice before the Board takes that action. Don named those items as: Discuss and receive direction on the Williams notice of violation; contract with Access Roaring Fork; provide and update and receive direction on the 7th Street acquisition in Glenwood Springs; similarly the Battlement fire station; he and Judy need to provide advice on the status of the Hydro Phase III contract; provide legal advice and receive direction concerning spacing orders involving both Antero and DeJour Resources; provide update on the status of the repealing resolution this Board authorized on the Search and Rescue Fund; discuss the status of the dental care contract; Bill Meyer acquisition; legal advice on a liquor license application by the Red Rock Diner set for 10:15 a.m.
Carolyn said also legal advice on the draft lease with Clean Energy Collective at the airport; Mary wanted to know if you would wait until 9:30 to discuss Family Visitor and the Sober House at 1:15 p.m.
Commissioner Houpt – I make a motion we go into executive session to discuss the items stated by our County Attorney.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson moved to come out of executive session and Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye Samson – aye

- **G. Request Approval for Change in Scope of Hydro Phase III – Judy Jordan**

Judy presented a letter from GeoTrans in the Boards packet. It describes changes in the scope for the Hydro Phase III study that was approved last year. At that time, Judy gave the Board a heads up that they would probably be expanding the scope and now they have the terms they are looking to change. They involve the following items: 1) Repairing a well, which a property owner had offered to use to do some monitoring; 2) adding additional constituents to monitor and analyze when they take samples; to convert some of the well completions to be flush mounted; 3) to add an addition monitoring well nest to get better flow data and increase the depth as we found; and 4) we need to drill a lot deeper about twice as deep as they anticipated. It would add more than double the cost of the project and if you do wish to approve the change in scope she will come back with a supplemental budget request.
Don asked if Judy would develop a contract amendment with Kent's office.
Judy replied yes and they would take the estimated cost, the change in scope, give it to Kent's office, and ask that it be added to as an addendum to the existing contract. It will come back to the Board.
Commissioner Houpt thinks it is important to move forward with these changes. Most of them were discovered because of things not know previously. I make a motion we approve the requested change in scope for the Hydro Phase III study as requested by staff.
Commissioner Samson – Second. He asked what the depth was.

Judy explained, originally they were looking to go about 300-feet for the deeper wells; now they are looking at 600 to 700-feet. The shallow wells were originally at 50-feet and it will probably be more like 150 to 200-feet.
Commissioner Samson said that all of the people he has talked to in that area are in favor of well drilling, the testing and he encourages them to work with us in getting that done.
Chairman Martin said Judy would make sure everything is satisfied and bring back to the Board; if not she will it bring back and say they need to make adjustments. In favor: Houpt – aye Martin – aye Samson – aye

- **E. Direction/Action Regarding Response to Williams Notice of Alleged Violation of C.R.S. 29-20-203 – Deb Quinn**

Deb stated, as the Board knows they received a request or notice from Williams in connection with the land use approval for their special use permit for their wells at Battlement Mesa. We eliminated the condition of approval that required them to remove all the drill cuttings from the site. They brought that request pursuant to a specific Colorado statute 29-20-203, which is the Regulatory Impairment Property Rights Act. She stated they have prepared a draft response to that notice that would uphold the Boards action in imposing that condition on the grounds discussed in executive session. She would like direction from the Board to finalize that response, authorize the Chair to sign, and distribute to both the Attorney for William's as well as members of the public.
Commissioner Houpt – So moved. Commissioner Samson – Second.
Chairman Martin said he does not agree whole-heartedly with everything in that letter but he thinks it needs to go to the forum that issue needs to go through.
Commissioner Samson said he would echo that since he is the one who made the original motion, he is still in favor.
In favor: Houpt – aye Martin – aye Samson – aye
Deb said in connection with that same letter and our response, she thinks in executive session she said Jefferson County; but it is Douglas County that is pursuing a legislative amendment to the Regulatory Impairment Property Rights Act to make it clear that it only applies to situations in which a commission exacts property or money. It is not in situations such as the one we are being challenged upon. She would like to get the authorization for the Board to be able to use our circumstance in connection with that proposed legislation as an example of what the private sector is using that for and why it needs to be amended.
Commissioner Houpt – She would certainly support us to go ahead.

- **I. Direction/Intervention Docket No. 1002-SP-04 Antero Resources Piceance Corporation request for Spacing Order**
- **J. Direction/Intervention docket No. 1002-SP-05 Antero Resources Piceance Corporation request for Spacing Order**

Judy explained that Antero is requesting for increased well density and surface density in the vicinity of Battlement Mesa. It is very typically that they see many of these types of requests through the course of a month. In this case, she thought they would bring to the Board and see if the Board wanted to intervene in an action when this comes before the Colorado Oil and Gas Commission later this month on February 22. The question is whether you as the Board of County Commissioners wish to intervene in this spacing order. We do not have any questions about the down hole spacing as that is usually a technical manner that is decided based on geology and the ability to drain the gas out of the rocks. The question is whether the Commissioners have an issue with the surface spacing being that the surface spacing requested here would be one pad per quarter section, which is one per 40 acres. It is a high density and is more than what is currently allowed in the PUD. The question is whether you want to go before the COGCC and challenge.
Don wanted to add to Judy's comments and he supports everything she said. Under Rule 509, this Board can intervene in a proceeding in front of the COGCC when the application implicates public health, safety and welfare concerns that are general in nature. In other words, when you are not just coming in to defend a single private property owner but when there are broader issues at stake. Don said they have until Friday to file an intervention if this Board so desires. Because they involve different applications and at least in relation to Antero and DeJour, which involve different areas of the County, he needs action from the Board as it relates to both of those applications. It is his understanding that the two Antero applications fall into the vicinity of the Battlement Mesa subdivision. The DeJour application is in the area of the Division of Wildlife property on Garfield Creek.
Commissioner Houpt – I make a motion to intervene on Antero's application both number 1002-SP-04 and 1002-SP-05.
Commissioner Samson – Second. He thinks it is probably a good idea to do that and leave the door open; not only for us, but he understands private citizens to comment as well.
Don said if this Board intervenes, a full public hearing is therefore set; it does provide a forum in which they can participate.
Commissioner Houpt said that for us this is specific to the surface spacing.
In favor: Houpt – aye Martin – aye Samson – aye

- **K. Direction/Intervention Docket No. 1002-AW-01 DeJour Energy (USA) Corporation Request for Spacing Order**

Judy said they are asking the same question regarding very similar request for a spacing order. It is an increase in the density of the down hole; it is a 10-acre site, which they would not object ordinarily. The question brought to the Boards attention has to do with the surface spacing; they have had a conversation with The Division of Wildlife, which is hoping to negotiate with the operator to change, not necessarily the surface spacing per-se; but the location of where those pads are placed in order to reduce a surface disturbance within the wildlife area. If there is a concern on the part of the Board about that surface spacing as it affects the wildlife; again, one per quarter section is dense spacing as an order that would allow the well pads to be placed over the entire Garfield Creek wildlife area in which there is a lease. The company is searching for this density, without necessarily constraining the placement of those pads to the area close to the road, which is what the Division of Wildlife thinks would be less of an impact on the wildlife.

Chairman Martin thinks that conversation is going on but has not been finalized. He thinks they need to go ahead and make sure our concerns are heard based upon that and the request. He thinks we need to take a stand there so they do need to be addressed. He asked if they had a motion.
Commissioner Samson – So moved. Commissioner Houpt – Second.
Chairman Martin asked is this a motion to intervene and Commissioner Samson answered yes.
In favor: Houpt – aye Martin – aye Samson – aye

- **H. Direction to Staff Regarding Contract with Family Visitor (Dental Program)**

Carolyn stated the entire staff was left confused on this. The last time around the Board approved a dollar amount and you approved contracting and told us to go work out the details. They all came away with a different understanding of where the money is coming from and what kind of contract. Mary received information back from the State saying that $20,000.00 in State funds would be made available to Family Visitor directly; it does not need to go through the public health fund. Carolyn's notes said general fund money $30,000.00, which meant to her that would go to the public health fund and Mary would manage that contract. Other people walked away from the meeting with the understanding that the Board was talking about a $30,000.00 BOCC discretionary grant; money out of your pocket and that it need not be managed through Mary's shop. We are back in front of you asking from where the money will come from, to which department and what kind of a contract.
Commissioner Houpt said it was an extensive discussion and she thinks how it ended up was that the Family Visitor Program would administer.
Chairman Martin said the problem is do we take the money out of the grant process, which we had set aside in reference to these requests, or do we take it out of the general fund.
Commissioner Houpt thinks it is general funds.
Chairman Martin explained they had to identify where they are taking the money from and then they can go to the next step. He asked Commissioner Samson if he understood it to be the discretionary grant funds or the general fund.
Commissioner Samson stated discretionary funds.
Chairman Martin said discretionary grant funds then we take from that money and we requested a running total.
Commissioner Houpt said she does not remember how much is in the discretionary fund. Ed stated roughly $1 million.
Chairman Martin asked is this without any deductions they have done throughout the year so far. He understood discretionary funds and then we would give that directly to the health department who would then work with the Family Visitor group and they would have the contract between those two.
Carolyn said if Mary is going to be your contract manager; it will essentially be a contract she will manage and it will be money out of the public health.
Commissioner Houpt asked if anyone looked at the minutes because this was a very detailed discussion.
Carolyn stated that her notes said; general fund money, go work out the details. What you did not say was who you wanted to manage the contract.
Commissioner Houpt stated she remembered we had that long discussion about who could actually administer this and Sandy said they could do it.
Carolyn said there is no question about that; the question is, is it like a human services commissioner contract or is it a straight professional services, or contract services through the public health fund under Mary's directions.
Commissioner Houpt asked Mary what would make sense in this structure and Mary replied either way.
Carolyn said that Family Visitor would actually do the work so who is managing.
Don wanted the Board to understand the differences in the contract form. The human services form is set up to work with organizations that have been vetted by the human services commission. It is not structured for close oversight by anyone on the county staff. We have a contract with them, they provide a service and the contractor provides information to the Board quarterly on what they are doing. Conversely, the purchase of services contract is designed for close supervision by county staff that is using the services they are buying. The scope of work and the contract are designed for management, and if you are using that form, you need someone in the county who is responsible for oversight. In other words, recognizing that Family Visitor would be responsible for administering, under a purchase of services contract, there is still someone in the County who is also monitoring to make sure, on a regular basis, that what you purchased is actually occurring. If you go back as a human services type of arrangement, you will get reports from the program periodically, and then if there is a problem or you see an issue, you will have to go out and find someone from the county to go out and track it down.
Commissioner Houpt stated this is different because this is one of those partnerships where public health is already very involved in this organization. She knows they had this discussion and it was very detailed.
Carolyn said it was they were just told to work out the details. There is no question that Family Visitor will actually be the operator. The question is it going to be under Ed's management, on a human services form or Mary's management through the public health.
Chairman Martin said the straight forward issue is to go ahead and do a supplemental to Mary's form; $30,000.00 for professional services and that she administer that and make sure it goes to the right item.
Commissioner Houpt said that Chairman Martin and Commissioner Samson might remember discretionary funds; but Carolyn wrote down general funds.
Carolyn said that she thinks Commissioner Houpt made the motion and she said general funds.
Chairman Martin said let's go ahead and do that, so it is a straight transfer to Mary's organization and it is to secure specific job title distribution of $30,000.00 for that program.
Commissioner Houpt – I make a motion that we direct staff to follow the motion she made at previous meeting and direct staff to move $30,000.00 from the general fund public health, and public health work with Family Visitor Program.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

CONSENT AGENDA

i. Approve Bills
j. Changes to Prior Warrant Lists

k. Inter-Fund Transfers
l. Changes to Prior Warrant List

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

REGULAR AGENDA

PUBLIC MEETINGS:

- **A. Review the Proposed Land Lease Agreement Between Garfield County Airport and Clean Energy Collective – Brian Condie, Sharon Clarke and Mark Fuller**

Lauren Martindale, Clean Energy Collective, Paul Spencer, Clean Energy Collective, and Steve Casey, Holy Cross Energy were present. A letter was sent to the BOCC from Paul Spencer and Lauren Martindale from The Clean Energy Collective providing them with a concept plan application. In this letter, they showed the parcel location desired; the far southeast corner inside the fenced runway area. A map was provided. The property is approximately 6.21 acres. The proposed use: The parcel will host a 2MS community-owned photovoltaic electric system (solar array). This system will be fully owned by Holy Cross Energy (HCE) customers choosing access to renewable energy to customers in HCE territory. HCE is a full partner in the project and plans to offer customers in the community-array the same benefits it would deliver for roof-mount solar projects (power credits, rebates, REC payments). The CEC will develop, manage and maintain the project on behalf of HCE and its customers. The CEC plans to immediately prepare the site, including installing the transformer, 3 phase line extension and equipment shed. The actual PV panels will be installed over the course of 2-years in 100KW tranches. The installation pace will be determined by how quickly HCE customers subscribe to the program. There will be three structures, one utility shed and up to a 2MW solar array. Anticipated construction expense: 3 phase rise and 750kVa pad mount transformer (HCE), $46,000.00. Maintenance Shed: $20,000.00 for a total of $65,000.00. Also included in this presentation to the Board they included a draft lease agreement.
Carolyn wanted to clarify by asking Brian is he is doing the conception plan first and follow-up later.
Brian stated yes and then they will come up with a development plan and an actual lease. This is a conception to make sure they are on the same page.
Paul was instructed to look at various property possibilities within Garfield County and they started that process with Ed Green and his team and obviously settled with the airport. Paul presented a power point presentation.
Commissioner Samson asked if Holy Cross had any customers in the Rifle area.
Steve said west of the City of Glenwood, along the I-70 corridor, north of the Colorado River is Xcel, and south of the Colorado River is Holy Cross.
Paul said it would be anyone within the network.
Commissioner Samson asked if it would be limited to 360 households.
Paul said it would not; it just depends how big of a piece people buy. Probably 350 to 900 community owners; it is enough energy to entirely power 360 houses. Most people would not buy a large enough share to power their house entirely. They will offset 50% or 25%; you will actually end up with far more users than the number of houses.
Commissioner Samson asked if there was any preference given to Holy Cross customers that live in Garfield County as compared to outside participating in this.
Chairman Martin said that anyone could buy if they are a Holy Cross user.
Commissioner Samson asked; could it be that just people in Pitkin buy it all up and it benefits them and no one in Garfield County.
Brian said theoretically yes.
Paul stated it is not something they have currently looked at.
Commissioner Samson said he would want people in Garfield County to have this opportunity.
Paul said it is certainly a potential and the intention was to market it to all of the area so that everyone would have an equal opportunity. They could certainly look at things if there is a pre-release, or if they designate so much that should go to Garfield County for whatever period.
Commissioner Samson asked if they saw his concern. If it is something that there is nothing to worry about then it is no big deal.
Paul said they do not have any idea either; it is certainly a hypothetical potential.
Commissioner Houpt said have not we been buying wind for a long time.
Steve stated that Holy Cross has a green program right now where their customers buy wind from a wind farm northeast of Fort Collins. He does not know if people would be so entrenched in where the site is. He thinks it is a valid concern; but he also believes you provide this opportunity to their Holy Cross membership base and you will find people from Pitkin, Garfield, and Eagle that will want to participate. He imagines people from Garfield County would participate more just from the fact on Sunday afternoon, they get the family in the car and they go by and say here is our facility.
Chairman Martin said as they do in Rifle. He asked how this did with their percentage of green power you have to produce as a co-op or an association. Does this help you out with your 20% or whatever?
Paul went back to the power point.
Commissioner Houpt asked when you are talking about Garfield County purchasing energy are you thinking one building.
Paul stated yes; it is a big field that will be filled with solar array. It would be picking a number whether it is 100 kilowatts of solar that the county would like to invest in. Obviously, that then impacts your long term energy costs. It would be figuring out what would be that right number and he assumes it will come down to what you might be able to budget for that, and then they can work into that number. One good thing is that the Clean Energy has been built to offer all those tax exemptions and rebates. As a non-profit, you cannot qualify for those. They have actually built a structure where they can take credits on the county's behalf and apply that to Garfield's payment. If you look at 100 kilowatts depending on rebates and so forth is probably about a $300,000 to $400,000.00 investment.
Chairman Martin stated that concept wise he felt they were okay with it. Location, that is still within the concept, still within the review; his question, money generated off land purchased through FAA grant

money, there are stipulations to royalties of oil and gas and they must go into the airport fund. Is this under the same qualification and Carolyn stated yes. Carolyn asked if this was the usual lease rate.
Brian stated no. He wanted to point out; the FAA has to sign off on it because it is non-aviation use and they are aware of that. He wanted to get the concept and then go to FAA; they have to sign off because of the land use and the airspace. With the runway realigning, it will take it further out of the flight path and he does not see a problem.
Commissioner Samson asked if the angles on the panels will angle so the sun would not be a problem and they answered they point towards the Mesa.
Brian said they would let the experts run their computer analysis and give them something in writing.
Brian referred to one of the pictures in the presentation. He stated this is a parcel they cannot use for any aviation purposes and it is not generating revenue. For the next 20 years with all the developable land they have, he does not see them using it at all. If they could get up to $2,000.00 a year for that property that is a step in the right direction for the airport. The lease is a 20 plus 2 10's, which is the normal lease for hangars. The reason they looked at that is because of the cost of the arrays and the maintenance is several hundred thousand dollars, just like a hangar. They also have the same stipulation that if it is not maintained or they default in the lease they lose 20-years of the lease they would not be able to renew it. The lease is rate $500.00 per year and is what they were charging agricultural people so they just brought that up, it is not aviation related but it is a business. The fact that they do not have to provide water, sewer, or power; Brian recommended they give it to them at the agricultural rate. The only thing they did not do is put an escalation clause in it so the $500.00 is the $500.00. The reason they did this was because their costs are set up-front and they do not change. Brian looked at running out on 2% CPI inflation and over the years, it went from $500.00 to $609.00. In 20-years their total lease was $742.00; 30-years was $905.00 and after 40-years, it was $1,126.00. Escalation wise they are abating $10,000 to $15,000.00 over 40-years. They will submit a report each year on how much electricity they will use; we will have the ability to audit. The FAA terms and conditions also apply which say if anytime in the future the County needs that property for aviation purposes we can pay to relocate them somewhere else. The lease structure is an LLC the same as the Rifle Jet Center. The Clean Energy Collective Board of Directors can sell to anyone else and the County would receive notification; we would not go through the application process again.
Chairman Martin said he still likes the other leases they have in place with hangars. A renewable 30-year lease, five-year extension or 20-years with 5-years extension and then it becomes ours. He likes that lease arrangement more than the one Brian presented. After 30-years, all of the array and everything else belongs to the citizens and the county. That is where they need to start in his opinion because we do the same thing with the hangars and there is millions of dollars in hangars out there.
Commissioner Houpt said the problem is people are buying into this and she does not think it is appropriate to use that same standard.
Paul said if that were the model that wanted to be carried, there would be no use for them to do it. Because you are selling to your constituents and saying in 30-years, you are giving up ownership.
Commissioner Houpt stated right, you are telling your constituents that they are losing their investment and we are going to take it over. That does not work for this.
Chairman Martin thinks that is only fair. You are doing that to people who are putting $5 and $6 million dollar hangars out there and after so many years, the hangars revert to the County's ownership.
Brian said that is correct for commercial operators.
Chairman Martin said the other issue is this, we go ahead and put the solar array in and own 100% and then use it for our own purpose and then reduce our energy. He knows that defeats the purpose; but we do not have that leasing issue. Technically you are giving that property to someone else making money on it. He hates to do that with the County property.
Commissioner Houpt said this is a great opportunity; it is the first community owned co-operative energy facility and she is concerned that if we do not look beyond what we have done historically we could derail this program and she is not willing to do that. She stated she does not agree with Chairman Martin that it is the same type of situation.
Chairman Martin said he is looking out for the interest of the citizens and the overall long run, not just one or two elements. You also see another project, which is close by that is going to come forward as well. It is a private entity doing the same thing within the same area.
Paul thinks the difference is that this is 100% owned by community owners. This is not a commercial operation business; this is the opportunity to give more people in Garfield County, as well as the adjacent county's, to own.
Chairman Martin stated on government land and Paul said that is correct. Chairman Martin said that is some of the issue. Then you have the private lands that are competing with you; they have the same challenge too, but we have the advantage because the County owns the land and is leasing it to you, which is over and above what the private entity. You have to consider that as well.
Steve said what is interesting about this project is that at full build-out of 1.8 mega watts that this project represents more than just harvesting the sun. He concurs with Paul that they are looking at as use a rule of thumb of 1,500 kilowatts per kW installed up to 1,650. The 1,500 might be because of some shading issue and so forth; but where it is unobstructed, you can probably get higher production. That is 2.7 – almost 3 million kilowatt hours per year of clean, green energy that our constituents can brag a little bit about. The other thing that is interesting about this is what he calls the incredible potential of C to the third. The three C's are capital, individuals and business putting their own money into this project buying into something that they believe in. if we are not then subsidizing our funds to produce this project. It will also require collaboration between Holy Cross, as the energy provider, the County and then CEC. Lastly, this project embraces what he calls the cooperative spirit. Over 70 years ago, Holy Cross, because a group of people that were concerned about getting power to the rural communities came together and formed Holy Cross. Likewise, this concept is also done in the co-operative spirit hoping it will bring an additional opportunity for renewable energy to their customers. Right now, they are in negotiations with the Clean Energy Cooperation. They currently have about 250 member customers that have about a collective 1.5 mega watts of renewable energy. What this concept provides them is an option to receive a comparable value back to them in an environment where they are overcoming restrains and limitations that their existing property

might have. From their perspective, they would implore the commissions to consider this project and give favorable consideration back to this concept. This could be a model that will bring national attention; good national attention to the three parties involved, to Garfield County saying wow, you guy's stepped up and did something that is unique and has immeasurable benefit to our member customers. Many of these customers probably about 20% of their customers reside in Garfield County. If you look at the County, Garfield County will probably grow the most in the next 15 years. You are providing an incredible opportunity for the County.
Chairman Martin said he would like to do a comparison to Alamosa's solar array and how they approached that issue. They have the same issue in reference to County property, public enterprise, etc. Take a look at that and see if we are missing anything, or if we are adding to it and making it a more enhanced operation. Do a side-by-side review. This would not be the very first one for public private ownership. Rifle has the same situation and he thinks there are several other communities that have solar arrays on the Front Range as well.
Brian asked to find out if the structure if they own them at the end of period or if they are just leased.
Chairman Martin stated, concept wise he has no problem with this. Some of the issues he will have to deal with are the FAA, the lease and being fair to everyone else that is on County property. We have to make a decision. Is it the right location, it sounds like it is, but let's look at all of the ins and outs before we totally commit to the project. Again, in concept he does not have a problem with it.
Commissioner Houpt asked them to look at if it is possible to market in Garfield County first. Give people a window of time before it is opened up to everyone else.
Paul said he certainly thinks there are opportunities to look at whether it is first or if it is certain reserved space.
Chairman Martin said they need to look at this openly as a business proposition because you are using taxpayer dollars to enter into a business transaction.
Carolyn wanted to point out with the lease there is nothing insurmountable, we just need to talk about it more. She asked if this has been presented to Board of the NECI Advisory Committee and do they support this?
Lauren said no, they have presented it to the CLEER management team.
Carolyn would think that the BOCC would like to hear from their advisory board on this. Legally in terms of the lease, you used a lot of our standard form language. One of the things she wanted to put out is she has not done had an in-depth review of the land use code. She does not know if a land use permit is needed for this solar array. The array itself is defined in the land use code as a use allowed in certain zone districts and not in others. The airport zone district is an overlay district. Have any of you spent any time with the code to find out if the land use permit is needed?
Paul stated yes, they had looked at that with Fred Jarman and it was not particular to the airport site. We will need to revisit that issue. Particular to County owned sites, if that is the same umbrella, it is a use by right. The only permitting required was a building permit.
Carolyn said she is not sure. There are no subdivision issues and we are clearly exempt from subdivision for a long-term lease at the airport. Whether or not this use within the airport overlay requires a land use permit, she does not know. The easy way for the County to handle this is to make you the tenant responsible for getting the land use permit with our permission should one be required.
Chairman Martin said they may want to look at Rifle; because Rifle wanting to annex and move into there, maybe anticipate any needs they may have as well or objections.
Carolyn asked if he meant the City of Rifle and Chairman Martin stated yes. Carolyn said if a land use permit were required, they would be a referral agency. The second piece is this should the BOCC approve your lease that is not a guarantee they would approve the land use permit. Those are two different authorities that this Board has and one does not imply the other. If they tell you today to go forth and do good if there is a land use permit that is likely to require a public hearing and the Board has to make the decision based on the evidence received at that hearing. There are other things she would like to talk to them about in this document; but those would be for us to meet with them and come back to the Commissioners with a second document if they approve the concept it today.
Ed asked does the board want to look into the cost of supporting this for example the airport.
Commissioner Houpt said yes, she would be curious to find out what level of use that would be and it would be nice to say, and we are powering this facility.
Chairman Martin said they might have to own all of it to satisfy the County's needs out there.
Commissioner Houpt said, they need to remember the goal on this project.
Carolyn asked if the airport was Holy Cross and they stated yes. She needs to understand the relationship between the fractural owners, Holy Cross, and the County. As it is written now it only deals with your 'not for profit'. She does not know if they necessarily need the agreement, we might, because the solar array itself is going to be owned by someone other than a tenant of the airport. We need to deal with that issue. We have several ways we have done that in our aviation related leases. None of this is insurmountable; it just requires spending time.
Commissioner Houpt thinks this is a fabulous concept and she supports it.
Chairman Martin said he has looked at doing this on his own property and the feasibility study was $50,000.00 and the whole project was less than $30,000.00 to complete.
Brian wanted to recap the direction from the Board. 1) Get a letter from the Energy Advisory Board, 2) Review the land use codes, 3) Look at marketing in Garfield County, 4) Protect the county residence public land, 5) Look at Alamosa, and the other way we can look to protect the land, 6) Land use permit, and 7) Cost and participation by Garfield County at the airport.
Chairman Martin name numerous states he could send them to who has dealt with these issues.
Commissioner Houpt said the nice thing about this is that there are people involved who know the business and it sounds like a good location if the FAA is fine. We have been in the business of leasing land before.
Ed said in the next few weeks they will be bringing one on another facility dedicated to us.
Chairman Martin said there is another facility proposed in Carbondale, which is owned by HOA off highway 82.

- **B. Roaring Fork Conservancy Update on Watershed Planning Process – Sharon Clarke and Mark Fuller**

Sharon presented a map to the Board.
Sharon wrote to Fred Jarman and explained what they had accomplished in 2009. They increased awareness regarding information available in the State of the Roaring Fork Watershed Report, developed draft goals and objectives, assembled a technical advisory group, fostered public involvement in the watershed planning process and solicited feedback on goals and objectives and began to develop a set of recommended actions. In 2010, they plan to flush out these recommended actions and theses along with an implementation strategy will comprise the Roaring Fork Watershed Plan. They are requesting Garfield County support for 2009 work on Phase II of the Roaring Fork Watershed Plan and for the Roaring Fork Watershed Collaborative.
Sharon talked about what they accomplished in 2009 and what they plan to do in 2010. She explained that they did extensive public involvement to try to get people to their public meetings this fall. They had a 4-page newspaper insert showing why people needed to get involved. They were also on the radio and had many articles in the Roaring Fork Conservancy newsletters, e-mails to the watershed collaborative to get people to the meeting. They had about 200 people come to the public planning meetings. At each one of those meetings, they had an introduction to tell them about the watershed process. They had the meetings geographically, and had five meetings that covered all nine of the sub-watersheds. They talked about the specific key findings, issues and data gaps in those sub-watersheds for those five meetings. They had breakout groups with the draft objectives presented and then had people come back with recommended actions. She read the following quote from Bob Schultz; "After experiencing three of these input sessions and listening to the dialogue, I have come to understand what we are really talking about changing the culture relationship to water in the region. We can propose regulatory changes that have some impact; but the real change will be based on people having a different relationship with water, and the culture of water responsibility becoming part of our regional ethic. That cannot be mandated. That is something that the Roaring Fork Conservancy has really taken to heart as they are designing their programs for 2010; how do we do that cultural shift. They have taken all the feedback from the public meeting and designed a large matrix. Sharon explained the matrix. They are getting ready to meet with the technical advisors and have categorized the technical advisors into different sub-groups that have different expertise so they will work with them to flush out additional recommended actions. They have added a few more categories to the matrix. The big thing is who will ultimately be responsible for making sure that the recommended actions are carried out.
Mark said he could see adding more categories on there as they go along and take into account costs, political feasibility, things like that which will become clearer as they get into the discussion with their technical advisory.
Sharon said they will flush out some of the key recommended actions and pretty much that will be the watershed plan. The watershed plan will also have a list of grant resources in the back with some paragraphs as to which recommended actions they most like to fund. They do not want just a list of website addresses; they want to be matched up to the recommended actions. They will have an implementation strategy. One of the things that was fortunate, they submitted a proposal to the University of Michigan, School of Natural Resources. They have master students projects and they were able to get master students to work with them this year. They have two things they will be working on. One is to look at what other places have done in terms of implementation of the watershed plan. What are some of the structures that have been involved in that and what have been the successes and failures. They have a whole list of questions they will be flushing out for them. They are also helping with some education outreach strategies. They have received several grants to make sure that all of the local libraries and the high schools have a copy of that report and she thinks there was a press release letting them know that was available. They have also been working with a new lawyer who worked with them the past two summers when he was not in law school. He has helped formulate the second phase 2 guidance document; it is called "Laminating the Way Ahead". That looks at all the tools and the toolbox for local governments in terms of looking at water issues.
Mark said it would be an appendix to the final plan so people can get more in-depth into the implementation aspect of it if they need to.
Sharon explained in 2010 they are planning on a floating water summit. That is scheduled for June 10. This is to bring together elected officials, decision makers and staff to discuss water issues and look at regional collaboration. In the past, the conservancy has done a public float and they decided this year to shift that and do it for elected officials and public staff people. They will have a speaker series working with the Roaring Fork Cultural Council and Jim Calloway has a speaker series in the Thunder River Theater; the date is October 16, and they will be looking at the water supply and demand kind of a gap, and the three main ways to address that gap. None of those are good options. There is water conservation, re-allocation, or new supplied projects. They will have people speaking to each one of those topics.
Chairman Martin stated that it still goes back to what is going to happen legislatively. Many overriding issues are out there that can change our planning or approach. If we are not up to date on those particular issues, Denver planning 100-year consumption, what they need for the next 100-years based upon their growth analysis now and then claiming that water and doing diversions from the western slope to the eastern slope on that water claim and overturning the supreme court ruling out of Pagosa Springs and a few other issues. It will be interesting.
Mark said there are many things that are out of their hands; but there is an awful lot that is in our hands too, and that is what this plan is all about.
Sharon said one of the things is trying to educate people about the regional water management issues, because it is hard to get people interested in many of those things. It is not until they are actually ready to take effect people say they did not know.
Chairman Martin said that western slope was way behind the curve on the storage of water.
Commissioner Houpt said they would be talking tomorrow about the various discussions going on not only on the Roaring Fork, which we heard today, but the Colorado River and around the State.

C. Application for New Liquor License – Applicant; Red Rock Diner – Jean Alberico

Robert Olenick was present.
Jean presented a new application for the Red Rock Diner as they let their current liquor license lapse causing them to have to resubmit a new application.
Don explained there are three issues; the County has received an application for a new license although there has been a license for a long time for this establishment; but it lapsed. It is treated as a new license and means the Board needs to establish a hearing date in order to allow the applicant to properly post notice. You need to establish a neighborhood so the applicant knows the geographic area in which they should circulate petitions and seek input on the needs of the neighborhood for this type of establishment. There is a question on fingerprinting because one of the partners is out of the country. The Board should consider giving direction to utilize fingerprints on file, which you can do by statute.
Robert explained they have had a liquor license for 15 years there. Every year for 15 years those renewals seemed to show up however, this year it did not show up and somehow got over looked. As soon as he discovered that, he pulled all the liquor out of his establishment and started this process. Bob explained that for 15 years the renewal has come to his house or the business office he uses. This year no one seems to ever recollect seeing it. He contacted the State and they could not give him much direction. He asked where they sent the renewal from and they told him another office. He asked for the phone number and they said it would do no good call because they just send them out.
Jean explained that her office checked the files and in 2007, the application went to Bob's home address, which is where he wanted it to go. In 2008, there was an issue where he applied in time and received the notice late because for some reason the address was changed from his home address to the business address where mail is not delivered. Jean suspects that is what happened again.
Robert said it never came to his house. As Tammy in the office explained to him, when they sent it to diner, the postman, who has been there for years, will bring it to the office across the street.
Chairman Martin stated the first thing is to establish the neighborhood. We had established in the original; is that correct Jean.
Jean said she in the original packet and there the Board establishing the boundaries for the neighborhood. Jean read those boundaries.
Chairman Martin asked if they found any change in the neighborhood enough to adjust the neighborhood description.
Jean stated it has changed somewhat.
Commissioner Houpt asked if there were changes needing to happen and Chairman Martin said he did not think so and asked if the Board felt that was well enough described. Is there direction to go ahead and establish that as the neighborhood as the legal description.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt stated for clarification for the minutes, what they are doing is following the original established neighborhood.
Chairman Martin said the next item was the fingerprints for the partners. He believes they have these with other liquor licenses that are owned or leased associated with the partnership, is that correct.
Robert explained his partner's fingerprints are on file in the New Castle Diner, the Eagle Diner and he believes he owns five pubs in Denver. Fingerprints are on record for all of those. Bob's are file for the Eagle Diner and the New Castle Diner.
Jean said we have copies of Elizabeth's in our file.
Commissioner Houpt – I make a motion we authorize using the fingerprints that are already on file for all of the partners.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Jean said the last thing she needs from the Board is to set a public hearing date for the actual liquor license hearing.
Commissioner Samson asked if it had to be in so many days and Jean explained it could be no less than 30 days.
Commissioner Houpt stated to set for March 15.
Robert asked if they we are required to do a petition again and Jean stated yes. He asked how many signatures.
Don said it does not say. It has to be representative and you need to circulate it in the neighborhood.
Jean explained she would put a sign up at least 10-days before the hearing and publish a notice in the newspaper. Jean will give Robert the form for the petition, which she will run past Don and will e-mail.
Robert asked if there were additional costs.
Jean replied yes. The county application fee is $875.00 and the county license fee is $75.00 if he had received this here on time it would have been. Robert has paid $1,025.00 to the State, plus $500.00 to renew his license. The total would have been $675.00 if he had this in on time; now it is close to $3,000.00. If a license expires more than 90 days, you cannot renew it, you have to start the process over again and pay a late fee of $500.00 for the County. It is in statutes that the County receives a late fee.
Chairman Martin stated they have to keep within those confines.

Executive Session:

Don stated he has the items listed for public action that require legal advice as well as the remaining listed earlier.
Commissioner Houpt – I make a motion we go into executive session to discuss the remaining items listed by our County Attorney.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson – I move that we come out of executive session.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Action Taken:

- **D. Authorize Chair to Attend Closing and Sign Closing Documents – 7th Street Property, Glenwood Springs**

Don stated they would ask that the Board continue consideration of this item until next Monday's meeting.
Commissioner Houpt – So moved. Commissioner Samson – Second.

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

- **G. Consideration of Draft Purchase and Sale Contract with Battlement Mesa Partners Regarding Battlement Fire Station**

Carolyn stated this is to authorize the Chairman's signature on the contract in accordance with your executive session direction.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Confirm Site Visit Attendance for Road Vacations; RVAC 6060 (Iron Rose Land and Cattle, LLV) for County Road 153, RVAC 6061 (Iron Rose Land and Cattle, LLC) for County Road 165, and RVAC 6091 (Colorado Rocky Mountain School) for County Road 106 at 9:00 a.m. on March 16, 2010 – Tom Veljic**

All three Commissioners will ride with Tom Veljic.

- **Request to Amend the Los Amigos Ranch (Elk Springs) Planned Unit Development (PUD), by Adding "Sober House" as a Use-By-Right in the Single Family Zoning District and Defining the Term "Sober House" – Applicant; Donald Edrington – Tom Veljic**

Stephanie Summers wants to request to modify this application. As you just said, the original application was to amend the entire PUD to allow for Sober House as a use by right within the entire PUD. It is their understanding that a lot of the public opposition is to a fact that this could allow for future Sober Houses to exist within the PUD and as such they would like to amend their application so that the Sober House zoning would only to Mr. Edrington's lot one.
Commissioner Martin asked if this was the same request they did for P & Z or did it go through as originally read.
Stephanie stated as originally read.
Chairman Martin said we would have to determine if that is a substantial change or now and that will be up to the Board to decide. If it were, we would have to refer it back to P & Z and start the review for that adjustment. If it is not, then we can open the hearing and go from there. He stated he would need to hear from legal counsel as well as our staff person in reference to the approach. It is a change limiting it down to one house within the PUD.
Tom said they see that as a significant change and discussions are when you start isolating a single parcel then they have great concerns.
Cassie agrees it is a substantial change because it specifically addresses one of our six criteria for a land use approval or text amendment approval in this case, and that is spot zoning specifically targets that, which the planning commission did not have in front of them.
Stephanie said they believe it is not a substantial change in that the Sober House definition would be the same. It is the same application except it is going to apply to a smaller parcel of property. She understands there are many concerns about spot zoning. The house is currently used as single-family residence and in the event that the Board approved the application, it would still be used as a single-family house. However, the individuals living within the house would not be your traditional family. Not a mother and father, son, daughter but the individuals living there function as a family, perform chores, no treatment services, nothing there other than a group of individuals living there and supporting each other as they reintegrate into society and maintain their sobriety after going through formal treatment. In addition to that, it is their belief, and she believes there is a letter to the Board in the staff report from Steve Polin, that the individuals living at 31 Elk Springs are handicapped under the Federal for Housing Act. As such, they are entitled to reasonable accommodation in the form of waiver of various rules and procedures. Because of that, they would also like to request that the spot zoning consideration be waived so that the individuals living there can have the same opportunity to live at that house of their choice as any other individual. They would love to be able to present to the Board their application today, and again it really is just the same application, it just applies to a smaller parcel of property.
Chairman Martin asked if there was any need for the Board to have any legal advice.
Commissioner Houpt stated she is not making a judgment on whether Sober House is the use that is appropriate for this area or not. We have a code we follow and part of that process is sending the same application through the planning commission, planning staff, and then ultimately to this commission. If we accepted your amendment to this application, neither our planning staff, legal staff, nor our planning commission would have had an opportunity to look at it under those different circumstances. She is not in support of changing it; you want to submit your application as presented to the staff and to the planning commission, she is fine with that. If you want to change the request, you really need to go through the appropriate process for doing that.
Commissioner Samson stated he concurred.
Chairman Martin explained that the finding of the majority of the Board is if the application is to be changed; it will be referred back to the P & Z for a review process and then brought forward under that request.
Stephanie - If we did not amend it, we could present to you today.
Chairman Martin explained if they met the notice regulations under the original application, they would go forward based upon what was put to P & Z and then forward to us.
Stephanie said they would amend the application.
Chairman Martin asked if he had a motion to go back to Planning and Zoning.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson set meeting for a workshop on Tuesday the February 9 at 1:00 p.m.
Chairman Martin stated that commissioner issues is how we handle our information after decisions are made and to the administration or to the legal department in a proper fashion.
Jean asked how they would like this meeting noticed.
Commissioner Samson said this was a workshop on future county buildings.

Chairman Martin restated it is commissioner issues that need to be discussed. He wants to revise commissioner reports to commissioner issues. He would like to have that as a regular agenda item that we do not just skip over.
Commissioner Samson asked what the purpose of that is as he reports to them what happens when he goes to meetings.
Chairman Martin stated he wanted more detail. If we need to take some kind of action/position/direction, he would like to know the water issues. If we have a legislative issue that they need to take some kind of position on we can do that and become more of a functioning Board that we take formal positions on necessary items. We need to make sure it is about Garfield County. If we have concerns; then we need to direct those concerns to the right person to resolve or find information.
Commissioner Houpt said as she understands it; to Mike in terms of Hidden Gems, we directed staff to put together a conversation. She thinks they are still working on that.
Deb asked Commissioner Martin, if she understands him correctly, the Commissioner Report item will be changed to read Commissioner Issues and you can raise those issues and then decide what additional information you may need before you take action. Her concern is that if you plan to take action that day you might want to detail them.
Chairman Martin said that gives us an idea; those are the issues we need to bring up, identify them and put them on the agenda so we can take action.
Commissioner Houpt thinks if we do this, then we need to talk to Ed, Don and adjust our agenda so we have time for it. Because they rarely have time for commissioner reports, so we get out of the habit of doing them and she thinks they need to make sure it is positioned at a time we would not forget. She suggested do the first thing in the morning.
Chairman Martin stated that if they have identified issues that are on the agenda, we have to deal them. That is his point; identify the issues and we would not skip over them, we cannot skip over them as part of the agenda. That way it is mandatory and not just a courtesy.
Commissioner Houpt said they could put materials in the books. She felt it was a good idea.
Chairman Martin - Adjourned until 6:00 p.m. in Rifle tonight.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

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FEBRUARY 16, 2010
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 16, 2010 with Chairman John Martin and Commissioner Tresi Houpt 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

- **A. Discussion and Direction Related to Inter-fund Transfers – Theresa Wagenman**

According to Colorado State Statutes the following Inter-fund Transfers are prohibited:

1. No transfer is allowed from the Capital Fund into any other Fund (C.R.S. 30-25-202 (1)).
2. No transfer s allowed from the General fund into the Road and Bridge Fund (C.R.S. 30-25-202 (1)).
3. No transfer is allowed from the Road and Bridge Fund into the Capital Fund (C.R.S. 30-25-202 (1)).

A methodical review of transfer requests going back to 2005 shows that these types of transfers have been taking place, and appropriate explanation of the reason for the transfer has been given. Transfers that violated any of the above statutes were related to reclassification entries or posting corrections and footnoted as such. An inter-fund transfer is one way to correct payments that have been coded incorrectly on a department or office's accounts payable voucher, or correct transactions that were paid through the County's purchasing card program by one department on behalf of another (i.e. Road and Bridge and Motor Pool). There are circumstances where these inter-fund transfers infringe upon State statutes, but are necessary for legitimate reasons that are supported with documentation. Although transfers that defy these statutes have been made since at least 2005, finance will no longer include them on the monthly inter-fund transfer request form per the Treasurer's request. The concerns in excluding these transfers altogether; are that expenditures must be classified correctly according to Generally Accepted Accounting Principles (GAAP). Therefore, finance needs a way to correct expenditures that have been coded incorrectly in order to meet GAAP requirements. A sample was provided of their proposed solution.
Commissioner Houpt would like to hear from Don and what his feelings are on this.
Don explained as Theresa indicated he provided the Board with a legal opinion in the matter which is, at this juncture, is a confidential memo for legal advice purposes. He thinks it really does explain the legal position in this that is somewhat at odds with the position of the finance department. It appears to him there is an unavoidable conflict between the accounting purposes that are perfectly legitimate and the language of the legislature chose to use in this statute. He wanted to make sure the Board is aware of the penalties for violation of the statute and make sure the Board was aware of those. But with that said he is not aware of any case where that type of remedy has been sought or imposed on a Board or any officers of the county. But, the breath of the language is something that he can't resolve and a matter that is completely in accord with what the finance department wants to do. That is really why they brought this matter to the Board; it is one of those issues that there is risk. Probably very minimal and there is a need to

afford a proper finance and accounting environment. You as the Board need to make the judgment because at the end of the day penalties are imposed against the officers of the county. Don doesn't really have any great answers for the Board other than the position he set forth in the memo.
Ed said it is a catch 22. We have to make corrections for obvious errors.
Commissioner Houpt said that sounds like it might be an easy legislative fix if we get that on paper and take it to our representative, she thinks they will need to do that. But, practically speaking, recognizing that Don has pointed out this conflict in language; is this a good way to work through that.
Don says all he can say is the finance department believes it is the best practical solution they can come up and come as close as possible to the language of the statute. He will point out, since the Treasurer is present, this really involves multiple departments as well. We have the Treasurer involved in her administration in counting monies, the finance department administering the county finance and accounting systems and Don is trying to provide the Board with legal advice. The Board just has to balance this and then we will move on.
Theresa said they did come up with other alternative solutions; but this was the best one that was also supported by our auditors.
Chairman Martin said that is the external auditor which is a very dubious watchdog. We have done real well with the outside auditors and the firm and everything is reported on the up and up.
Georgia Chamberlain said this is the first she has heard of the solution. She guesses she is not privy to the legal advice that has been given directly to the Board; but she has concerns about not wanting her office to be the watchdog for something that has been signed off by the finance department and the Board of County Commissioners. When she says that, she is sincere in it and guesses what she is looking for also on the inter-fund transfers is a statement saying that they have complied with the statute. But this is something she would like an opportunity to discuss solutions to resolves the issues. Could discuss it before we were before the Board.
Commissioner Houpt said that maybe it makes sense to continue this discussion to next week so the County Treasurer has the opportunity to be brought into the discussion. She is also an official who will be held responsible for not following the statute; she would think. It would be her preference, if they are making this type of decision, it involves the Treasurer's office and we put this off for another week.
Georgia said she hated to hold the up for a week, because she does feel that the finance department with Don and their legal counsel have probably had in-depth discussions and have come up with a good solution; it is just this is the first she has heard of it.
Theresa stated it is not a huge urgency and it can definitely wait.
Chairman Martin thinks the Board needs to be more comfortable the risk is on them not the Treasurer.
Georgia asked not the Treasurer. Doing something that is apparently illegal.
Chairman Martin said it is not illegal; it is a conflict between auditing financial reporting and the State legislature's interpretation of how to do it, we will work it out. What is the pleasure of Board to continue it and have a discussion with the Treasurer?
Commissioner Samson stated that was fine and Commissioner Houpt agreed.
Chairman Martin said they will do that and bring it back.

- **B. Approval of Landfill Rates – Marvin Stephens**

On Tuesday February 2, 2010 the Board was given a presentation on the need to increase the rates at the landfill along with recommendations. Today they are seeking the Boards approval to increase the following rates as they were presented. (Copies of the rates are on file with the Clerk and Recorder)
Commissioner Houpt stated the numbers presented earlier are significant. Every month we postpone doing this is significant to all of the county taxpayers and the budget. We haven't raised rates for 11 years and for that reason people have been receiving a good deal on the use of our land fill. She is not opposed to giving some lead time; she is opposed to waiting until July. You had said this would cost us $450,000.00; this is an enterprise fund that is set-up strictly to pay for itself. She thinks it would be more advantageous and more practical to postpone until May and that gives everyone a couple of months to prepare. She would want to do the increase to the current rate per pound as presented, but she wouldn't, at this point in time, because of the economy. She doesn't want to do it all at once; even though we haven't done it for a long time. She would leave tires and small animals out. She would include, she is just giving her opinion, she would vote on it today but it applicable to May 1st. She would include the rate changes that have been requested, she would not increase the cost of disposing tires or small and large animals. She would include the increase on sludge and the sorting fee. She made that her motion.
Commissioner Samson – Second for discussion. He would rather see that they go ahead and make the rate increase; but he would hold it off until July 1st as they requested, since they are impacted by this more than any other. He thinks they could grant that request to help them out with their budget. He agrees on the tires and the small animals; he definitely thinks, he had a question, do you think the increase in the sludge is sufficient?
Marvin stated yes, he would like to go with it as is right now. Then if it's not enough; come back in a year or six months from now.
Commissioner Samson stated he didn't have a problem with the sorting fee increase. Possibly come back in July. Pass this so it doesn't go effect until July. He thinks in July maybe come before us and let us know how it is going with the small and large animals and the tires. Give us a report. Most people he knows of, in Rifle, they use the earth day to take their tires and if he remembers correctly, if you call the City and tell them you have four tires and you put them out with your trash, they don't charge you anything for that.
Marvin stated correct.
Commissioner Houpt said that is just the city but there are so many other people using the landfill.
Commissioner Samson said if his passes, come back in June or July and say our recommendation is that we strongly thing we need to go with the increase on tire and animals, or it seems to be working well.
Commissioner Houpt wanted to point out that the letter from Rifle requests June 1st. They aren't requesting a July 1st start.
Ed said the original letter was asking us to hold in its entirety.

Commissioner Houpt stated that it says for three months and this is February. She explained they have been deferring this indefinitely and it's been eleven years and she appreciates the fact they need lead time to get their plan in order, so she is fine with that. But to give them more than they have asked for and considering the costs on a monthly basis that this is costing us is not practical. She said to Commissioner Samson she would negotiate and make it June and alter her motion to June 1st.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Ratification of Letter of Support for Compressed Natural Gas Grant**

This letter signified Garfield County's support of the CNG fueling station proposed by Rocky Mountain Alternative Fueling in Rifle, Colorado. Garfield County feels this project will bring jobs and affordable transportation fuel to the community. Garfield County's support is in the form of commitments to convert CNG vehicles, barring any unforeseen logistical or economic limitation they will convert the following vehicles.
2010 Ford Fusion, 3; Ford F1250, 1; Ford F150, 2 and 2011 Ford Sedans, 3; and Ford F150, 3.
Commissioner Houpt said she has a question about the letter; it only makes Rifle the leader in alternative fuel use and she is wondering why that wording is in the letter. She thinks that needs to; she knows the letter has already been sent, but if the county is involved, if Parachute is involved, if Rifle is involved, Garfield is involved, she thinks it falls short on making and recognizing the contribution of all of those entities.
Chairman Martin said he believes it was the actual physical ability to go ahead and fuel vehicles and that's why it's there. Simply because there isn't any in Glenwood Springs, Carbondale etc.
Commissioner Houpt said no, it just says Rifle. It doesn't say Parachute, Garfield County, Williams. She wants to make sure if they are spending the money to do this that another letter is sent that puts Garfield County on the radar as well. Unless you can help me understand why Rifle is the only entity.
Ed said this was just the letter suggested by the team for submittal on the grant.
Commissioner Houpt said she will have a hard time approving this as the only letter that goes in. She asked Jim Rada if he knew about this and he said no. She doesn't understand it.
Ed said the point is to get the $600,000.00 grant.
Commissioner Houpt said the point is to do that; but why was that put in there. Is Rifle making a significant contribution over and above everyone else?
Ed said it is the CNG project is in Rifle.
Commissioner Houpt stated they also said it is in Parachute as well.
Chairman Martin explained that was the physical plant where you have the ability…..
Commissioner Houpt would like to see another letter sent recognizing everyone who should be made the leader in alternative fuel use.
Ed said the point is this was a short fuse to get letter of support in so that we could be eligible for the grant and they sent us the suggested wording.
Chairman Martin stated the request is to ratify it or not and we will need a motion.
Commissioner Houpt doesn't want this to be dropped. She said that maybe she will go to talk to NECI. She asked if that's who gave the wording.
Ed stated no it was Kurt Swallow from Swallow Oil.
Commissioner Samson explained Kurt was the private owner behind making this all happen. He asked if the $600,000.00 grant for the plant to be built in Rifle or was that going to split between Rifle and Parachute. He was under impression the grant was for Rifle and he (Kurt) was going to fund out of his own funds for Parachute.
Commissioner Houpt said this says Rifle all the way through.
Commissioner Samson said that is because this grant is for the $600,000.00 to be spent in Rifle not Parachute.
Ed said that is true; it could be spent in Parachute but that is not the intent.
Commissioner Houpt said she would be fine ratifying this; she will spend her time letting the State know there are other leaders involved.
Commissioner Samson suggests Commissioner Houpt visits with Kurt and ask what his plans are since he is the one putting a lot of money toward the private sector.
Commissioner Houpt asked if this was the only money we are putting toward this the conversion money on vehicles. We are just converting the vehicles to be able to use the facility?
Ed said yes and each conversion costs roughly $10,000.00 and we get $8,500.00 back from the State. The net cost, for each conversion to us is $1,500.00.
Chairman Martin asked if they had a motion to ratify.
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. Direction to the Oil and Gas Liaison Regarding Berry Petroleum APDs Near Prather Springs – Judy Jordon**

Commissioner Houpt will recluse herself from this.
Commissioner Samson said he needs some direction. He stated what he is saying; anything said before concerning this, is he at liberty to talk about now.
Don explained he has publically taken a position on the Prather Springs by formal resolution. He believes that has been tendered to the Oil and Gas Commissioner and Judy stated that was correct.
Chairman Martin asked if they had heard anything back.
Judy stated not on the Marathon permits nor on Prather Springs.
Chairman Martin said that was why they took position they did; they were holding firm until they had resolution in reference to Prather Springs.
Don explained that what is being discussed and direction sought is potential administrative litigation. There may be issues involved in that, that require legal advice although publically you have to take a position on this request. Don said there were a number of things he needs to discuss with the Board in executive session requiring legal advice today.

Commissioner Samson asked if it was on this matter.
Don said not necessarily on this; no, but if you want to defer discussion of this item until we have completed the executive session then he could add this matter to it because it is a litigation item.
Commissioner Samson wanted to hear what Judy had to say and he may request an executive session to get some clarification.
Judy stated this was a follow-up to a previous action the Board has taken. In connection with Marathon applications for permits to drill near the Prather Springs; the Board had directed her to request that the Oil and Gas Conservation Commission that they not issue those permits until they have resolved the contamination issues associated with the springs. Her understanding was that the reason is that additional activity, in the immediate area of the Prather Springs, could confuse the issue further. That is since the Oil and Gas Conservation Commission hasn't been able to take action to remediate the contamination in the spring, it hasn't decided definitively who might be responsible for that contamination. Additional oil and gas activity in that area could add additional sources of contamination that further confuse the issue. Those where the comments she sent to the Oil and Gas Conservation Commission; what she got in terms of a response was a call from Dave Nessland saying that he had spoken with the Prather's in the mean time and that Marathon have proposed that they simply have a condition placed upon their permits. The condition would be that they do monitoring around their own facility. The Prather's rejected that and she didn't hear anything further from David about that. This is the first opportunity to bring that response back to you. In the meantime, Berry Petroleum submitted some applications for permits to drill also in the same vicinity. The question she needs to bring to the Board; do you want to take the same action with regard to the Berry APD's.
Commissioner Samson thinks it would only be reasonable; would it not.
Chairman Martin said the Board was seeking some solutions and answers, and some action. We haven't received any; he thinks they need to hold firm until they get some kind of response directly back from the Oil and Gas Conservation Commission.
Commissioner Samson said he knows that Tresi sits on COGCC and he doesn't want her to take this personal. But since he has been a commissioner he has been very frustrated with the COGCC. He doesn't understand everything about the rules regulations and the fighting and the politics and he is growing weary of a lot of it. The question to Don is, besides what they have done is there anything they can do as a commission to light a fire to get their attention to say what he wants to say; whether it is the fracing act where the United States Governments has said the State of Colorado, or states, you take care of it. So the COGCC has been given that responsibility by state government to do that, and it has been given the responsibility by the State Government, to oversee oil and gas activity in this state. In his way of thinking in many ways it doesn't do that, whether he agrees with the decision that is made or not; the problem is they are not making any decisions. When did we ask for them to do something about this when it first happened; about 2 years ago before he came on. Then we passed a resolution that strongly said please take care of this problem, investigate it, get it taken care of so that we can go forward. His question is; what else can we do. He feels like he is in the middle getting ripped by both sides constantly and he can't do anything about it.
Commissioner Houpt stated she wanted to respond to the issue about whose responsibility it is. This is something that has been long debated in this County. The COGCC historically, until the new legislation came in 2007, only looked at the technical down hole aspects of drilling. They knew nothing about land use, they knew nothing about impacts to wildlife. There were certain things they just didn't look at and so counties across the state said well we are going to be involved in this discussion. We are going to have regulations that really word in tandem with the COGCC regulations and we are going to oversee those land use issues. This county was never willing to do that. If you are frustrated with anyone it should be with us as well. Because the state; the new charge, yes, is that there has to be an emphasis on public health, safety, welfare, the environment and wildlife and so CDPHE, and DOW are involved. But you still have the mechanism of the old COGCC in place that emphasizes what happens on the drill site and below. We as county commissioners are charged with being responsible for land use. So we have to be more willing to be at the table and not just charge the COGCC with doing absolutely everything that has anything to do with natural gas development.
Commissioner Samson said the case in point here is we have asked them.
Chairman Martin said he had a point of order. He asked Commissioner Houpt if she was reclusing herself from this conversation or are you joining this one.
Commissioner Houpt explained that Mike asked her a question as an oil and gas commissioner she was responding to that question from her perspective.
Chairman Martin said the decision is; do we go forward with the Prather Springs issue or not. Not that we get into the politics of oil and gas conversation commission workings and issues. This issue is that Judy wants to know what to do with Prather Springs; the issue that you have to Mr. DeFord, he needs to respond to if he wishes to.
Don sees a number of questions posed in the comments Commissioner Samson has made to Don and the public at large. Sometimes it is difficult to motivate any State agency or State Government to respond to concerns of a local government because they know they don't have to. With some exceptions; counties and at least statutory municipalities have been found to be subservient to the State Government and the State agencies. He has dealt with the oil and gas commission and various members of that commission and members of the staff of that commission for the better part of three decades. Over that time period he has seen little change in their position in terms of response to local government. That is not only in Garfield County; but in other local governments he has represented around the State. He is not hopeful that the Oil and Gas Commission will become more responsive.
Commissioner Samson stated if they can thumb their nose at us and say too bad. That will continue to put us in a precarious situation of trying to safeguard and trying to find out what happened at the Prather Springs, and how to remediate it. He and John are left with; well we don't want you to go forward until this is taken care of, so there is just not going to be anymore drilling up there because we don't have the answers as to where the problem came from.
Chairman Martin said we have to put on evidence that shows there is going to be a health and safety issue.

Don said if he could bring this back specifically to the request in front of you. He wanted to ask Judy where they are on the process. At this juncture he asked Judy if they are within the time frame within the local designee has to request a hearing on the APD.
Judy stated yes, until tomorrow. She didn't want to make it sound like she brought this to the Board last minute; but she only has a few days from the time she gets a permit to bring it before the Board.
Don said he wanted to go forward; John's point is one they need to discuss about the actual process they are in and it does relate to what Commissioner Samson said. At this juncture; if the county requests a hearing on this matter, then the county is required to bear the burden to show the potential, the likelihood, if you will of injury to the public concerns; public health, welfare and safety. In this case, and keeping in mind the little bit and the background of the interplay and discussion with Commissioner Houpt generally about the commission; this could be a very technical issues, in terms of impacts to ground water that may or may not be the result of drilling practices in the area. In order to sustain our burden and go forward on this; not to disparage Judy, we need highly technical expertise to go forward. That means that the BOCC is in the position of having to retain someone to come in and essentially resolve the issue that you asked the Oil and Gas Commission to resolve.
Commissioner Samson asked if it wasn't their job to do that.
Chairman Martin said his point is they have studied this particular geology, this particular location, the practices and the information; from 50 some monitoring wells etc. that have the technical information. What we did was to please sit down and find out what caused this; make the corrections, the companies want to know who is at fault, then tell the company they are in fault. They need to mitigate their practices before you do more. If you have the technical information and it is applied in the application and the stipulations in the drill, the APD; tell us. If it isn't; tell us why not. That is what we asked and we haven't received a response from the State; we need to hold firm, please tell us what is going on, who is at fault, what is the mitigation practices, and what are the changes in reference to again, another Prather piece of property which also has a spring on it. What are the precautions; that is all we have asked and he thinks they need to continue to request that. We do not have the expertise to go forward with the hearing.
Don wanted to point out that one other thing; this also places the impact surface owner in a very difficult position. He asked if they could request this hearing also and Judy stated the surface owner could. Don said they also have to carry the same burden the county does. While he understands Commissioner Martin's position on this; he thinks the likelihood you will receive a response, given that all this time has passed with no response to a formal resolution of the Board, it just isn't likely, but maybe it is worth the effort.
Judy said they would have several options based on the nature of the conversation you just had. One would be to withdraw the request for a hearing on the Marathon permit; they are very anxious to get working. She thinks Marathon would view that as being an equity issue if they held firm against Marathon and then let Berry proceed. They are essentially in the same position with regard to this particular action. She thinks the Board would want to consider what's good for the goose is good for the gander in this situation. Regardless of what your ultimate decision is. You may want to treat them equally. The other thing is, she has not had this discussion with Prather's; but they have hired their own expert help in the way of both an attorney and a consulting firm. It may be that they have information that they would want to supply to assist the county in moving forward if you chose to do so. She is stating that is just a possibility.
Ed explained the burden is still on the county.
Chairman Martin said it would still be on the County or the property owner to present the technical data. Again, his point is that the State should have that after two years of study and monitoring. They should be able to supply that to both sides; resolve the issue and to give the companies either the green light or more stipulations and safety factors, or withdraw. That is a decision of the Oil and Gas Conversation Commission and he still thinks the burden is on them to share that information. He doesn't feel the County has the expertise and we can contact the Prather's to see if they wish to go forward or not. If they did he thinks they would have contacted Judy as she has had conversations with them numerous times.
Ed asked what do you want to do specifically with respect to the APD'S.
Chairman Martin doesn't think they can go forward with the hearing simply because the county does not have the technical information to present. We would file for a technical hearing, we wouldn't be able to produce the documents, and it would be wasting everyone's time. We need to compare notes with the Prather's; see what they have and if they wish to do something today; let them go forward. Chairman Martin doesn't think they should proceed.
Judy restated; we should not request hearing.
Don stated they needed a motion to that affect.
Commissioner Samson said he would so move.
Chairman Martin restated; you would so move that we do not need to go forward.
Commissioner Samson stated; we do not need to move forward until we get the answers from the COGCC.
Commissioner Houpt stated they were saying two different things.
Chairman Martin asked; the motion is to go forward with a request for a hearing.
Commissioner Samson stated we don't want that; because he agrees with Chairman Martin, we do not have technical expertise. We would get ourselves in a bind; correct?
Chairman Martin said he believes so. He said they can contact the Prather's and if they have the information then request that they go forward if they feel inclined to do so.
Ed asked if the Board had to intervene on their behalf?
Chairman Martin said at that point yes on their behalf with their technical information. Second.
Commissioner Samson asked if Judy was going to try and get hold of today.
Chairman Martin said he would think they get hold of the Prather's and so the motion would be that we would not go forward simply because we do not have the technical data to present in a hearing. If they do and they wish to have us intervene on their behalf with their information; they need to make that request and bring it back to this Board today.
In favor: Houpt – reclused Martin – aye Samson – aye
Commissioner Houpt wanted to ask a question. If you really have a concern about a direction that the COGCC, or the companies are going in an area, and you have been given, through the rules, the

opportunity to be a participant withstanding. How can you make the argument that it is not appropriate for you to relay your concerns to the COGCC? Because, what will happen, is this will go to COGCC and they will say, oh the County is okay with this.
Chairman Martin said that's where Commissioner Houpt is wrong. We have sent a resolution and also our information to the COGCC stating what the issues are, and we do have concern.
Commissioner Houpt said not in reference to these applications.
Chairman Martin said they have; they are tied together and it amounts to the response has been negative and we still have our concerns, but we don't have the technical data. If we need to go into the technical data for down hole information; we need more staff, more money to go ahead and do that as well as argue the point that we have standing on down hole spacing, down hole operations, which we don't have. The new rules are supposed to take care of these issues; the is a down hole issue that should have been handled two years ago and it hasn't and we are continuing to point it out that we would like a resolution and answers, and so would the companies.
Commissioner Houpt said that what they just did was open it up without getting these answers.
Judy asked; since we are in play with the Marathon Permits, and if we have an issue with being able to bring technical expertise to a hearing on the Berry process and the same question would arise in connection with Marathon, so should we withdraw our request for a hearing on Marathon then. She said she could bring this to the Board later if we need to put on the agenda.
Commissioner Martin said we would have to agenda.
Don asked if a hearing has been set and Judy said no, she has not been advised as such.
Chairman Martin said they could have a special meeting if they need to take action on that.
Don said if they need to bring technical expertise to the table; they will need to do so very soon; if it is set in March.
Judy said to Commissioner Samson; your point about being caught in the middle is someplace where she is constantly. She thinks that the industry regards her as being a negative player in their world and it's not because she wants to play that role, but in fact her job description says she is to bring these things to the Board.
Commissioner Samson says he understands and all he can say is she is not the lone ranger. He finds it confusing to hear people make certain statements concerning oil and gas. He hears from certain individuals that Garfield County is trying to run the oil and gas industry out of Garfield County. He thinks that is ludicrous. He doesn't think that he and Chairman Martin would have voted the way they did on the frac act if they were here to run oil and gas out. On the other side of the spectrum; people saying if we don't pass this or that we are going to destroy the health and the environment of everything. So he knows what Judy goes through because he constantly goes through it. He thinks there are basically four groups of people in Garfield County, as constituents, one, the people who want to represent oil and gas and it's a business. He understands that and it has helped our county a great deal. They have their position that they want to protect their interest, and he understands that. Then you have the people over here that are bent on trying not to get them to operate in this county at all or severely limit them. In the middle you have the great unwashed masses. A slim piece of that is I don't care, I'm not registered to vote, I don't read the newspaper and I don't really care what you people do. But there are a lot of common sense people here who say we elected you, and we respect you as an honest person, and a decent person and someone who has common sense; please do your best to balance those two and do what you think is the best for everyone. He will take some time out here, as you said to me, he appreciates that Judy is in a difficult position. Just like the three of us, no matter what you do, there is going to be one of those sides against you.
Commissioner Houpt thinks that what is important for Judy to know is that you have the support of this commission and the respect. The Board wants Judy to bring these issues to the Board to be discussed and please don't hesitate to do that because we are behind you. We will respond to that criticism and she thinks Judy is doing a fine job; she certainly has the background to bring those issue to the Board.
Judy said she just needed to say that she has been told she has a strained relationship with the industry and she thinks that is a result of the fact that part of what the job duties are is to bring issues like this to the Board. It appears to the industry that means she has an anti-industry attitude and that is not the case. It is simply that she is doing what she was asked to do, so it is difficult to court a positive relationship with the industry when in fact some of what you have to do is bring items like this to the Boards attention. She stated she brings them to the Board and they are not her decision; but she is following criteria she was given.
Commissioner Houpt said that she and Commissioner Samson bring up some good points and she thinks it is just important for everyone to recognize and respect the different roles. The industry, the private market industry are looking at the bottom line. They want their business to be successful and that's their job. County Government; we are charged with making sure the public is protected, that health, welfare and safety are of the utmost concern and that decisions we make protect those concerns. We also want to make sure they have a solvent county and that we are respecting the various economic engines in this area, and we balance between energy development, tourism, and recreation and the environment. There are many different responsibilities that come to county government and we won't always be in line with property owners who are being impacted and will always be in line with the industry that wants to make sure they are able to access everything. But hopefully we will find that balance that will help us be responsible in meeting our charge as elected officials in this county, and as a result a big part of that is supporting our staff too as we move forward and making sure we are protecting our constituents.

- **E. Staff Recommendation to Approve a Firm, Fixed Price Contract with High Country Engineering, Inc. in the Amount of $37,473.87 to Complete the Engineering Study to Remediate the Effects of a Forest Fire Near County Road 137 (Canyon Creek Road) – Matt Anderson**

The Board approved the award of a contract to High Country Engineering, Inc. (HCE) at its September 8, 2009 public meeting. The original completion date for this engineering design study was January 31, 2010. HCE was not able to complete the work by that date. In consideration for extending the time to complete the engineering study, HCE has agreed to reduce its compensation by 0.1% for each calendar day it takes to complete the study beyond Janu7ary 31, 2010. Staff would like to discuss and either approve or disapprove

the award of a firm fixed price contract to High Country Engineering, Inc. in the amount of $37,473.87 to complete the design of hydro-geologic and hydraulic remediation measures for County Road 137 and authorize the Chair to sign the resulting contract if a contract award is approved.
Chairman Martin asked what date they have to hold them too.
Matt stated that obviously they would not go past the year 2010. This is estimated hour and if there is any unexcused delays, they are reducing their price beyond that date of January 31st.
Don asked; do you have any idea how the first contract was written to complete on January 31st.
Matt explained that what happened was each time these contractors come in and submit a proposal, or bid, they put in the actual completion date of work. They don't base it on the county and this particular one; our contracts all end on December 31st. This one, he is not sure, was renewed in January and that is particularly why they are doing another contract right now.
Chairman Martin stated; you do have a completion date of no later than December 31, 2010 or else it just goes away and Matt stated yes sir.
Don asked; do you know if the funds were rolled forward and budgeted and appropriated and Matt stated yes.
Commissioner Samson – I move to approve the award in the amount of $37,473.87 to High County Engineering not-to-exceed that amount of money and to complete the design of hydro-geological and hydraulic remediation measures for County Road 137.
Commissioner Houpt – Second.
Matt thinks this important for contract administration to pay start doing; really pay attention to completion dates on projects. It is something he is not sure they have been doing in the past; but getting consideration, particularly for fairness to the other bidders and they bid a particular completion date, and someone else is aggressive and we award to them by giving higher point based on an aggressive schedule and they don't meet that, we don't get anything in return that when that pass that delay.
In favor: Houpt – aye Martin – aye Samson – aye

- **F. Staff Recommendation to Approve a Sole Source Procurement with Northwest Colorado Consultants, Inc. to Complete Various Residual Scopes of Work from Fiscal Year 2009 – Matt Anderson**

Northwest Colorado Consultants, Inc. (NWCC) was originally selected pursuant to request for proposals (RFP) 56-05. A purchase of services agreement was subsequently entered into by NWCC and Garfield County on February 8, 2006. This professional service should have been re-solicited in fiscal year 2008 for services beginning in 2009. Re-solicitation did not occur. Instead a contract renewal letter was issued for fiscal year 2009 on or about December 18, 2008. NWCC continued to perform services for the West Garfield County Landfill in 2009. As of December 31, 2009, certain items from the 2009 scope of work were uncompleted. The purpose of this presentation is to request the Board to authorize a sole source procurement to NWCC for the limited purpose of completing the incomplete items from the 2009 scope of work. The value of this procurement is $10,954.00. The anticipated term of this procurement is from February 16, 2010 through April 30, 2010.
Commissioner Houpt – I make a motion we award a sole source purchase order in the amount of $10,954.00 to Northwest Colorado Consultants, Inc. to complete specific items from the 2009 scope of work and authorize the director of the Road and Bridge Department to sign the purchase order.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **G. Staff Presentation on Alternatives Available to the Board for Phase II of the South Canyon Pedestrian Trail Project – Matt Anderson**

This matter was previously before the Board at its January 28, 2010, public meeting. The issue before the Board is whether to accept $160,000.00 from the Colorado Department of Transportation (CDOT) subject to the requirements of the "Statewide Contract Management System", which arguably do not apply to Colorado counties. The scope of the project is the construction of approximately 1,800 feet of a pedestrian/bike trail in the South Canyon. The estimated total cost of the project is $800,000.00. Efforts to negotiate a change in language to this particular contract and all future contracts between the State of Colorado and Garfield County have reached an impasse. The Board must decide to either move forward with this phase of this project or cancel it. If the Board decides to move forward with this project, then it must also decide at what level and from what funding sources it will pay for this phase of this project. Staff is recommending four options on moving forward. 1.) Accept the $160,000.00 from CDOT through its grant contract, subject to the terms and conditions of that grant contract including those of the statewide contract management system, but specifically limit acceptance of the statewide contract management system terms and conditions of this state grant contract only; and fund this phase of this project at $800,000.00. 2.) Accept the $160,000.00 from CDOT through its grant contract, subject to the terms and conditions of that grant contract including those of the statewide contract management system, for this and all future contracts between the State of Colorado and Garfield County; and fund this phase of this project at $800,000.00. 3.) Decline to accept the $160,000 from CDOT through its grant contract, including the terms and conditions of the statewide contract management system; and, fund $160,000.00 for this phase of this project from County funds for a total financial commitment of $800,000.00. and 4.) Decline to accept the $160,000.00 from CDOT through its grant contract, including the terms and conditions of the statewide contract management system; and, fund this phase of this project at $640,000.00 with a reduced scope of work.
Matt stated that Kent has done a lot of work talking with CDOT and the attorney generals and they haven't received an answer back from them. They don't anticipate they will be changing their answer at all on the contract language, so in the packet; they gave four different options (as stated above).
Don stated this is another example of what he explained earlier. He wanted to explain the difficulty because it is a pretty technical issue in terms of the contract language. We are finding it applies to most of the state contracts; he can't say universally all of them. But he is seeing that this issue on the state wide contract management system applies to most of the state forms now. When Don reviewed the contract, one of the things that had been altered from previous versions when they were considering contracting with CDOT as part of the South Canyon Trail Project, and actually did contract on the first portion of it; they

have added a provision that requires compliance with certain portions of the statewide contract management system. It's a statutory provision that sets up authority in the controller and various state agencies to administer state contracts. The language adopted by the legislature, at least from Don's view, specifically exempts local governments from application of the provisions of that system; which makes sense. It was intended to state agencies and the language is directed to state agencies. Kent and Don have engaged in lengthy discussions with CDOT and controller representatives concerning this language. The initial concern Don had about the language was worded somewhat in artfully because they had taken their standardized language that referred to obligations of the contractor and simply in graphed them in the contract. That did not match the language of the contract we were having; we had been referred to as the local agency in the contract, not the contractor. Don pointed that problem out to the State; they did made the change and changed the terminology, but left unresolved the question of what the local agencies obligations actually were under the provision that in graphed the statewide contract management system. Still that language, local agency, did not meet the language of the statute. The statute refers to obligations of the government agency and/or the vendor. There is an important distinction because the government agency has many obligations in terms of monitoring and overseeing the contract reporting to the procurement officers at the state and controller officers. Don's original concern was, in spite of the language of the statute the state viewed us as the government agency responsible for implementing those provisions. It took many phone calls and they finally received a transmittal of the attorney general and the controllers opinion as to the application of those provision through local government, and their view as set forth in the correspondence and memorandum he received is that we were the vendor, and that was fine. While he still believed that they should not be applying those provisions to Garfield County because of the language the legislature used; the obligations of the vendor, under that statute, are very minimum. The risk is practically non-existent. Don and Kent, together, proposed to the controller that they alter the language in their contract to expressly state that the local agency would be considered the vendor under the statute. That is the only change they have requested. Kent has said in his discussions with the controller, the controller has presented this at meetings to the attorney generals representative three separate times, and three separate times has received simply no answer. As Matt has indicated it is time to move forward. Don has sent a request to other counties around the state to see how other county attorneys have viewed it, at least in Eagle and Clear Creek Counties the county attorneys have said they simply have put this in front of their Board and said the risk is minimal; get on with it because we need to built a trail in both counties. That's where they are with the state and contract language change they requested. This language goes beyond the CDOT contract. It is found in every standard state contract form now. If we are the vendor, as has been represented in this frequently asked questions memorandum, there isn't much responsibility and there is virtually no risk. If we can assume they meant what they said in this, it should not present a great problem. He is a little concerned; all they did was ask them to change the language to conform to their memorandum and they haven't done that.

Commissioner Houpt stated their memorandum it was written that, that was their representation.

Don stated yes and he has the memorandum that was sent to Kent and forwarded to Don.

Commissioner Houpt stated we have it in writing; does that help.

Don stated yes but; when you ask them to conform the contract to their representation, and they refuse to do that. Don had one other question he wanted to raise on this contract. Completely aside from the state contract language problem; he has mentioned to the Board before, and as you potentially go forward with this project as well as other trail projects in the county, he will remind the Board these are in the county, they are county controlled and either owned, or you have an interest in them. For liability reasons you have a maintenance and upkeep obligation, both to CDOT and to your constituents in terms of liability. When you construct a trail you need to consider provisions to make sure it is maintained and kept in a safe condition. Don doesn't know what the status of the agreement with the City of Glenwood Spring to maintain the current small portion of this trail; but it is his understanding this portion of the trail will be build substantially to the west of the existing trail. He doesn't know what provisions have been made to maintain it after construction.

Jeffrey stated this portion will be completely within Garfield County. They haven't approached the City of Glenwood Springs to do maintenance on it because it is outside of their jurisdiction.

Commissioner Houpt said the other portion of the trail is maintained by the City correct.

Larry Dragon stated there is a maintenance contract.

Don said it is supposed to be an annual contract and he doesn't know who is overseeing that to make sure it gets funded and renewed.

Matt explained that for this portion it would be.

Chairman Martin wanted to ask a question regarding the funding itself; identifying the funds, where they are coming from etc. We are talking $800,000.00 plus or minus $160,000.00; could be down to $640,000.00. Where does the $640,000.00 come from?

Larry Dragon explained they have a $200,000.00 grant from State trails, Colorado State Park Trails Program. They have $342,000.00 remaining in the county account left over from phase one; that's $542,000.00. They have $89,000.00 in the LoVA account waiting on going to the county from the City of Glenwood.

Commissioner Houpt asked if it was okay to use that money from Glenwood Springs.

Larry said that is what it is for; they got it last year in anticipation that they might get it out to bid in 2009. They have been holding it.

Chairman Martin stated; the options are either to take the $160,000.00 to add to it to get you to a total of $800,000.00, or to reduce the scope of service down to $640,000.00. Or come up with more money from the general fund to supplement the $160,000.00.

Jeff recommends the project managers option. As he mentioned options A was to sign it as is; he highly recommends this option due to the fact that no matter what take or leave from the state, CDOT, we are still signing this agreement to work within the CDOT highway. He doesn't know if it's communication or what; but he would like to communicate that if that money leaves, we will still sign this agreement.

Chairman Martin stated that's all it is, is the scope of the work.

Commissioner Houpt said it's because it is in the right-of-way.

Jeffery said to be a local agency project within the CDOT and Federal highway you have to sign the IGA; we won't be allowed to work in there without that.
Larry said this is separate from the license agreement. The license agreement has been signed and that allows the county to construct the trail within the right-of-way, if his understanding is correct. This is based on this Federal enhancement money that is administered by CDOT that has been awarded to the county. We applied for it jointly and he thinks it is separate from the license agreement.
Don stated that Larry is correct.
Chairman Martin said it amounts to you are obligating yourself under the TIGER or the Reinvestment Act; this money that comes from the state.
Jeffrey said he has been directly informed from CDOT that this project will not go out to bid without an IGA; that to him is very clear and concise that this project will not be built without that IGA.
Larry said that could be also; he didn't know. He knows they needed the license agreement to construct the trail
Jeffrey said if we give away this $160,000.00, we still, according to CDOT will be obligated to sign the IGA.
Commissioner Houpt said they enter into contracts with the state all the time and now you are saying this is consistent across the board with contracts.
Don explained this is not unique to the CDOT agreement. It is found in different places in every contract; but your human service grants now how it in it, your public health grants have the same language in them. It isn't an issue; to an extent it's an issue.
Commissioner Houpt asked how difficult it would be to make sure that formally that memo is added as an addendum to the contracts.
Don said they can do that, his experience with the State tells him they will reject and refuse to sign the contract. There position has been they will not accept any changes to their form.
Commissioner Houpt said; but that is their language, it's their memo.
Don said he understands and they have asked them to incorporate it; they have not done that.
Chairman Martin said not to surprise you Larry; he is not for the $160,000.00 in reference to the Recovery Act and the money where it is coming from.
Larry said that is not where it is coming from and Chairman Martin thinks it is. Larry said this is T21 money. This is the third time they have received enhancement funds and he just got a memo to apply for 2012 to 2014 enhancement funds and that is another reason he is hoping that we will accept this $160,000.00 to the county.
Chairman Martin said that is why he needs the identification of that money; he has very strong feelings…
Larry stated it is T21 money; this is the third round and they are looking for a fourth round.
Commissioner Houpt said she doesn't disagree that it is really ridiculous that the state won't work well with the local governments on contracting. To write a memo, make a statement about the intent and then not be willing to put that in the contract goes beyond unreasonable. But at the same time we enter into state contracts all the time and we are going to continue to because we are an arm of the state and that is how we do a lot of our business. I make a motion that we accept the $160,000 from CDOT through its grant contract, subject to the terms and conditions of that contract including those of the statewide contract management system; but limit acceptance of the statewide contract management terms and conditions to this state grant only and fund this phase of the project for $800,000.00. Basically what this is saying is we don't agree with the language; we agree with the language in the memo that they gave us that directly relates to this contract, but want to move forward and understand they are not going formally change their language. But she is making a motion that we move forward and accept the $160,000.00 for this project.
Commissioner Samson – Second.
Larry stated, particularly for Chairman Martin, he knows he is concerned about other Federal money. This truly is not stimulus money; it had nothing to do with the Federal stimulus program.
Chairman Martin stated if it is the T21 money he can support it.
In favor: Houpt – aye Martin – aye Samson – aye
Don stated in the future, on state contracts, he doesn't think it would be productive to raise this issue every time a state contract comes up. You can assume this is a language problem in every state agreement.

Executive Session:

Ed has some items he would like to discuss; legal advice regarding the Energy Advisory Board; legal advice on the hydro phase III study; legal advice on negotiations on discussions regarding the Kozile property.

Work Sessions:

Ed stated they needed to add a work session in April. This deal with open space working group and trust for public lands; as you know you already have two for April. One is the financial aspects of forming an energy district and the other is a cafeteria benefits work session.
Commissioner Houpt said she had the buildings on their too.
Ed stated yes. This is April 6th with the courts.
Chairman Martin – Mr. Bradford was contacted was contacted also.
Carolyn said she was glad Ed brought this up because last week she had asked the Board to thinks about whether or not you want bond council present for that NECI LID discussion so that bond council could give you an idea of the cost to push the paper if you will. So far the Board has said you are not interested in bonding and you only want to support this LID if there is private grant money; but if there is any possibility if all of you, doing a bond issue, both she and Don would highly recommend that you have bond council involved from the beginning.
Commissioner Houpt said that was fine.
Carolyn said the Board has already authorized them to hire council if needed.
Commissioner Samson – Asked Ed to go over again what they had on April 6th.
Ed restated; open space, working group and trust for public lands. Financial aspects to forming an energy district and the cafeteria benefits work session and an open discussion with the court about the building.

Commissioner Houpt stated with everyone; all of those different stakeholders. That is all of the elected officials, all the courts; we just expected them to be at the last meeting and we decided to hold over and do another discussion with them.
Carolyn said she remembers during the last discussion; someone looked at Shawnee and asked her to contract the state people.
Chairman Martin stated Shawnee has no authority to do that; we extended the invitation out to Jim Bradford and it is already done.
Commissioner Samson asked about March 2nd.
Ed stated it is to review the CEBT rate increase; cell phone acquisition strategy; fair board planning; midterm budget review and format of the Board meetings.
Carolyn asked about rule 4 of the procurement code. That is the consideration of amendment to Article 4 that has to do with professional services contacts.
Chairman Martin explained that Ms. Dalhgren has a closing on the 7th Street property that day too.
Chairman Martin also reminded them they had a meeting in Carbondale at 6:30 at the town hall on the Suety exchange.
Commissioner Samson asked what time they started and Ed explained 8:00 a.m. He asked if they would go over March 16th; we have a site visit with Tom and then at 9:00 a.m. we have a work shop at 11:00 a.m. concerning code enforcement.
Ed said that would be in room 402.

COUNTY SHERIFF UPDATE – Lou Vallario

- **Request Approval of Supplemental for Carry Forward**

The Sheriff has submitted a supplemental request to defer the 2009 State Criminal Alien Assistance Program (SCAAP) grant revenues so that they can be carried forward into the Sheriff's Office 2010 budget. This is a common practice use to defer designated funds and is approved by McMahan and Associates, L.L.C. The Bureau of Justice Assistance manages and awards the SCAAP grant funds to state and local units of government that have authority over correctional facilities that incarcerate or detain undocumented criminal aliens for a minimum of 4 consecutive days and who have at least one felony or two misdemeanors convictions for violations of state or local law during the reporting period. There is no time limit on spending the funds that are awarded for the SCAAP grant. However, the funds must be used only for correctional purposes and the funds must increase or supplement the resources of the receiving state or local law enforcement agency. Funds shall not be used to replace or supplant the appropriated resources of the recipient. The SCAAP grant funds are tracked separately from all other funds in the Sheriff's Office, jail sub-department. The Sheriff plans to use the SCAAP grant funds in the future possibly for additional jail positions.
Lou stated they wanted to have an official request to approve some supplemental to carry forward in his budget that built up or where left over from 2009 and they want to carry over to 2010. Lou is not sure if they have resolved with the finance department the best way to do this or not. Lou explained they are trying to build the SCAAP fund for specific purposes and that is something we may want to have a discussion about at some other time. Clearly SCAAP funds are intended and specifically state they have to be used for jail related functions. He is trying to compile these funds as he sees some need for possible staff in the further, or some major improvements on the control board which may cost $1/4 million dollars or more. Another one is overtime money they receive from the gas industry; they received about $22,000.00 to do overtime enforcement out in the rural parts of the county. That involves several agencies; but they still have about $2,000 left. He doesn't think it would be appropriate to absorb that into his budget as it is specifically marked. The other one is the Samson fund, the fund we get from the Division of Wildlife when there is a trophy animal killed. That goes directly to the law enforcement agency's jurisdiction and those are specified for law enforcement purposes. It was received at the end of the year and they did not have time to apply it.
Don wanted to ask a question on the process and asked Theresa Wagenman to come forward. Don asked is this actually a proposal to amend and supplement the budget.
Theresa said it would be a budget supplement and it would be; while these are revenues from last year, the supplement would actually be an expense this year because it will be used for future expenses. The revenue we received and earned last year we are expecting to spend those funds so we need to supplement an expenditure line item. So these are not revenue line items that are being supplemented, rather expense live items.
Don said the process question he had, maybe we need to defer this a little bit. In order to supplement and amend the budget, it requires a noticed hearing the same way that it was accomplished to do the original budget. We do this pretty routinely and that's the question he had; do we need to include this request as part of a budget supplement that is properly noticed and we can make a record on it.
Theresa stated yes; she asked for them to come before the Board prior to that, for you to approve it before she put it on the actual supplement she brings to the Board. They are just asking for the Boards approval for these carry forwards and then she will add them to the supplemental officially and published in the newspaper and then bring to the Board publically in March.
Don said; the Board can discuss and ask questions; but you can't take action outside of a public hearing process.
Commissioner Houpt stated; in terms of direction she is fine with this, she has no problem at all.
Theresa said that was what she was looking for, so when she comes in March we will have addressed these questions.
Chairman Martin said the only thing he had was to make sure using the SCAPP funds for payment of wages doesn't conflict with what we are doing with our personnel code, our wage lines; because if that money should go away, what's the back-up to it. You have to be willing to understand those are funds for that purpose, and once those funds go away we can't continue that supplement.
Lou said that is why it is undefined right now. It is sort of a vision, an opportunity to use these funds; no different than if we were to receive a COPS grant for school resource officers.
Chairman Martin said they have tried to break the old philosophy; if you don't spend it this year, you won't get it next year. Why don't we spend it on what we really need it to be; again be frugal with our money,

have it for the future if we need it. You are following that line and he wanted to make sure there were no pitfalls that we have to supplement our general fund or wage line items etc.; because you have used it for that and need it in the future to keep people.

COUNTY ATTORNEY UPDATE – DON DEFORD

- **A. Consideration and Further Direction Regarding Resolution Repealing Resolution No. 03-14 Establishing the Search and Rescue Fund**

Don stated the Search and Rescue Fund and the repeal of the resolution of that fund have been in front of the Board before. There was one minor issue that needed to be resolved before we actually reach a conclusion on this. You will see in the resolution itself on page two there is a blank because when the Search and Rescue fund is closed, as a result of repealing the resolution, there will be residual funds, not any tremendous amount; but there are still residual amounts. The sheriff's office has engaged in discussions with Search and Rescue Inc., the private non-profit who provides some search and rescue services through the sheriff's office, and was also a participant officially in expenditure of funds from the Search and Rescue Fund. You will see attached is Exhibit A; an agreed distribution of the monies that are currently held in the Search and Rescue Fund that is agreed between the Sheriff and Search and Rescue Inc. there will be a small distribution of funds to Search and Rescue Inc.; the remaining amount he needs direction on and where that would go. It really should return to the general fund and when that occurs it may be that they will need to see another budget supplement that redistributes that money to the Sheriff's office; but, Don would ask that the Board accept Exhibit A as an attachment to this resolution and direct that the residual amounts in the Search and Rescue Fund be deposited in the General Fund.

Commissioner Samson – So moved.

Commissioner Houpt – Second.

Lou wanted to clarify that they are moving forward in a positive direction with Search and Rescue. This will really make this clean, the current process requires that any monies they receive, as part of their 501C3, to be pushed through his budget and controlled by him. Lou said that is not the right way to do it. They raised the money; they have their fund raisers and do what they need as a non-profit and are entitled to take that money in whole and spend it how they see fit on their organization. Lou stated it is real clean this way and gives them the opportunity to build these funds and do what is best for their corporation.

Commissioner Houpt asked why this money wouldn't go into the sheriff's search and rescue fund.

Don said it probably will; but it has to go into a fund, when you set up these separate funds they are actually separate accounting mechanisms. So when you close a fund it has to move to another fund; such as the road and bridge fund, or the general fund, or social services fund. Once it is in the general fund then we will need a budget supplement to redistribute to the sheriff's department.

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

- **B. Consideration and Further Direction Regarding Resolution Amending Resolution No. 06-112 Establishing the Oil and Gas Mitigation Fund**

Don said that this issue has come up periodically and Debbie has taken a look at it as it regards a specific issue. You should have in your packet a resolution that proposes; it suggests if you want to move forward on some specific payments that you need to address this concern about ongoing revenues that was set out in the original resolution. Additionally, Carolyn noted that there was one correction we need to make in terms of monies that go into this fund, because the royalty payments for property, mineral interest underline the airport going to the airport fund not into the oil and gas mitigation fund. We need to recognize that.

Deb Quinn said the change regarding the airport fund is the new change that wasn't in your packet. Deb passed out a redlined version that includes that provision. There is a new change in paragraph 3 that reflects what Ed caught about the airport fund. The other changes in paragraph 4, and a new paragraph 9 that indicates this will supersede the prior resolution. This is brought to you for the purpose of beginning discussion; she knows there have been other discussions about using this fund for other purposes, the language that is included in paragraph 4 today is only for the purpose of allowing these funds for the Health impact analysis that has been discussed by this Board a few times and will be discussed further today. This would authorize the Board to use the fund for that purpose without regard to the determination that ongoing revenues are not adequate to address the issue.

Commissioner Houpt said that was fine with her but she thought they made a commitment to pay for that out of general fund because of the language in this resolution. She thinks this has been in front of them about 3 times and we have never said that we weren't going to support that study; but John pointed out we are making sure we didn't spend this money when we have other revenues available. She is fine with this and has no problem with this; but she is also fine with spending general funds on that study that we have already committed to fund.

Chairman Martin said we can either accept this or not and we continue the study through general fund dollars, or we can take the oil mitigation funds and reimburse or request a supplemental change based upon the new policy in effect, monies to go to the general fund to backfill that expenditure. Do we want to keep it in general fund dollars; that's fine and not make a change to the oil and gas mitigation fund.

Commissioner Samson asked why she wanted it to come out of the general fund dollars.

Commissioner Houpt said it is consistent with the original resolution and what we talked about last time was we have money in general fund. We made a commitment to make sure we have this money in case there is some huge clean-up projects or other types of mitigation, additional monitoring that needs to be done during times when we don't have enough money to cover it. She thought they made a decision in the last meeting; she is flexible, but she is not quite sure why.

Chairman Martin asked; so your motion would be to not to accept the new language and go ahead and fund it out of there and not specify it out of the oil and gas mitigation.

Commissioner Houpt said her motion would be to accept the resolution, the word may is used in Paragraph 4; which means it doesn't have to be, but recognize that we have already made a commitment with general funds to fund that study. She stated that's her motion to accept the resolution amending resolution number 06-112 establishing the oil and gas mitigation fund and to in the situation an analysis, honor our previous commitment to fund that through general funds.

Commissioner Samson said he understands that; but he would rather it came out of the oil and gas mitigation fund, but I'll second the motion.

Judy Jordan had a question and it relates back to the Board's decision back in about October to hire Jeff Thyne to do some of the follow-up work that Lisa Bracken had asked for. The finance departments understanding was that the $20,000.00 that they were going to use to hire Jeff was going to come out of the oil and gas mitigation fund. But yet then she heard, and she has been privy to all the discussion about the oil and gas mitigation fund, so when she asked for a supplemental budget request to work on it with finance, they said don't put that money in there it is in the oil and gas mitigation fund. She just needs clarification about….
Chairman Martin said we have had no withdraws from the oil and gas mitigation fund and no requests to do such, and it has not shown that in the budget, it stays whole. The contract and the general fund dollars paid Jeffy Thyne; that is the way he understood it.
Judy said she should submit a request on that.
Commissioner Houpt said she thinks this gives them great flexibility; but she also thinks they need to stay true the commitment they made to make sure this money is available when we need it; when we don't have funds to cover these studies.
Commissioner Samson said she could always make a motion to take it out of the general fund.
Commissioner Houpt said she knows and that is what she did. I made a motion to adopt the resolution; but to stay consistent with our previous decision to take it out of the general fund.
Commissioner Samson would rather in the future; that these types of requests are taken out of this fund.
Commissioner Houpt said she thinks they need to look at that with each decision that they make on this work. When it is an expensive study she thinks they need to look at that.
Chairman Martin said it puts us in a box too; because it is only for studies right here according to this language.
Commissioner Houpt stated; it's only for studies?
Don said the language means what it says. It is very narrow and intentionally drawn up.
Commissioner Houpt said she is sorry; we need to have a larger discussion about that. She stated she will make a motion; she will withdraw her motion.
Commissioner Samson – Second.
Commissioner Houpt– I make a motion that the Board adopt – she then asked if they had always committed Garfield monies to Garfield County airport funds.
Don said you do need to make that change to the resolution because the FAA anticipates that the revenue emanating from property they have helped acquire will go only to the airport fund. That change needs to be made.
Commissioner Houpt – I make a motion that we approve the resolution amending resolution 06-112 establishing the oil and gas mitigation fund only adopting the new language in paragraph 3 and in paragraph 9.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt asked if they need to make another motion that the health analysis is funded through the general fund; because she thinks they have already made that corrected.
Deb said she thinks they made a commitment that you will fund it; she doesn't think there has been a specific request as to an amount yet. She thinks once that specific request comes forward then you can decide which fund.
Commissioner Samson asked; the red didn't get passed obviously in 4, so could we authorize a payment for that study with the present language in this resolution.
Don stated probably not; but that is really up to the Board. The resolution as currently written, and it remains written requires that you find that the ongoing revenues are not sufficient to fund the expenditure for the study. The position Don has taken with the Board, he thinks that is difficult for the Board to do this year, given the amount of revenue you are receiving.
Commissioner Samson said that is what he doesn't agree with. He doesn't think they need to continually take money out of the general fund if we have a lot of money in that fund and that in his way of thinking is why that fund is there. He thinks they need to start using some of that money for those purposes; but he can't do that now.
Don said that is why they presented this language to the Board today and he is gathering it has been rejected.
Commissioner Samson said that says only for studies; that's no good either. He wants to be able to use the oil and gas mitigation fund for purposes of mitigating whether they are studies, or whether they are cleanup or whatever they are. We can't do that with this language and he wants the language changed to use for those purposes.
Chairman Martin said to Commissioner Samson; you can if you have a foundation showing there is no other dollars available for those particular issues. If you can do that; that's why there are checks and balances for future…
Commissioner Samson said he disagrees with that.
Chairman Martin said he doesn't because otherwise you bleed it. You have to make sure that your general fund dollars are in dire need of being retained and directed into specific items to continue the counties function. If you can get that correlation there, then you can use the mitigation funds; but if you don't have that reasonable nexus showing that there is no money available for those operations…
Commissioner Houpt said this is what's in our original resolution; it is what we agreed on.
Commissioner Samson said he understood that; but he needs this question answered. Do we have to have a reasonable nexus legally to spend money from oil and gas mitigation to spend them for whatever we feel is mitigation in this county.
Don said you need, under the current language, to show first of all it is being spent to mitigate the impacts general of oil and gas development in the county, one. Secondly you need to make a finding that ongoing revenues are not adequate to fund the cost of that mitigation.
Commissioner Samson said he understood that because that is language that is in this. Is there a legality that we have to follow that? Another words; can I say we can rewrite this resolution.

Don explained this resolution is entirely the creature of the Board; but his point, in department, bringing to you is, it is your guide and it is binding on you until it is changed. The Board has adopted it.
Commissioner Samson stated; what he is saying is the state isn't going to come back and say; that's what his direction to Don would be to change this so that if the Board wants to spend it for something, they don't have to look and say, oh we have to take that general fund down to the zippo before they can dip into, he doesn't want that.
Commissioner Houpt said it is her opinion that if you had a cleanup that was going to cost a huge amount of money; you could make the argument today that our general fund would be jeopardized by taking money out. So that allow you to access these funds; but see when we made this decision, we wanted to make sure these funds were available for those really costly cleanups and other mitigation projects that we typically would not have money in the general fund to cover. So if it is for a study and we find in order to really make sure we are covering all of our bases, it becomes an ongoing huge expense that will impact our general fund; then we can take it from there. But we didn't want to put ourselves or future Boards in the position of just whittling away at this fund because it is a very important fund to be able to use in the future to mitigate really strong impacts with oil and gas. So as long as we have money in our general fund and our general fund won't be jeopardized by doing a health study or some other type of study; she wants to protect these funds for that future day; so she doesn't agree.
Commissioner Samson said he wants to make his point; those funds are for mitigation and he thinks the study is mitigation and those funds should be open to that.
Chairman Martin explained it is for more than just mitigation. It is to show when the overall revenue is declined so much there are no other funds available for operation and we put that reasonable nexus together; then you can withdraw that money to use it for the guidelines in there. It is a safety factor that we are not going to go to it every time there is a little hiccup in our budget. It causes us to be very, very frugal with our general fund dollars knowing that we are going to have expenditures and we may or may not be able to meet them.
Commissioner Samson said you don't have to do that every time; but you guys have closed the door.
Chairman Martin said no; it is not an operational fund for every operations. It is only for emergency situations.

Executive Session:

Don has a number of items for executive session; provide legal advice/update and potentially receive direction concerning items C, D, and E on the public agenda; they are ongoing administrative litigation in front of the Oil and Gas Commission, he anticipates there is a possibility on one or more of those there will be public action as well; provide legal advice and potentially receive direction concerning water litigation; legal advice and receive direction on the hydro phase III study; provide legal advice concerning the legal status of the Energy Advisory Board; Ed has noted the Kozeo property; Cassie needs to provide an update on the Kozel litigation; and Don needs to provide legal advice concerning the role of the county attorney office on land use litigation issues as they involve the gas industry. Don said the one item, he thinks is at 10:15 a.m., he needs to give legal advice on the Senior Exemption.
Commissioner Houpt – I make a motion we go into executive session to discuss the senior exemption.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin asked to have a motion to come out of executive session.
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin explained only legal advice was given in executive session; no decision were made, however that item will be under public meetings which is number 5B and will discuss at a later time this morning.

REGULAR AGENDA

ASSESSOR UPDATE

- **Abatements for EnCana Oil & Gas – Abatement No. 10-039, Schedule No. 0909136; Matthew Smith – Abatement No. 10-033, Schedule No. R045347; John and Soraya Burg – Abatement No. 10-029, Schedule No. R031386; Richard Todd and Bridget Lantz – Abatement No. 10-030, Schedule No. R312223; David Rasmussen – Abatement No. 10-032, Schedule No. R045346 – Lisa Warder**

Chairman Martin asked if these were public hearing and how was the public hearing accomplished.
Lisa stated it was a public hearing and notice was sent to the petitioner.
Chairman Martin swore in the speakers.
Lisa stated abatement number 10-039, schedule number 0909136. This is an oil and gas well located in Mesa County and was reported to Garfield County in error. The amount of the abatement is $9,378.80.
Commissioner Samson asked how it was caught.
Lisa said she wasn't sure in this case. It could have been the company who got a hold of us; they went on the COGCC website to check the legal description of where it was and she brought a map with her and it is not in Garfield County. Next is abatement 10-033, schedule number R045347; this is a clerical error, they used the code for vacant land rather than residential property. It was assessed at the higher 29% rate rather than the 7.96% rate. The amount of the abatement is $2,990.98. Next is abatement number 10-029, schedule number R031386, this is a new property and they picked up the improvements; however the improvements were only 20% complete as of January 1, 2009. So the entire improvement should not have been taxed for last year. The amount of the abatement is $2,909.46. Next is abatement number 10-030, schedule number R312223; similar situation to the last one, except the improvements were only 70% complete as of January 1, 2009. The abatement is in the amount of $1,016.78. Next abatement number 10-032, schedule number R045346; this is the same issue as the first abatement due to clerical error; the wrong code was entered into the computer. The property was assessed at higher 29% and should be 7.96 %; in the amount of $2,763.48.
Commissioner Houpt – I make a motion to close public hearing.
Commissioner Samson – Second.

In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement number 10-039, schedule number 0909136 in an amount of $9,378.80.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement number 10-033, schedule number R045347 in the amount of $2,990.98.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement number 10-029, schedule number R0311386 in the amount of $2,909.46.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement number 10-030, schedule number R312223 in the amount of $1,016.78.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement number 10-032, schedule number R045346 in the amount of $2,763.48.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

HUMAN SERVICES COMMISSION:

BOARD OF HUMAN SERVICES:

- **Mountain Valley Developmental Services and Human Services Commission Update -Barb Donnelly**

Barb has been looking for statistics on how many people who are living with disabilities in Garfield County. According to the County's website it looks like there is somewhere in the neighborhood of 5,000 people at the last census. About 1/3 of those people live in their homes and take care of themselves and do self care. About 2/3's live in other facilities like Mountain Valley and nursing homes. She thinks all of those institutions, that serve those people who are not in their homes, have been obviously affected by the budget cuts. On the good side the community has really been stepping up; they have seen a lot of businesses that are giving them things that they would ordinarily be discarded, things close to expiration date or gently used and they are donating. It has made a big difference; but the budget cuts people are experiencing are significant. For example; Mountain Valley they had to cut about $700,000.00 out of their budget. When they thought they cut it as about as far as they could go they had an unfortunate situation at the end of the year; a lot of people are aging and they lost four clients last year. It had a definite effect on the budget. The State has been doing some interesting things, and typically when someone in our services passes away their funding slot stays with Mountain Valley, and they are able to take someone off of the wait list. The State is not doing that at this point; they have not given the funding back for those four people. That affected them they had an additional cut to their budget by $300,000.00; but you can't close a facility for just four people gone. It has also affected those people who are living at home because a significant number of those people are on the wait list for services. That wait list currently has about 80 people on it; there is usually an opening every couple of years, so they have increased the wait list time for those people, who are eligible, by about another 10 years. Barb said there really isn't anything the Board can do about this; but she thought they should at least be aware of it. Of all of the things that affect people with disabilities, the ones you have the most control over are the Human Services Grants which are very valuable. Transportation is one thing that is an issue; getting around, getting to doctors appointments, having someone to take them place and she feels the county works on this a lot. She is hoping she will be able to take a look at the census data and analyze the results to see how things have changed; worse or better in Garfield County. As you look at long range planning; really look to see that those folks are at the table for the needs of all the citizens.

- **Human Service Grant Committee Request for Distribution of Contingency Funding for 2010 – Kay Vasilakis**

Kay was here to report that the Human Services has approved the contingency fund which the Board voted to approve.
Chairman Martin said we need to approve the recommendations.
Commissioner Houpt – I make a motion we approve the 2010 Contingency distribution as proposed and approved by the Human Service Commission.
Commissioner Samson – Second and how much was that for?
Kay stated $71,000.00.
Chairman Martin said the only problem is we don't have any more reserves for the rest of the year. That is a dangerous risk we are talking. He understands it is necessary to do so.
Commissioner Houpt said it is a huge risk but it was the vote of the Human Service Commission to do that.
In favor: Houpt – aye Martin – aye Samson – aye
Kay reminded the Board that the humanitarian diner was at the Hotel Colorado on April 12th. They would like one of the commissioners to participate in the program and read some of the scripts.

- **Approval of EBT/EFT Disbursements for January, 2010 – Lynn Renick**

For the month of January, 2010, client and provider disbursements for allocated programs, totaled $288,525.27. Client benefits for Food Assistance and LEAP totaled $535,034.90. Total EFT/EBT disbursements for January totaled $823,560.17. A copy of the certification summary has been included in the Board 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

- **Consideration and Signature Approval on Amended Area on Aging Notice of Grant Award for Caregiver Support and Senior Equipment/Services**

The department is requesting the Board's consideration and approval a revised Notice of Grant Award for $103,249.00 for Caregiver Support and Senior Equipment/Services in the counties of Garfield, Rio Blanco, Moffat and Routt. This agreement is for the current state fiscal year, ending June 30, 2010. The amount reflects an increase of $765.00.
Commissioner Houpt – So moved.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Annual Report Presentation by Childhelp, Inc. – Lynn Renick**

Susan Ackerman, Director of Childhelp River Bridge, will be providing 2009 information regarding the Child Advocacy Center program activities. The written report is included in the Board packet for review.
Suzanne Whiting (Garfield County Human Services) and Ray Donehue were present.
Suzanne wanted to thank the Board for their support on their project. In 2008 they served 80 child victims; they are primarily victims of sexual abuse. In 2009 they served 139 child victim; so the numbers have increased quite a bit. Of the 139 they served in 2009; 113 were from Garfield County, so as you can see the vast majority of the victims we serve are from Garfield County.
Commissioner Houpt asked if Suzanne thought that was because people are becoming more familiar with the facility.
Suzanne said they have really beefed up our community presence. They put some events on last year in child abuse prevention; they are going out into the community. She also thinks as people have successful outcomes of cases brought to them; it makes them more willing to bring other cases to them.
Commissioner Samson asked if the balance of the 138; is it from Pitkin County.
Ray stated it is from all the other areas; not just Pitkin. It was mostly from Eagle.
Lynn explained there was a couple from the Denver area; it depends on where the actual incident was reported. There was one from Delta and one from Michigan.

- **Discussion on State Fiscal Year Funding Projections – Lynn Renick**

A report on State funding and spending projections is included in the Board packet for review. This information provides expense information for the first six months of the State Fiscal Year, July 1, 2009 through December 31, 2009 and projects spending (in comparison to current allocations) through June 30, 2010.
Commissioner Samson asked what happens at the end of the year.
Lynn stated that June 30th the State will do a close out; but because of the State budget cuts, they are not expecting as much close out which would add to what their shortfall would be. They planned from that from a county budget prospective and they have a very healthy fund balance. But it is still from a State allocation standpoint; they try to have about a 14 % to 15% county share and the rest is from the State. She is not anticipating that is going to happen. There is a report in your packet on self sufficiency cases; it shows the impact. Colorado Works were well over 100% increase from January, 2009 and January, 2010. Food stamps are in the vicinity of 43%; case loads have increased between that time period also. Medicaid is up by over 100 cases; with the economic down turn, their caseloads are much greater and she wanted to show they are anticipating in Colorado Works, potentially being 25% being over expended. They have a little bit of reserves there; but they will not be mitigated out of that and county admin. is usually mitigated a little bit. They are anticipating to be 35% over expended; it is not unusual. She comes every year and tell the Board they plan to be over extended in that area. Again; she stated they usually get $50,000.00 in closeout; she will be surprised if they will this year. With the building of the building, we have fixtures and furniture cost that will go to child welfare so our over expenditure will be larger in that area. Childcare assistance program, low income childcare assistance is up; they are anticipating about $150,000.00 over expended. They have looked at mitigating that with some policy changes. We are going to monitor it very carefully; they don't want to make any changes on right away on that.
Commissioner Houpt asked if it would be better to do in July; or after you had a chance to let us know about the closeout.
Lynn explained their close out came in September or August at the earliest this past year. It does take the State a long time to filer through what monies are available and where it is. They could do a project based on what they are looking at; but they won't know what the State closeout is until probably August – September.
Chairman Martin said the reason he stated in that time frame is because that is when they do the budget kick-off. The workbooks go in and also what our approaches will be in each department. We need to decide where our priorities are going to be for 2011 and get those before any kind of presentation.
Ed thought an early September work session would be fine.
Chairman Martin said they want to get ahead of time before we have to adjust mills.
Lynn said they are right now looking at changing what policies they can change that make sense. They are also looking at some of the TANIF contracts that start July 1, 2010 and monitoring whether they are effective or not.

- **Program Updates**

Lynn stated that the 211 has grown a lot although from a numbers standpoint we went from 50 – 60 calls in 2008 to almost 500 calls in 2009. They have provided several start-up costs to bring that into Garfield County and she thinks they are seeing it starting to work. We will not be contracting again this year with 211 because of the amount they provided the first year and a half. They know that and they are fine with that; but it doesn't mean that they are not going to be worried. 211 will absolutely still be available; but we are not providing any additional administrative costs for that this year.
Commissioner Houpt asked Lynn why she supposed that Glenwood Springs has had such a great success and use, and the other communities haven't.
Lynn said she doesn't know this is the case; but if you see on bus kiosk they have 211 and that seems to be in Glenwood and she is wondering if that is one of the reasons.
Chairman Martin said that Mesa County took off; there are a lot of calls in Mesa County.

BOARD OF HEALTH:

- **EPSDT Contract with HCPF – Mary Meisner**

This contract is to provide early and periodic, screen diagnosis and treatment administrative outreach and case management services. The purpose of this amendment is to extend the performance period, to increase the not-to-exceed amount and to increase the cumulative amount. The modifications are: a. The performance period set forth in Section III.B shall be extended through June 30, 2010. b. The not-to-exceed amount set forth in Section III.C.1 shall be increased for the period March 1, 2010 through June 30, 2010 by $9,406.00 for a total not-to-exceed amount for FY 09-10 of $23,212.00, and c. The cumulative contract amount set forth in Section III.C.1 shall be revised to be $116,059.00. The effective date is upon approval of the State Controller or their delegate.
Commissioner Houpt – I make a motion we approve the Department of Health Care Policy and Financing Contract routing number 2210-9200, contract amendment number 5 in the amount of $9,406.00 and authorize the Chair to sign.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **CDPHE Contract for Immunizations**

This task order shall be effective upon approval by the State Controller, or designee, or on February 15, 2010, whichever is later. The task order shall end on June 30, 2010. It is a fixed price not-to-exceed $57,773.00.
This is a 2,000.00 increase over the '09 contract.
Carolyn wanted to point out that this is the contract that has the new reporting language in it that was talked about earlier. The contract actually says it is not applicable until the dollar amount hits $100,000.00; who knows if this contract will go up over $100,000.00 this year; but it is probably not worth getting the Department of Public Health and Environment on the phone and try to convince them to change the language.
Commissioner Houpt – I make a motion we approve the contract for immunizations with CDPHE, waiver number 154 in the amount of $57,773.00.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Absent

- **2009 Highlights**

Mary provided the highlights in the Boards packet and this is on file in the Clerk and Recorders office. Chairman Martin explained it is also on the website for anyone to review.

- **2010 Goals and Objectives – as above**
- **Presentation by Colorado School of Public Health Regarding Battlement Mesa Health Impact Assessment and Community Health Study – Jim Rada**

Jim wanted to refresh the Boards memory and do a brief synopsis of where we have come with this. Back in October there was a petition presented to the Board requesting that a health study be done prior to any drilling permits or other activity within the Battlement Mesa PUD; specifically looking at the Antero Resources Development plan. In December they did a work session with Board and Jim presented, and had been working with, already discussing this project potentially with the school of public health to see how they might proceed, or else get some input from them. At the time the Board of County Commissioners directed Jim to follow on the conversation with the school of public health; we have had numerous conversations and discussions and he has had numerous conversations and discussions with the members of the Battlement Mesa community, industry and other that will hopefully be stakeholders in this process as we move forward. February 3rd they held a stakeholder meeting at the public health office in Rifle with the school of public health representatives to help them get some input from representatives of the community, industry and others to help them to work towards development of some conceptual plans or proposals to bring to the Board today. In the interim the school of public health has prepared an application for a $150,000.00 grant to support the conducting of a health impact assessment. In conjunction with that; there would be a second approach to do a community health study that would go beyond the health impact assessment. The Board also, at last week's meeting, was concerned that perhaps the application for the grant might slow them down in terms of moving forward with this process. Jim said they do have a 6 week waiting period to hear back from the trust as to whether they will be awarded any money or not. He had a discussion with the research team and he believes they have come prepared today to talk with you about some possible options; how to approach interim funding.
Roxana Whitter, John Atgate, and Lee Newman were present. They gave a power point presentation to the Board.
Roxana said they are proposing to do two studies; one is the Health Impact Analysis and the second is the Environmental and Health Analysis and Monitoring Study. These studies are certainly interrelated and related; but they are thinking of them and will be developing them as two separate studies; partly because of the outcomes that each study would produce. She went on to explain each study.
Commissioner Houpt asked on the impact assessment; it will take how long.
Roxana said the HIA will take about 1 year including the analysis, getting to the reporting and recommendation stage will take until sometime in August/September timeframe. They would then do the evaluation for a couple of months after that. The second study they would design within the HIA timeframe; it would be around summer time.
Lee said that conclusions from the HIA would be available no later than August if they started now on the HIA.
Commissioner Houpt said the real challenge will be to convince the COGCC to have Antero put that on hold; their community development plan, until the outcome of this study is done.
Roxana said they have talked to the COGCC and they are aware of our studies and they certainly have expressed interest in incorporating the findings into their decision process. Depending on when Antero puts forth their comprehensive drilling plan; that timeline will be an important timeline.
Commissioner Houpt said that actually they should be talking to Antero instead of the agencies. Often times our regulations trigger certain dates; so if we receive a special use permit application we have certain dates to follow and it would be true of the Oil and Gas Commission.

Roxana said when they spoke with the COGCC they acknowledged it is normally a very fast timeline. It may or may not be fast for this particular project and there are also individual permitting times that their information could be useful as well.
Commissioner Houpt thinks that is really a critical issue; because both of these are important studies.
Roxana continued with power point presentation. She showed what the Battlement Mesa citizen's requests were. They put together some estimated budgets for these studies and she reviewed those.
Chairman Martin said when he attended the overall kick-off with Jim and everyone else he felt through the discussions with the Board that we are behind this study 100%; but we need to get things started immediately. That's why these folks are here and they are making a request; will you fund us, no matter what comes out and he believes the Board has said, we have to fund you.
Commissioner Houpt is concerned; she understands jeopardizes the grant and a lot of time and effort was put into apply for it. If we start immediately then it helps someone with the time crunch we have for making sure we have enough information by the time Antero brings their plan forward.
Roxana appreciates the Boards willingness to consider funding it; the grant is by no means a given.
Commissioner Samson had a few question; is this your first rodeo, have you done this before?
Roxana explained that HIA is very uncommon in the United States. There has only been a few done. It will be anyone's first rodeo.
John said that similar type studies have been done.
Commissioner Samson asked; since you have done this, what do you think the chances of us getting the grant.
John said they were cautiously optimistic.
Commissioner Samson asked will we get reimbursed through the grant process.
Lee explained the $44,000.00 is not something that would be reimbursed; because that is basically, if you decide to fund that, that is the county saying they don't want to wait to hear and then see this thing start and then had to decide. The $44,000.00 basically starts this process right now. If the grant comes through they would put in $150,000.00, and then they would have to talk to them about how much of the work we said we would do; we actually already accomplished. They might say we want to subtract that amount, which you have already done, from the total and he thinks that would be appropriate. The other option is if the grant doesn't come through and you decide to only fund the HIA in its entirety; that is approximately $185,000.00.
Commissioner Samson asked has anyone talked to Antero and see if they could put everything on the back burner; this could save a lot of money to a lot of people.
Jim said they have not broached that question with them; although in the course date several times and their most current information that Jim has, is sometime around the end of March or early April. They are part of the stakeholder process and Jim has been communicating with representatives of Antero and he hopes that as they they move forward and continue to include Antero in this process. If there is information brought out in this process that suggests it might be wise to wait, then they may wait. We don't know and can't we can't force that. Jim said the CDP is very new to the COGCC and state health; so the whole of consultation between those organizations is very new also.
Commissioner Houpt thinks it will be an important tool for the process. It certainly is consistent with why CDP's came into play in the first place. She thinks it is important as a county not wait a couple of months, she hoped she wasn't offending anyone as she know they put a grant proposal in and spent a lot of time. She would like to see them start immediately on the HIA so we can be well into it by the time Antero currently believes they will be presenting something. I make a motion that we support the immediate start on the HIA and commit the funds for both the HIA and the EHAMs Phase I study design in the amount of $257,000.00 unless the grant comes forward with their grant and then we would subtract what they commit from what this Board has committed today. She will make the motion that it comes out of the general fund and we commit those monies to those studies.
Commissioner Samson said he has no problem with the $257,000.00 but he wants it to come out of the oil and gas mitigation fund.
Chairman Martin said to Commissioner Samson; when you put together the reasonable nexus to show that there are no dollars available in the general fund that can substitute to supply that…..
Commissioner Houpt said she actually sees that being the appropriate funds for the rest of the EHAMS; because that is really where you are going to really need that type of funding available.
Chairman Martin said it is a continuation to obligations in the future; but if you can put that together, this Board can make that determination.
Commissioner Samson said he doesn't think it needs to do that and that's why he wants the resolution changed.
Commissioner Houpt said that is another discussion and you can bring it back to the Board.
Commissioner Samson – Second.
Carolyn was confused; is that funding into 2011?
Chairman Martin explained they could only spend the money in 2010, we have to have a contract and the performance evaluation and what will take place.
Commissioner Houpt said that is a given.
Carolyn asked if they are appropriating money in 2010.
Commissioner Houpt stated yes we are and Chairman Martin said he is not sure if they can do a multi-year contract.
Don asked if it had been budgeted and appropriated at this point and Chairman Martin stated no. Don said it needs to come back.
Commissioner Houpt said she is only making a motion to committing these funds. We all know the technicalities of contracts and the budget and we know that all of the money won't be spent in 2010. But because of TABOR we can only budget year to year; so it will come back to us.
Chairman Martin stated not-to-exceed up to $257,000.00 in 2010 or the amount there appropriated for.
In favor: Houpt – aye Martin – aye Samson – aye

PUBLIC MEETINGS:

- **Affordable Housing Project – Josh Russell**

Josh is the Executive Director; he says they are the housing arm, so to speak of Catholic Charities of the Arch Diocese of Denver. Over the past 40 or so years they have developed about 26 projects in Colorado including two here in Garfield County. Based on the demand they have seen; it is clear to them that another project would be very well received in the community. They have been looking for some time for a site; anywhere in the Roaring Fork Valley and recently they have come on to one that they think satisfies most of the criteria they look for in projects of this sort. They think they are in a position to pursue that opportunity and build a third project. The specific project is located near the intersection of 27th and Palmer in the City of Glenwood Springs just north of Walmart. They have not made any official submittals to the City of Glenwood Springs on this subject at this point. The specifics to development are subject to change considerably. In terms of the projects affordable; they are proposing to serve rental households, earning anywhere between 50 and 60% of Garfield County's area median income. The rents would range from about $600.00 per month to $1,000.00 per month, depending on how much the household earns and what type of unit it was. They will have an even mix of one bedroom apartments, two and three bedroom apartments. Great location they think as it is close to shopping and services and save on transportation costs. They are looking to fund through a variety of sources; the most significant being the sales proceeds of an allocation of Federal low income housing tax credits. They will sell them to large a financial institution who in turn writes it off for income tax and they receive the proceeds up front to help them build it. They will borrow some money; the project can support some debt. They will be looking for various government grants through various housing programs and State has one in front of the Commissioners today. The City has in its development code a number of fee waivers that eligible projects, such as this, can benefit from, like water and sewer. Arch Diocese Housing, as well, has private funds that were donated some years ago that they plan to invest in this project as well. Together all of those funds would get this project built. At this point he is focused on getting the largest and most competitive funding in hand; which is an allocation of tax credits. This project is in a good position to compete effectively, because it is not in the Denver Metro area. He thinks the state agency is interested in funding projects in rural areas and outside of the Metro area; particularly in those areas like the Roaring Fork Valley that have a clear need for affordable housing, a well documented need. Josh thinks they have a good track record out here. He thinks they have a relatively good chance of being successful when they apply on March 1st. He would like to include in the application a letter from the BOCC or staff that touches two points. One; just your general support for a housing project of this type. But, as a state agency they want to know they are funding projects that local communities want. That is very important. The second point; a willingness on behalf of the Board to consider in a future date a request on their part for funding to support the development of this project. The best analogy he could probably draw that you might remember; it is similar to the way you were planning to fund Glenwood Meadows several years ago. He stated the Board wouldn't expect to see a request for funding until after they have received tax credits; it would be premature to do so. While the timing request is drawn by this application deadline, March 1st, as he mentioned they have a similar presentation to the City on Thursday to ask for the same thing. To know we have support is critical; these projects are really a collaboration between local government, state government, federal government and private groups.

Commissioner Houpt stated for her, affordable housing is within a municipality, it is really important to know what the community level of support is. She would base her support on their support; she believes in what they are doing. She thinks they have found, over the years, it is critical to fill that nitch. When she makes a motion she would make that contingent on the outcome of your meeting with the City, because she doesn't think the County should play a role in determining what is within municipal boundaries unless that municipality is already at the table.

Josh couldn't agree more; if he had more control over the scheduling of the two meetings.

Commissioner Houpt understands; have you done a recent market study on need.

Josh said they have one under way right now; results aren't back.

Chairman Martin stated that in Glenwood Springs there are a lot of rentals going unrented. We do have a workforce issue; most of the workforce will go to Eagle County and Pitkin County, but he thinks the market study is very important to them. Do we wish to go ahead and support the 56 units?

Ed said there will be another group coming to this Board in April to discuss the re-start of the Meadows. So you have basically three affordable housing projects.

Commissioner Houpt thinks Josh is asking for support today with the concept so you can send your application forward and Josh said that was correct. Commissioner Houpt – I make a motion we support this proposal contingent on the discussion by the City Council on Thursday; even if it is on the boundary and incorporated Garfield County, she thinks it is critical to make sure that municipality is on board before the County. My motion would say it is contingent on the support of Glenwood Springs for this project; if they are in support, this Board is as well and will write a letter of support for the project.

Commissioner Samson – Second. He wanted to comment that he is concerned that we have others. He heard that others in Rifle are trying to get things together with the original plan, which he loved.

Commissioner Houpt said that meats a different population than this one would meet and we do have that partnership with Carbondale with the school district and the town. Those are meeting different population needs really.

Chairman Martin wanted to remind everyone that they didn't have any funds to draw off of for all of these projects. We don't have a mill levy in place for all housing; this is non-tax dollars we are using. Those funds are shrinking and we are going to look at obligations in the future without any of those funds available.

Commissioner Houpt explained her motion didn't commit funding; we don't have a proposal in front of us.

Chairman Martin said he wants the word to get out that they will have to pass some kind of a tax increase if we are going to have a housing project and contributions to those housing projects, with an overall master plan. Josh asked if we need 56 more units and Chairman Martin thinks we do.

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

Carbondale Project – Affordable Housing

Commissioner Samson had a question on the affordable housing they passed; it was $950,000.00 for the project in Carbondale.

Commissioner Houpt explained it was $10,000.00 per unit in three phases.
Commissioner Samson asked if that money had been released and everyone said no.
Don explained that Deb has been working on this.
Deb explained they have an IGA ready to go to bring to the Board. They wanted to have this discussion with the Board first about the terms and conditions upon which the units would be awarded etc. But the contract with the Housing Authority just gives our money to the Housing Authority, authorizes them to release it once we have agreed upon all the other terms. Deb said they can bring that forward anytime; we just haven't had that underlying discussion about what direction to go on negotiating terms for qualifications, priorities, those type of things.
Ed said as you remember you agreed to distribute all three phases of the funding initially and he has a concern.
Commissioner Houpt said they committed the money for the three phases; but it will be distributed after they are built.
Deb said that is one of the items in the contract that needs to be determined. It basically is upon the issuance of a CO that the Housing authority would be able to release those funds.
Commissioner Houpt said; but to keep that money available for the project so in two years we can't say oh no we aren't going to help you finish that project. It will just commit those funds.
Deb said they can bring the IGA with the Housing Authority anytime if the Board wants them to do that. This is to authorize the funding to the Housing Authority.
Commissioner Houpt said whenever it's ready.

- **Northwest Colorado Cultural Heritage – Nancy Kramer**

Nancy gave a power point presentation. They are requesting an investment of $12,500.00 to leverage partnerships within the county communities and organizations to integrate Garfield County into this regional program. She introduced Jackie Noble, Steven Erickson, and Kate Collins. Nancy explained this is the fastest growing segment of tourism and Garfield County has invested in tourism. Nancy explained they are a part of the Colorado Tourism Office, Heritage Travel Program Initiative. She gave statistics as to why Cultural Heritage is important. She said you can see it is stunning the economical impact of Cultural Heritage Tourism. The initiative so far for them; the CTO so far has invested $47,000.00. They have over $30,000.00 in regional partners; a variety from municipalities, to scenic by-ways, to government funding through mill levies. Their newest partner; they just received notice of an $83,000.00 grant, from the State Historical Fund to initiate the community gateway.
Jackie said they started out taking a 1,000 plus miles trip around the four counties and took a look at everything in the northwest corridor. One of the amazing things about the northwest is the amount of public lands. She showed maps of boundless landscapes and spirited people. Jackie feels what is important about including Garfield County is that we are very much a part of the boundless landscapes and spirited people of the entire region. Taking advantage of those scenic by-ways of the towns and the gateways; Steamboat Springs is one, Glenwood Springs could be another. Dinosaur with the gateways into the national park service, they find in terms of a map illustration, or the stories they have to tell; are about spirited people and forces of danger. The beauty of the Heritage Tour is also a continuous way of life. People are still ranching; they are still visiting the hot springs and utilizing the public land.
Nancy said as Jackie pointed out; really the stories are continuous from the four counties they currently have in the program. Working with Garfield County would really complete the northwest sector.
Jackie explained that all the communities are really culturally rich in terms of festivals and events, rodeos etc. Their website is not up yet and they are trying to have that up by the end of the week. How will we do this to integrate Garfield County; today obviously they are here to engage you about knowing more about the program and consider an investment of $12,500.00 that will then send them on their way to work with Cindy Heinz and Kate and other communities and organizations that would be stakeholders. They would continue on to finalize so they would match Garfield County's contribution. They would continue on with finalizing the inventory and the assets of Garfield County, and choosing the priorities that fit the theme and then start to integrate that into a new redesign of enhanced marketing collateral as well as the website. They anticipate that would be in the fall; in the winter of 2011 they would bring back the interruptive signage program, and would hope to realize some funding through the State Historical Fund again. What is the return on Garfield County's investment; increased market share of tourism, industry, more exposure on Colorado.com, it certainly raises the awareness to preserve heritage assets, and then you have access to an established infrastructure.
Kate things the work put into this is significant. She thinks this is an infrastructure investment with this region; the work done here will never go away.
Commissioner Houpt asked; you have good a representation of all the communities and the other counties, is it then your intent to work with all of the chambers in the different communities throughout Garfield.
Nancy said the initial part will actually come through Cindy and Nancy's work through the Historical Agencies; but eventually every community will be integrated.
Commissioner Houpt would like to see all of the communities involved. Commissioner Houpt said it was a very impressive brochure.
Commissioner Samson wanted to give a little background; he got involved because he had an invite to come to the chamber to get involved with 125th anniversary of Glenwood. He thought this was worth their time to see this presentation. One of his motives was to widen the scope of Garfield County. He thinks this is a tool that can help us as a County. He can see where a lot of our history and culture is diminishing rapidly and he would like to see some tools to preserve that. Commissioner Samson asked how much Routt, Moffit, and Rio Blanco contributed.
Nancy said Jackson, and Rio Blanco directly has not given. The town of Meeker, the scenic by-way has contributed. Moffit and Routt have two different fund mechanisms for this type of program and they utilize those dollars. There is a mill levy that goes for heritage programs in Routt County and the brochure was partly funded through them at $5,000.00. Moffit County Advisory Board provided $10,000.00. The balance was given through the smaller municipalities and there was money from CSU and Visitor Center gave $1,000.00. It is a really mix bag of funding.

Commissioner Samson – I make a motion we approve $12,500.00 to the Northwest Colorado Cultural Heritage Program to be taken from the Economic Development Fund and the Chair be authorized to sign.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Community Service Block Grant – Judy Martin**

Judy explained this is the second year of funding for the Traveler using a community service block grant. They are requesting….
Chairman Martin asked if it was notified and Judy replied yes, it was placed in the Citizen Telegram.
Carolyn said there is a notice in the newspaper and everything is covered.
Chairman Martin swore in the speakers
Judy said they are asking for $44,546.00; same as last year. The project is projecting that they would do 800 rides for seniors, 200 rides to meal sites, 200 to medical appointments, 200 employment and education, and 200 to shopping. This is double the amount of rides from last year; they are basing that off of when they did their assessments and intake forms this year, more than 60% of the folks who rode the Traveler were actually met the requirement. This grant period is from March 1st through February 28, 2011 and she is seeking a signature placed onto the grant.
Commissioner Samson asked what are the specific numbers.
Judy said it is a total of 800 rides and then they allocate them out to where the trips are going. She restated allocation of rides.
Chairman Martin – Motion to close public hearing?
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve the Community Service Block Grant application and plan for the Traveler program as presented in the amount of $44,546.00 and authorize the Chair to sign.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Discussion and Action Regarding Request for Funds from the City of Glenwood Springs for South Bridge – John Martin**

Chairman Martin stated the bookkeeping shows that we have spent $89,000.00 and we obligated $200,000.00 to this project. Even though we took a position that may be the overall study should stop because the scope was too small; of course that is the majority of the Board, not the full Board. Do we live up to our obligation in regard to the other funds?
Ed stated we only funded the $89,000.00 for 2010 based upon the recognition that there would be a bill for that amount.
Commissioner Houpt stated that they obligated the money with an IGA.
Don said he could tell them it was in the agreement; he had a question on what was budgeted and appropriated to fund the agreement this year, because the agreement by its terms is dependent for renewal on annual budget and appropriation. He said he doesn't know what was budgeted and appropriated.
Commissioner Houpt said she know that what they have heard from staff is it wasn't budgeted or appropriated. We would have to make a motion to accomplish that; but what we are talking about right now is the original commitment that was made to finish this study with Glenwood Springs. She thinks they all know her position; she thinks it is really important when you start this type of process that you complete it so that the data isn't lost. She thinks the mere fact that we have already put $89,000.00 into it warrants a complete study, instead of just a pile of data that will be obsolete in six months if we do nothing with it. She is still very much in favor of them fulfilling that original commitment of $200,000.00, or whatever it ends up being; not to exceed that. She has seen smaller numbers than that for completing this.
Commissioner Samson said he agrees with a lot of what Commissioner Houpt says; but he wanted to ask a question. If we give the rest of the $200,000.00 and this is completed, the nagging question he has; is this going to sit on the self for years before any money is seriously put toward this to get whatever alternative is chosen? You are saying we need to finish this because if we don't, we have all this data that will go to waste; how do you answer that? If we put more money toward it; it isn't going to be wasted, he doesn't see this going forward in the near future.
Commissioner Houpt thinks with any transportation project contemplated, transportation project across the county there is a process you have to go through to even begin to identify what kind of funding you can bring to the table. There are very few communities, if any, that could actually fund this type of project without outside money. But she will say it won't even be considered without the Board taking the first step of completing this process. If we truly do believe that it is important we find solutions to some real traffic issues, in Glenwood Springs, and particularly in this situation in South Glenwood/Garfield County, we need to go through this step. This doesn't guarantee at the end of the study sufficient mitigation efforts can be identified to make this the ultimate solution; but it could. If it does and it ends up being a good solution for Glenwood, then it is something we can bring forward for potential funding purposes. If not; if we don't complete it we will have nothing to bring forward. Also she thinks there is a lot to say for not just throwing away that $89,000.00. At least this will be a report that could or will be used if the project moves forward; but the project is not going to move forward on County and municipal funding, we will have to be able to move forward with plans and studies to apply for outside funding as well.
Chairman Martin said that is where he leaves that conversation. This is an issue for local government; it has been identified as such. It is an off system by-pass or bridge, or issue that needs to be handled by local funding. It does not qualify for, again he said he may be wrong, but it does not qualify for Federal funds to build this particular issue simply because it does not involve the State of Colorado and the Federal Highway System. It is again, off system roadway, so the scope is too small for what you want to accomplish. He stated his point was; let's step back and do a bigger scope and if we are going to solve it we need to put it to the citizens, a vote and raise our money locally, and fund it, and get it done locally, it would be done faster and without as much bureaucy and Federal involvement. If we continue to go down the path of having the Federal Highway Commission try to fund this and jump through their hoops. We are in line like you wouldn't believe; half way around the world with projects in front of us. Thank you very

much for the earmark; it didn't accomplish what we wanted to. The information is not lost; that is an intellectual knowledge and information that stays with this project and owned by the City and the County. We can continue our scope.
Commissioner Houpt said that formally it is lost according to the expert that we hired.
Chairman Martin said if you go through the Federal process you are correct. If you don't go through the Federal process you are wrong; because we will use it locally.
Commissioner Samson asked if they are going after Federal funds to do this otherwise what is the feasibility that would materialize in the near future; next five years.
Commissioner Houpt said we don't know until we bring that forward. It could be stimulus money, that she knows Chairman Martin doesn't like, it could be bridge money, transportation money as it does access a state highway. CDOT may not want to be at the table immediately; but it intersects their state highway. She would love to hear from Glenwood because this, as you know, has been a discussion with focus groups, many, many community people, a lot of consultants and studies have been done, and to drop it right before we finish this project makes absolutely no sense to her. And she is not making a judgment on the outcome; because you can't until it is completed.
Chairman Martin said that's not the issue. The issue is; do we honor our agreement? Is it the agreement we live up to, or is it the agreement we break? In that provision and in that IGA we can walk away if we get written notice. Do we wish to do that or go ahead an honor our commitment to the City of Glenwood Springs up to $200,000.00. What we are hearing is not-to-exceed that; there may be less money spent on this issue or not. That is what Shelly is going to present. Remember the bridge is not in the City limits; the only access is the road we gave to the City of Glenwood, 116. We have some people in the Cardiff area that are affected by this issue as well.
Shelly said she didn't come here today prepared to give any presentation. It is just to encourage the County to honor and stay with their commitment; finishing the EA because as far from the City's standpoint they have renewed their commitment to completing the EA. They recognize the importance of the bridge and it is in line for funds. The only way we can move it up the priority list is to finish an EA and show commitment to the project and show some preliminary engineering and planning that has gone into it. She thinks it is important right now; the need of the project has been demonstrated over the years and recognized. The project is controversial and she won't deny that; but she believes the controversy is mostly centered around trying to pick a location. It is very difficult in an area that is somewhat developed to pick a location; because you do impact people. Again that is why we need the study completed, we need an EA to follow processes, and if there are Federal monies that come down for bridges, or state monies that become available through different sources, she doesn't know they can predict those. A lot depends on politics and funding and how budgets come down to these projects; but in order to be considered and be in line for those monies, they have to have the study completed. She is here to ask the County; the partnership is so important on this project, as you said, it is on county land, but also it is serving many county residents and a portion of Glenwood Springs. Also you mentioned the by-pass study; it is an important project in their transportation system and Glenwood does have the ongoing corridor optimization plan. They have looked at the South Bridge in that; council had some questions that we might want to do some additional study on our own and look at the project overall. But it will serve our needs in different respects as far as relieving traffic in other areas that are generated because that bridge does not exist.
Chairman Martin said it is totally outside the earmark in what was designed for and what it was granted for. The other issue you (Shelly) brought up and it really hits home; an earmark knocks priorities out and that earmark then takes place of the priorities of the transportation planning commission has in this particular area. So if we add earmarks to this; those other priorities that have been agreed upon by all the communities and the whole planning region of transportation; get bumped. That has been a real sore for a lot of people and we have to overcome that. We will have to raise our money locally to do this and we need to feel enough pain within our community to make it go forward. We if we don't have that pain and commitment by our own people; how will be convince anyone to give us money on that? Give the earmark back, save the information, work together, use the study, put it to the people and say where do we want to go.
Commissioner Houpt said the other advantage to having a completed EA is if we start seeing applications for major development up Four Mile. It would be a good opportunity to have part of the conditions of approval be participation in the build out of a transportation system. But you can't do that if you are just speculating what you are going to do and say someday we are going to be doing something. This way we would have something tangible to work with. I make a motion we honor the commitment we made in the original IGA and confirm our commitment up to a total, including the $89,000.00 we have already paid of $200,000.00 for completion of the EA on South Bridge.
Commissioner Samson – Second. He stated he just doesn't have faith we need to honor..
Chairman Martin said he would have to echo that and that also goes back to the trust. Working relationships with municipalities, our commitment and what our worth is. We gave our word on that particular issue. He disagrees with the direction; but again our word is more important than that.
In favor: Houpt – aye Martin – aye Samson – aye
Don said he thinks the administration, through the finance department will have to make a decision whether this will be withdrawn through the road and bridge fund, or general fund, and you will need to bring it back, he assumes as a budget supplement through the Board. It will have to come back to the Board.
CONSENT AGENDA:

a. Approve Bills
b. Garfield New Energy Communities Initiative IGA – Alice Laird

Chairman Samson – Moved to approve a and b of the consent agenda. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Discussion and Decision Regarding Senior Exemption – John Martin**

Chairman Martin proposed that they take; from the excess revenue that we received from numerous sources, around $26 million dollars this year. We go ahead and do a onetime special fund to seniors and to disabled Veterans defined by the State Statute; 393-200. Using those guidelines and also the requested and registered recipients with those guidelines in Garfield County; we actually do a onetime reimbursement

back to those citizens and call it a senior citizen/disabled veteran benefit, onetime payment to them. He has a list of all of those who would be in Garfield County; the assessor's office was kind to go ahead and do that, and out of the number they have it is $403,387.19. He also has a list of the land, parcels, types of mill levies that would be levied and how it came about with the overall dollars per individual.
Commissioner Houpt asked how that will that be administered.
Chairman Martin explained by direction from this Board to the finance department to write those checks and send those to the people and they can use them for whatever they need to use them for. Again it is the senior citizens and disabled vets. He thinks they happen to be the most vulnerable at this time. They are on the fixed incomes, on the limited recipients of dollars.
Commissioner Houpt thinks there needs to be more background information on this. This is directly connected to a State Statute that has allowed for a senior and vet exemption that is not being honored this year because of State budgetary issues. The public needs to understand this because there are many people out there who are on the same difficult times. But what you are suggesting that this be tied exclusively to that statute as it defines the population and how the benefit is calculated; is that correct?
Chairman Martin said at least identified that way. Using those particular guidelines but not making it tied to that. He is saying that we go ahead and award as a onetime benefit to those most in need to Garfield County and he does that in form of a motion.
Commissioner Houpt said she didn't want to use the term most in need; because there are many people who are most in need. But what you were concerned about was that this wasn't happening at the State level and you wanted to give a onetime benefit to people who aren't receiving that this year; is that correct?
Chairman Martin stated receiving it period. It doesn't mean just this year; it is a onetime benefit and he thinks they need to be recognized they have an extremely difficult time surviving, and so that is his motion.
Commissioner Samson – Second.
Don asked; would it be appropriate, if this motion were to pass, to actually bring this back to the Board in the form of a resolution. Do you think the contents of the motion are sufficient to give direction, or how do you want this done.
Commissioner Samson said he would have to ask finance.
Commissioner Houpt stated and the Assessor and the Treasurer.
Commissioner Samson said he didn't think the Assessor is in this; finance is.
Don asked who is going to judge what qualifications for it.
Chairman Martin said those are listed through the Assessor and confirmed through the list we have here for the total dollars, the parcel numbers, the mill levies, the tax, the land, the impact etc., all of that is in the spreadsheet and have been identified through the Garfield County Assessor's Office.
Commissioner Samson said; from what he understands, thanks to Mr. Gorman's office, those people are already identified so we know the amount is what?
Chairman Martin - $403,387.19.
Commissioner Houpt said she would like to hear from the John, the Assessor and Georgia. She would like to know how that was determined.
John Gorman explained that the information while waiting was interesting and enlightening. John asked if they knew the mechanics of the senior exemption and Chairman Martin stated they are not using the senior exemption. John stated it is his understanding that the exemption for 100% disabled veterans was indeed by the State Legislature, funded. It was just the senior exemption which was not funded, and he believe the list before the Board contains a list of only those people who qualified under the qualifications for senior exemption. John thinks this is a wonderful idea in many ways; because a year ago he randomly took a look at a tax bill. He explained about a tax bill he received and it showed the particular individuals qualified for the senior exemption and this past May their value increased and of course they didn't get the senior exemption. To qualify you had to be in your house so many years and he didn't know this family in particular; but because of the loss of reduction, their out of pocket cost to pay their tax increased 84%. That is tough especially if you are 65, 75, or 80 years old and probably on a fixed income. His concern, for the Board, is that other self identified groups of people might see themselves as just in need as the seniors citizens are most certainly in need, and you may get folks coming to you saying what about us. He thinks that would be an interesting but difficult conversation.
Chairman Martin said we could just turn a blind eye and say everyone is in the same bucket and we aren't going to help anyone; we just keep the excess revenue. Who does it really belong to is his point; it's the citizens, not this Board. It is the citizens themselves and they should receive some benefit out of it as well. He selected those particular ones because he knows how heavily they are impacted. There is no one that receives more than $480.00 out of this; not one individual. It ranges from about $138.00 to $480.00; for those on fixed incomes. They can use it for whatever they need; if they want to pay their taxes, that's fine and they still have to pay their taxes.
John feels it is a fantastic idea but other groups may see themselves just as needy.
Chairman Martin said if he was going to house dogs for a half a million dollars and he doesn't give anything to our citizens and our seniors in that respect; I'm treating dogs better than I do my seniors and he can't live with himself.
Commissioner Houpt stated; but you're not; we do the traveler, and senior programs and commit a lot of resources.
Chairman Martin said we need to show more respect and have more support for our seniors. After all without them we wouldn't be here.
Commissioner Houpt thinks they need to amend the motion because what she heard today was that disabled veterans were taken care of at the state levels; so we need to amend it to just seniors.
Chairman Martin said if they were not identified in this list they wouldn't receive it anyway.
Commissioner Houpt wants to make sure the motion is correct.
Chairman Martin said there could be someone in there. Those identified on this list receive a onetime benefit from Garfield County identified with the guideline we had in that motion.
Commissioner Houpt said they need to be identified as what population which is the senior population.
Chairman Martin said that is the senior; all that are identified in this list.

Don said it is his understanding that you have a defined list and that is really what the motion is based on; is that correct?
Charmin Martin stated yes and there could be; again he has not looked at every individual parcel to see if they are a disabled vet or not, but he would say those that are identified on this outstanding list being qualified with the amount that is identified for their one time assistance.
Commissioner Houpt said she is hearing from the Assessor that is the senior.
John believes the list contains only the qualified senior citizens.
Commissioner Samson asked Lisa Dawson if she felt comfortable that they could carry out and everything will be fine.
Lisa said they can definitely issue checks to those folks. She doesn't know how many checks they are talking about; she assumes it is a couple of thousand, so she can't tell the Board how soon they can do that.
Chairman Martin thinks it is less than that.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin said he would tender the list to Lisa and then there will be follow-up in reference of what needs to be done by identification, individuals through parcel and tax numbers.

EXECUTIVE SESSION:

Don noted a number of items for ex. Session discussion of which he has to provide legal advice and particularly referencing items of which he also anticipates there may be public discussion and direction and have listed as items C, D and E under the County Attorney's time. He has a request from some private individuals to participate in any public discussion of those items; some are in the audience. It would be helpful for their scheduling if they had an idea when you intend these matters.
Chairman Martin stated 2:00 p.m. Chairman Martin stated they would take a break and come back at 1:00 p.m.
Commissioner Samson – I move to go into executive session.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

REGULAR AGENDA

PUBLIC MEETINGS

- **Consider a Request for the Board of County Commissioners to Authorize TCI Lane Ranch LLC as the Applicant for State Highway Access Permit Required for Improvements to the Intersection of County Road 100 and State Highway 82 – Authorize the Chairman to Sign a Letter to the Colorado Department of Transportation Regarding this Designation of Authority – Kathy Eastley**

The Board of County Commissioners approved a PUD and Preliminary plan for a residential development to be located on Old Highway 82, east of the intersection of County Road 100 and State Highway 82. Condition number 5 of Resolution 2009-81 states: The applicant shall construct the improvements to the intersection of County Road 100 and State Highway 82 as approved by CDOT which includes a new right turn lane from Northbound County Road 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 County Road 100 (with 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.) Staff requests that the Board delegate authority for permitting responsibility of this intersection to TCI Lane Ranch, LLC and that the Chairman be authorized to sign a letter to the developer regarding the authorization.
John Fredricks was present representing TCI.
Kathy stated that CDOT provided a letter for the Board to sign designating TCI Lane Ranch as an authorize applicant and she is requesting the Board authorize the Chairman to sign.
Deb stated in reviewing this and she doesn't recall from the hearing before the Board, whether they determined the area of improvements is adjacent to both old Hwy. 82 and existing Hwy.82 and it will be, as indicated, a new right turn lane. She stated they aren't positive how much of that is within the Hwy. 82 right-of-way and how much just might be county road. So to the extent that any of it is outside of the CDOT right-of-way and only county road, you will need a road permit as well from County Road and Bridge. She stated they haven't done the measurements or have maps of where the right-of-way ends and where our right-of-way ends.
Chairman Martin said it may be only an easement anyway. We will have to see what other issues are out there; that is one of the burdens the applicant is accepting. He then asked the applicant if they were accepting that particular burden.
John said they are accepting that. He explained they did some preliminary mapping and tried to figure out where those boundaries were and it wasn't very clear. What they figured out, was they thought the entirety of the work was going to be within CDOT's right-of-way because old Hwy. 82 and State Hwy. 82 are not going to join together in that locations and right-of-ways.
Chairman Martin said it might be interesting they put the park-n-ride there on CDOT right-of-way too; which is adjoining this too, isn't it?
John stated yes it is just adjacent to it.
Chairman Martin said that is the CDOT right-of-way which was the issue and you may have that cleared up through their mapping of that particular park-n-ride.
John said his understanding is there is no formal agreement in place for that park-n-ride.
Chairman Martin said probably not; they didn't get to see it, CDOT just did it.
Commissioner Samson – I move that we authorize you to sign this letter to the Colorado Department of Transportation, authorizing to TCI Lane Ranch LLC as the applicant for State highway access required for the improvement to the intersection to County Road 100 and State Hwy. 82.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Discussion Regarding the Applicability of Section 4-502 © (3) Regarding Legal Descriptions on Site Plans – Molly Orkild-Larson**

Molly presented the following exhibits; Exhibit A – Garfield County Unified Land Use Resolution of 2008, as amended; Exhibit B – Staff Memorandum and Exhibit C – Staff Power Point Presentation.
Molly explained:
Site plans are required for the majority of land use change applications and permitting reviews. In some cases the subject parcels can be quite large (i.e. 45,000-acres) and as per this section of code, the applicant is to provide a surveyed legal description described in metes and bounds. Molly explained what the site plan shall include. Staff Analysis: A metes and bounds legal description of a subject parcel is not necessary for all permit application. For example, it is not unusual on limited impact review application proposing a storage yard (i.e., 2-acres) to be situated on a very large parcel (in some cases up to 45,000-acres). As per Section 4-502 © (3), a detailed description of the subject parcel (the larger parcel) is required rather than the area for the storage yard. In situations such as this, it may be more appropriate for the site plan requirements to apply only to the specific area of review (i.e. storage yard). The site plan requirements appropriately apply to the subdivision process; however, applying these requirements to the exemption review may require additional discussion by the BOCC, given that it would necessitate a survey of all parcels created by exemption, including the "remainder" parcel. Staff recommends the site plan apply to only the portion of a parcel that is subject to the land use action and legal description developed for that specific area.
Molly gave a power point presentation. She stated through their analysis a metes and bound description might not be the best way of describing the subject parcel and it might not be necessary for the permit application. Again in reference to larger parcels; it might be more appropriate for the site plan requirements to apply only to the specific area of review of the land use activity on the larger parcel and to develop more of a detailed land survey legal description specifying that location within the larger track. Under subdivision exemptions; we are looking at the property boundary requirements. However, with these requirements to the exemption review it might require further discussion with the Board; given that it would require a survey of all the parcels created through that exemption including the remainder parcel. What they are recommending for the side plan, under Article 4 Section 4-502 is that we are requesting staff to get immediate direction to clarify the vicinity maps in the site plan requirements as follow. What you are seeing in yellow is what we have added and in red is what we are eliminating from the text. They would like the vicinity map to read, under © 2 and 8 ½ by 11 vicinity map locating the parcel in the county, the vicinity map shall clearly show the parcel and the boundaries of the subject site, and all property within a 3 mile radius of the subject parcel.
Commissioner Houpt asked how that will change what you receive if it also requires the 3 mile radius; what are we changing.
Molly went back to the example of the map to show the assessors map with properties around it and where it is located. It will change it by pointing out where exactly is that subject area that is under review located within that large parcel.
Commissioner Houpt asked; and it doesn't show that right now.
Molly said the majority of those applications, that she has seen come do not have that location.
Commissioner Houpt has a real concern about only requiring the site. She agrees they should show where it is sited on the property. She is confused about what is being asked here. Going back to the map; you would still require, she doesn't know what 3 miles is on that.
Molly said they would put a circle around that area or go out three miles
Commissioner Houpt asked; with all of the other uses, like it has on here now.
Molly explained that is what they are supposed to show; we wouldn't deviate from the 3 mile radius beyond the subject parcel which is the bigger tract.
Commissioner Houpt is very concerned about the cumulative use of some of these big parcels. She doesn't want to lose the ability to understand what uses there are and whether it is appropriate to add another use in that area.
Molly said she didn't think they would be deviating from the 3 miles. What they are asking under that provision of that portion of the code is to locate that subject area that specific permit is addressing or where the land use activity is occurring. Because the parcel is so big, it's hard to know exactly where it is within that tract.
Chairman Martin said he needs an explanation. He has 160-acre spread; I'm out there by Wallace Creek. He wants to use 3-acres to do something other than agriculture; such as a storage facility. He wants to put that in a certain area of his 160-acres that boarders no other private property; but within the center of his 106-acres. Do I need to notify everyone that he is going to do that in a 3 mile sphere of influence? The answer should be no. Do I have anyone who is within the area of 200 feet, and the answer is no. How are the neighbors going to be notified if that site is so specific?
Deb asked them to switch back to the language that you are proposing. The problem now is that when we get applications in, for example for a office building; the way the code now is drafted or has been enacted, it would require a boundary survey of that entire 45,000-acre parcel which is not what we have traditionally required of folks. We do require them to notice everyone around the boundary of that larger parcel; but the change is the legal description, the metes and bounds will need to be sited within that parcel, and that's what we need a survey of. Not the entire outside boundary. For notification purposes; two things happen, one they still have to show the three mile radius of the larger parcel within which this is occurring. For notification they still need to notify all adjacent owners around the boundary of the larger parcel.
Chairman Martin said that what you are doing is driving up the cost of the development; $7,000.00 to $10,000.00 to do that survey of the site if you had to do the outside and then the inside, you have a brand new survey you have to create if you are just making this difference. Another words; it's part of a larger parcel and you are creating a site that needs to be surveyed.
Deb stated; right that is what's in your code today. Instead of surveying the larger parcel, which would be much more expensive, what they are recommending is it only be the site.
Chairman Martin asked not both.
Molly said correct. Molly directed them to C3; a legal description of the subject site.
Chairman Martin said you need to identify within that site; that is reasonable.

Molly said they want to have a legal metes and bound legal description. It would be of the specific office expansion.
Chairman Martin said it was really no different than an oil pad, or a pad that is approved and has to have a legal description, a location, survey etc., so they can do that within that parcel and go from there.
Fred said they are trying to relieve an enormous burden on someone going to go out have them do that amount for a larger parcel. As a practical matter he doesn't think it has much bearing where they focus the site itself. The 3 mile issue will still be the 3 mile issue.
Molly read through the site plan. It will be of the subject site that they are going to be having that legal description for. Under subdivision exemptions they are requesting to allow staff to continue the process application under this proposed language, seen on presentation, so as not to hold up the application due to the impractical application of current regulations. This will also allow staff to be consistent with the way the Board has applied the land use code in the past. They have the same language here as they do under article 4. Molly asked Deb if she wanted to talk about the remainder lot and your ideas on that.
Deb said they are asking that the Board direct them to come through with land use code amendments to affect these changes to make the process simpler for folks. Right now there are requirements as written. When talking about this, they realized they had a similar issue with subdivision exemptions, and she and Molly and Fred talked last Friday and they hadn't come up with exact language of how to do deal with exemptions. But, the issue in the past; if someone has a ranch of 160 acres and they want to create exemption laws, actually if they are creating three exemptions laws they are actually creating four; because the fourth one is the remainder parcel. It is also an exemption lot. What this Board has done in the past is not required an exterior boundary survey to be done; but describe that remainder parcel as whatever they had to begin with less the three specifically described parcels. That is a valid legal description that eliminates their need to do a survey boundary of the entire lot. What they hadn't discussed is a threshold, if you will, of when that might apply. If you have a 10-acre parcel, is it that owner is required to go ahead and do a survey boundary of the entire thing. They haven't really pinned down that aspect of it; but the idea is to not have an owerous boundary survey requirement on subdivision exemptions, generally. With maybe some direction from the Board as to when, or if, you want to have a threshold for when that might apply. It basically takes the language of the current code and tweaks it to being consistent with the way that you have applied it in the past. She hasn't looked at the language of the old code to see if there was anything in there different, and maybe that is something they can do; but they do know from practice that is the way we applied those requirements in the past. They didn't think you intended with the new code to make it more ownerous on people.
Commissioner Houpt said no she didn't think so; but she also doesn't thinks without more information they can't come up with a threshold number. We would be picking it out of a hat.
Fred said one of the criteria they thought about that made a little bit of sense, was exactly the example Deb was talking about. You have your 160 acres and they want to create 3 lots; as you applied that same regulation in the past many years, even the school impact fee, you have never applied that to the existing rancher. It would be the newly created impacts from those new lots. New access, new water use, new fire protection and all those kinds of things. He can see them bringing back some kind of level of at least an initial criteria like that so you could see what makes sense to you. Really it is an acreage qualifier; he thinks there are so many examples you can come up with and thinks it is irrelevant. They will bring this back to ask for direction on how to apply this. Let's say someone comes in tomorrow with that same exemption example you saw in the presentation; they would like to say, well yes we know the code says you have to do a survey boundary, they don't want to do that. But that is what the regulations say, so they were going to ask the Board how they felt about that. If they were to process actively, right now, a text amendment addressing this issue, and during this time we are doing that, not apply that ownerous regulation. That is what they are asking in both the exemption world and the impact review. At least you know you're not ignoring your regulations because we are working in good faith to bring you something that makes a lot more sense. It is just impractical as it applies today.
Deb thinks they could go forward with a text amendment to the planning commissioner. They could do their best job at staff level to come up with something that is workable on the exemption. The language on the other one she thinks is pretty welled jelled and ready to go; but that way if they had the text amendment in process she thinks there is a clear guideline for staff as long as it is in process that we shouldn't be owners about applying the language of the code as written.
Commissioner Houpt said that was fair.
Chairman Martin said he would like a copy of staff's power point so he can absorb everything and how it applies.
Fred stated that Molly is asking for specific direction to allow……
Deb said she would like a motion because they will be applying something different than what is written in the code.
Commissioner Houpt – I make a motion we direct staff, the planning staff, and legal staff to move forward on text amendments for 4-502 © (2) and © (3) and during the process of creating that text amendment, this commission give staff the authority to use the provisions they believe are fair under the circumstances covered by these regulations as presented today.
Deb asked Commissioner Houpt to add sections 5-502 © (2) and © (7) to that motion; that is the exemption section.
Commissioner Houpt added those sections.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Executive Session:
Chairman Martin stated items that have been previous identified and asked if there were any other items.
Don stated Mr. Green said we may need to provide legal advice and receive direction concerning contract negotiations with the Town of Parachute on the development of an IGA for the West Parachute interchange.
Chairman Martin said they also had a request from Judy Jordan on Prather Springs.
Commissioner Samson said he would bring up a matter for legal input.

Chairman Martin asked if it was oil and gas related and Commissioner Samson stated yes.
Commissioner Samson – I move to go into executive session.
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

- **C. Direction Re: Dejour Energy (USA) Corp. for an Order Establishing Spacing and Well Location – Cause No. 513 – Docket No. 1002-AW-01**

Don has filed an intervention in this matter on behalf of the Board as a concern to request by Dejour for an order from the COGCC that would authorize increased down hole well density. The area, that is subject of the application, which is in part the wildlife area on Garfield Creek; in the intervention, he has copies available, but generally we raised issues concerning potential surface impacts to wildlife in the wildlife area, and also as sort of an additional issue, but perhaps not as directly significant is potential impacts on traffic for the Town of New Castle and on county roads. Don participated in a prehearing conference, last week, concerning this cause and a couple of things have developed out of that. The Board is aware of those and unless the Board tells him otherwise, it is Don's sense that the Board would like public discussion on the current status. On this matter the attorney for Dejour was present and he was present by telephone for the conference, and of great significance Mr. Reynolds from DNR was also present during that hearing. Two things of significance came from that hearing; the first was that the hearing officer, an application for increased well increased well density, particularly in this case down hole well density was not a cause for which the County could appropriately bring public health, safety, welfare issue to the commission and that there were alternative proceedings under which that could be done. Factually out of the hearing the DNR representative Mr. Reynolds stated to all of them that he had been in contact with the bureau of land management and it was his information that the Bureau of Land Management intended to file a protest in this manner by Friday of last week. Don asked Mr. Reynolds, since he was in contact with BLM, to have
Commissioner Houpt asked if it was Bob Randall.
Don stated yes, it was Bob Randall, asked if he could convey to BLM that Don would like a copy of the protest, although we are entitled to one as a party anyway. He indicated to Don he would convey that, and to date Don has not received a protest from BLM. Also in that hearing he pointed all of us to a Memorandum of Understanding between BLM and the Colorado Oil and Gas Commission that addresses how the COGCC will participate in the regulation of development of Federal Minerals controlled by BLM. It is a short document but very interesting, and it dates from the mid 90's. It does set-up a process in which the BLM exceeds to the jurisdiction to the jurisdiction of the COGCC to regulate federal minerals pursuant to COGCC regulations. However; it specifically provides that should the BLM desire alternative or additional conditions to those that would fall under COGCC regs. BLM can file a protest. It specifically gives BLM the ability to file a protest up to a point in time 3 days before the hearing, and also provides that once a protest is filed COGCC is either required to accept the conditions proposed by the BLM, or the matter is automatically transferred to the jurisdiction of the Federal Government and out of the hands of the COGCC. He provided Don a copy of that MOU. Two other things factually the Board should know; the wildlife issues are issues that the COGCC rules specifically provide for participation by DOW. Don thinks they have an argument that does not foreclose the county from participating; but the DOW specifically has given the ability to protect wildlife issues. Don has asked repeatedly to DOW for information concerning who would come in and support our position on wildlife; since that is not an issue that Garfield County has in-house expertise. At this juncture they have not provided Don with that information; they have not declined to do that, they have focused rather on the BLM position rather than on participating in the hearing. We don't, at this point, have that kind of expertise to present to the COGCC. Lastly Don talked to the Town of New Castle through the Mayor briefly on the traffic issues. The Mayor indicated to Don that he would consider whatever issues there were and get back to Don. He has heard nothing further form New Castle. Given the status of the case, Don wonders if this commission wants to proceed with this intervention.
Chairman Martin asked if anyone in the room had any input concerning the Dejour intervention. Hearing none; he stated they needed to make a determination whether they continue with intervention or withdraw.
Commissioner Houpt said they were supporting the DOW and the BLM and BLM has made the decision to intervene; she is not sure if we need to because they are the ones who ultimately will make their case. She asked Judy Jordan when it was first brought to the Board, she was in contact with the DOW.
Judy wasn't sure if they talked to the DOW before hand or after. Then she stated; yes it was before hand.
Commissioner Houpt said she thinks that's why they decided to support them.
Don stated that is exactly what happened. His recollection was that when Judy contacted his office first, Don asked Judy to get hold of DOW. She did that; and when they came to the BOCC with this issue she had talked and discussed the matter with DOW at that point.
Commissioner Houpt stated; if DOW hasn't come forward to help us, and the BLM is actually working on something, she is not sure it is necessary.
Chairman Martin stated the Federal government has the trump card; if they choose to go ahead and protest, they will. DOW is the direct contact with them with their memorandum of understanding. He thinks it is between the two of them and if there is an objection; it needs to be through that organization instead of our.
Judy talked to DOW again; one Friday before they came before the Board, late last week, and the one person she spoke with didn't speak for DOW per-say; they just said they were not interested in serving as a witness and she couldn't get hold of anyone else. It clearly didn't seem to be something that was burning under DOW to be able to come in and testify on this.
Chairman Martin – so the intervention at hand; continue or make a withdraw.
Don stated the Board has given public direction by motion to file an intervention, so he will need a similar action if you want to cease that action.
Commissioner Samson said he didn't think they had a choice.
Commissioner Houpt thinks they have a choice; but she thinks they might be wasting resources by moving forward.

Commissioner Samson said okay we have a choice but he thinks it might be foolish to continue. I move we direct our legal staff to cease the intervention concerning Dejour Energy USA Corporation for an order establishing spacing well location.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. Direction Re: Application of Antero Resources Piceance Corporation for an Order Establishing Drilling and Spacing Unit; Cause No. 440; Docket No. 1002-SP-04**

Don said he will treat these jointly (Item D and E), they both involve pass sections that line within the Battlement Mesa PUD. The board has previously directed that his office file interventions in request for increased well density for these two half sections. That application, by Antero, or applications request increased down hole density as well as increased surface density for those two half sections. Don said he will proceed with the discussion of the facts as they lay and if the Board does not want him to get into areas they think might be confidential, you need to tell him that.
Commissioner Houpt thinks it is important to make sure that we approach this with the knowledge we have; especially the special use permit process that is going to happen, and that this hearing could still happen. She will leave to Don's discretion.
Commissioner Samson would like to have them tell everything, and preface his remarks, when we make the decision a few weeks ago they didn't have a lot of this information that they now have.
Don stated that was correct. To lay the factual background; as he said the actual applications are for increased density in two half sections of 320-acre parcels or units that lay also within the Battlement Mesa PUD as defined in the County's zoning regulations. The requests are to increase density from the current 320 spacing; which could also arguably be 160 spacing, which is spacing for both surface and down hole density to increase authorized spacing to quarter, quarter surface and tank or down hole densities. Don said they filed the intervention and we raised public, health, safety and welfare issues as he believes rule 509 allows them to do. Again, the hearing officer, Ms. Harmon, does not agree with Don's position on this. She did not think an application for increased surface and down hole density was a process in which the COGCC should consider it a public health, safety, and welfare issues and that there was an alternative process to consider those issues under form 2A, or the location assessment process. Don said they discussed her position some; but she indicated that her recommendation to the commission would be to deny our motion to intervene. That is one piece of information that none of us had; that would be the position of the COGCC. In the past, it has been a few years now; but we have filed this type of intervention and it has proceeded in front of the commissioner. But it has been a few years since we have done that. The other information you need to be aware of, and was not known to us when we filed this, and it came out of the pre-hearing process is that a significant portion of the area defined by the Battlement Mesa PUD has already been spaced, or tank or down hole and quarter, quarter surface densities. As the Board knows, our primary argument in intervening in this type of application is that the well density determination carries cumulative impacts for the area. That is the argument he made and it really is the primary basis for intervening in that type of application. As you can see that issue has been resolved and he thinks approximately half or so of the existing subdivision in term of density. Those are two issues out there and he has explained to the Board, if you want he will go through all of this; but there are advantages and disadvantages to proceeding with this application in terms of legal issues. It is possible the Board will have to go to Denver District Court for final resolution if the commission agrees with Ms. Harmon and not Don's argument, and even there is no certain assurance that the Board will end up with the right to intervene in this case. One of the things Don hasn't discussed fully with the Board; we have to keep in mind we are dealing with new regulations and some of this will be a matter of first impression on how the new regulations will be applied. The Board should make a decision on this; Don has to appear in front of the commission on Monday to argue this matter if they go forward with this. It is technically set for hearing at that time; he has also asked for this matter to be continued and reset for the Battlement Mesa area. If the commission agrees with his position; he will persist in that argument. At this juncture; given a position of the staff of the COGCC; we will not be prepared to put on an actual hearing on Monday. It seems unreasonable for him to ask citizens and a significant number of staff to go to Denver for a hearing that may not occur. Don state he needs direction and he knows there are citizens that want to talk to this Board about this issue.
Scott Balcomb, Attorney who represents Antero. The resource development plan that Antero would like to proceed with; has been developed as a result of at least 10 meetings with Battlement Mesa Inc., 14 meetings with the various stakeholders in Battlement Mesa community and an addition 10 or 11 informational meetings hosted by Antero. The result is what they think is a fairly comprehensive plan that can be implemented with a minimal of impacts on the community. Nothing in the application that Antero has made to the COGCC is in their mind inconsistent with the resource development plan that has evolved as a result of all of those meetings and input and Antero has no intention today, or as a result of that matter before the COGCC to do anything that they haven't indicated that they wish to do as a result of those meetings. They believe in the interest of the county residents and the county is fully protected in the SUP process and they intent to participate, make their SUP applicant, and abide by the decision of the planning commission and this Board when those decisions are made. He stated they don't see the COGCC procedure is the right forum and he is personally concerned if the County continues in its efforts to participate it will have 2 or 3 unintended and collateral consequences. One it will discourage future oil and gas developers from engaging in this very expensive and very comprehensive process to try to get an acceptable and reasonable development plan. Second of all, it will give yet another signal to the industry that they are not going to get a reasonable welcome from Garfield County at a time when they need them to provide them to provide an economic basis. Not only for the activities that the County would like to do; but the jobs that the people in this area need; they think it is appropriate to wait until another day and not proceed with.
Commissioner Houpt said she is assuming the special use permit application will come forward
Scott said they are working hard on it.
Commissioner Houpt stated that Scott mentioned the comprehensive development plan not the special use permit and those are two different..

Scott said you have to have the first before you can apply for a special use to get approval on the special use; the way they are preceding.
Commissioner Houpt said the Board had encouraged them to come here first; but she doesn't know what direction they are taking on that. She has a concern with what she has hear is represented in the CDP, and she hasn't see it because we are going to be doing the special use permit process, and the consistent nature, whether it fits with 10-acre density down hole, unless there are a lot of other areas that will be drilled. So there is that concern; the other concern with being charged with making a ruling on a special use permit; but before that even comes in front of the Board, agreeing to something that will greatly impact what we can do in terms of conditions if we by default agree to 10-acre downhill spacing by not intervening. We don't do that with any other kind of application process; we keep as distant from all of those issues as they can. Yet we are in this position, where by default we may agree to something that won't work on the surface.
Scott said he doesn't think the application before the COGCC creates an Antero, or implies an Antero intention to drill any more wells then they are currently planning to drill.
Commissioner Houpt asked; why are they doing it, why are they asking for 10-acre spacing.
Scott said it was his understanding that they need the down hole spacing order in order to proceed with the current plan where the down hole locations are planned.
Commissioner Houpt stated they don't need 10-acre spacing. Is it consistent with what they plan on doing; she doesn't know.
Scott said they have a few well pad sites that are identified that are going to be the subject of the SUP process. From those well sites they are technical limitations and how far they can horizontally drill and how much of the resource they can develop. In order to get as much as they can out of that well site; they need the 10-acre densities so they can get to all those remote locations from that pad. But that doesn't allow them to go past the limits of feasible or economic drilling technology. They don't automatically have the right to drill 32 wells if they get 10-acre density and a 320-acre parcel. They still have to follow the dictates of the what's practical and feasible to drill from each pad.
Commissioner Houpt said not only what is practical and feasible to drill from each pad on a technical basis; but what makes sense within a planned community that is already in place. Which is the big question that will be coming in front of this commission with the special use permit.
Scott said and in all candor Antero is, at least Antero's local attorneys are a little nervous about coming before an unbiased commission that is against them in court. To him it just doesn't make sense when you have the right to sit in judgment on what are the necessary permit applications that you would be ligating against in another forum.
Don wanted to address this because the way the intervention is filed, Mr. Balcomb, really in his view, it is as much a request of the COGCC if not more so than it is to Antero. The concern is really that the COGCC should be involved in public health, safety, welfare issues. Antero may very well be addressing those issues; they just aren't in this application.
Scott asked; why would you default your ability to the COGCC.
Chairman Martin said that is the risk they have to look at and also look at if we have a stronger voice in working with the land use authority that we have with all the partners and that is the balance they are trying to see.
Commissioner Houpt said it is not defaulting.
Scott said he expects that these 34 meetings were probably as a result of concerns with raising the land use process; not the issue of how much gas there is down there, what the down hole spacing has to be to get at that gas.
Commissioner Houpt asked; aren't we defaulting to the COGCC if we don't intervene on the 10-acre spacing. Either way you look at it you are defaulting.
Chris Coffe, Balcomb and Green, represents Battlement Mesa Partners LLC and they are a party to the surface use agreement; which will be coming before this commission when the special use permit application is filed. In determining where the locations for the various well pads will be; the consideration was they were going to be looking at 10-acre spacing throughout. Because 10-acre spacing had already been drilled in the Battlement Mesa PUD. The concern, at least what he is hearing, we will have a well pad every 10 acres is not going to happen.
Commissioner Houpt said that is not what they are saying.
Chris said not you saying that; but people in the community are saying that.
Commissioner Houpt said what she is saying that if you drill 20 wells on a pad; there is going to be that heavy industrial activity going on next to homes for that much longer. For a couple of years.
Chris said and there is no denying that is a possibility; but he wanted to share with them that his understanding of the anticipated activity is, they will go in establish a pad they will drill a well or two. Ideally they will come in and draw out the whole thing and be done with it, and that would be the end of it. That is not what's going to happen. What they are looking to do, as much as anything else, is to develop the various areas under the lease and produce those areas in a essentially economically viable fashion. What will happen is, essentially they will drill into the 10-acrea spacing so they can minimize pad activity throughout the PUD.
Commissioner Houpt said she didn't understand that statement.
Chris explained when Exxon came in and purchased the Battlement Mesa area, and they established their development, pursuant to the resolution of 1980 or '76; what happened was they determined as a part of that resolution that in every aspect of the Battlement Mesa PUD, they would reserve the right to develop the minerals as a part of their zoning plan. The way that the county was provided with some interest in controlling that was they were going to go with the SUP process. In 1990 or 89 when Battlement Partners purchased the surface of Battlement Mesa PUD from Exxon; Exxon withheld most of the minerals. The ideal was, at some point in time they would be allowed to come back in and drill; but they had an agreement, as a part of that closing, there would be a certain number of well pads located within the Battlement Mesa PUD which would permit them to extract their minerals under the then existing technology, and that the Battlement Mesa surface owners were agreeable to that. That was the negotiated part of this transaction. At about the same time Barrett had an interest in drilling in the Battlement Mesa

PUD area and they owned some minerals on there. They were not subject to the Exxon agreement, the service use agreement that Exxon had struck with Battlement Mesa Partners. When Barrett filed their request for a drilling permit, the Battlement Mesa Partners stepped in and said; no we aren't going to do that. We want to have some kind of agreement here as to where they can place their well pads so they can develop their property in a reasonable manner and fashion that we won't have well pads all over the place. They negotiated a surface use agreement with Barrett; they already had the surface use agreement with Exxon and negotiated and they settled the dispute in the drilling permit application process before the COGCC. They used this to pull everyone together. As a part of that particular agreement they incorporated the Exxon agreement; the outstanding surface use agreement that was with Exxon and Battlement Mesa Partners. Now you have three players out there; you have Battlement Mesa Partners (the surface), Barrett that wants to drill and did drill, and Exxon that has the minerals under Battlement Mesa PUD, and the folks out there had a PUD that provided for drilling anywhere within the Battlement Mesa PUD. But Exxon had the right to put a certain number of pads in that particular area. Now the agreement itself provides, in part, that the base agreement between Exxon and Battlement Mesa Partners was essentially a memorandum of understanding. It was going to be flushed more fully later on. But they had a certain number of well pads and in the negotiations, which is was very involved in with Battlement Mesa Partners and Antero. Antero indicated they would stick with the same number of well pads, or fewer, and so they worked for two years to determine where those well pads would be, and a lot of the location of those well pads was driven by the fact that Antero wished to have the opportunity to develop all the minerals, that they could reasonably reach with directional drilling. At the time the original agreement was signed; back in 1990, directional drilling existed, but certainly not even beginning to be to the extent that it is today. Where they can target something 6 to 10,000 feet down and hit it with absolute certainty, unless someone makes a mistake. When all of this was put together, the surface use, with Battlement Mesa Partner and with the consent of Exxon; the 10-acre spacing was absolutely what was the vision.
Commissioner Houpt stated not originally; oh by Antero.
Chris said back then they weren't talking about that. Exxon was just doing their deal and keeping the door open for them when they wanted to come back in again. It seems to him, at the end of the day, he appreciates the fact that people are concerned. But when they purchased property in Battlement Mesa PUD, this was all on record. It should have been shown under title policies; they should have known about it because it was all recorded in the County Clerk's office. It seems to him, he appreciates the fact that the commission is under a lot of pressure from people who are very involved with trying to stop drilling just about everywhere; certainly Battlement Mesa. He appreciates that fact; but on the other hand he thinks there are interests here that are long standing and they need to be served. Engaging in trying to micromanage areas as Mr. DeFord said; we don't have the expertise to micromanaging this stuff 6 to 10,000 feet down. You have enough on your plates without trying to get there. It seems to him that the place you got; you got the SUP process, the community development plan, that will be negotiated, and by the way his understanding is that the SUP process will precede the CDP. That is what is was told by an Antero representative a couple of days ago. He stated their encouragement would be to let this go forward; to not burden yourselves more than you need to and the people will know. You have done what you needed to do; you filed your motion, you created your place holder, it was done in an emergency fashion and now that you have had the opportunity to test out the COGCC and what they think about all of this, and also to formally advise yourselves that you allowed that process to go forward waiting on a better day to bring forth your concerns.
Commissioner Houpt doesn't think they mind being burdened. We are burdened all the time. Secondly she doesn't think they would be micromanaging. She thinks there is a direct correlation between what is allowed with down hole spacing and how it impacts surface use. Now hearing on public record that there is going to be a special use permit application coming forward before the community development plan; makes her feel more confident they will be able to speak to this and that we are not just throwing it to the whim of the oil and gas commission. She stated she is speaking as a county commissioner today. Since they don't know the true impacts on the surface, that could affect; but from everything she has heard she is surprised that 10 acre spacing, downhill spacing was always the intent. Because it appeared to her that there was always a representation that it wouldn't be high volume, or a high density development.
Chris said no; if you think about the project as it has been published to the residents of Battlement Mesa they are talking about 20 wells off a pad; 22 wells off a pad. That is pretty intense. You can't do that without having this kind of spacing; but the point is they are trying to centralize the activity so that it is not just sprinkled about as you would see in Oklahoma where 10-acre spacing is the rule. Everywhere you go there is a little pump jack going up and down to pull the oil out. That's not what's going on here and he is confident you have seen pads where they have them lined up, the wells.
Commissioner Houpt – I have seen them and so much of what we are talking about right now; she feels as if she needs to stop talking about because we will be talking about this in the hearing process.
Chris said you will and you will be given the option to address this in full through the SUP process.
Chairman Martin stated that Mr. DeFord has asked for direction in reference to enter into the intervention or withdraw that intervention based upon the information we have been supplied today.
Commissioner Samson said he can appreciate Chris's comments concerning the burden; I'd appreciate a few less burdens. Mr. Balcomb made a comment that the consequences of discouraging development; we have a tough job and a lot of people out there that do not want any drilling. Whether it is in Battlement Mesa or any place; but particularly there, and of course you have your oil and gas community who is a business and they want to make money. The three of us have to find some common ground and some compromises and some coming together. He doesn't think anyone in this commission wants to do away with drilling in Garfield County. We don't' want Garfield County to be looked upon as a county that discourages the development of our natural resources. But we do have an important part to play and bring the people together as best we can to make sure that it will be done with the welfare of all people in our county. Where is that line going to be drawn? That is where the three of them will have to make that decision. He hopes the industry realizes they are not trying to unduly penalize them and he would hope that the people on the other end of the spectrum would realize that we are not here to reek havoc on the health and safety of people. We are trying to bring things together the best we can to benefit all. I move

that we direct our attorney; because he believes it is the best direction for us, he wishes they would have had all this information previously, two weeks ago; but they didn't. I would move that we direct our attorney to cease the intervention on the application of Antero Resources Piceance Corporation for an order establishing drilling and spacing on those two units. The reason for that is because he thinks it is the best way to hopefully protect the industry as well as those that have their concerns and that we as a commission can protect and come to some common ground that will benefit, as best we can, everyone that is very emotional about this issue.
Commissioner Houpt – Second for discussion. She will not be able to support this motion. She thinks that one of her great frustrations across the board; whether it is with the State, or local government, or land owners, or the industry is that there hasn't been this recognition of the direct correlation between down hole spacing and impacts to the surface. The way the whole structure is set-up right now, there is a hearing process established for down hole spacing where you are allowed to question that decision; but, then anyone can come in with individual APD's and you aren't then looking at the cumulative impact. She understands in this situation that we will have a special use permit process. We will have a CDP; but she really needs to have people recognize, she hopes someday people will recognize, that although it is a technical decision, and she is not arguing the fact in order to get all of the resource; 10-acre spacing is the ideal spacing. She has seen presentations, she can't dispute that the experts say that is the case and she won't argue that. But is it in the best interest of the public in terms of health, safety and welfare, to allow for that kind of spacing in every circumstance. She doesn't think so and she is not tying to shut the industry down; she is not trying to chase them out of Garfield County, but she thinks we need to understand the unique concerns of the various areas that are being here and that's why she sees this correlation between the two and why she has to disagree with the motion in place.
Chairman Martin stated he thought they would be able to handle more issues locally and not rely upon the State. We have problems we need to take care of locally and we do it better face to face with the people that live here and the industry that is here and not again turn to Washington, or Denver to solve our problems.
In favor: Martin – aye Samson – aye Opposed Houpt – aye

- **E. Direction Re: Application of Antero Resources Piceance Corporation for an Order Establishing Drilling and Spacing Unit; Cause 440; Docket No. 1002-SP-05**

As above
In favor: Houpt – aye Martin – aye Samson – aye
Don stated the only items they discussed in executive session were legal advice on the three interventions you just acted upon. He has the remaining items he publically identified and he would like to complete discussion and legal advice on those issues.
Commissioner Samson asked if this was when he should state he has another legal question.
Don stated he does, you need to generally identify it.
Commissioner Samson stated he wanted to talk about legal action they might be taking later on concerning what we have just been talking about. He stated he has some questions.
Chairman Martin stated clarification and issues. He asked if he had that motion to finish executive session/
Commissioner Houpt – So moved.
Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson – aye
John Colson objected to the executive session.
Don stated they need a better clarification of executive session item that Commissioner Samson wants.
Commissioner Samson said he wants to know what are some avenues that we might possibly take if things don't work out for us. He doesn't want to tilt their hand as to what we are going to do; but he would like to know concerning this or other instances, what are the options available for us?
Chairman Martin asked if he was asking for a definition of policy and direction and consequences on the direction of policy taken, or what we may take in the future.
Commissioner Samson replied both.
Chairman Martin said you are looking at guidelines so that you can form a new policy or continual policy and Commissioner Samson stated yes.
Don asked if he was looking; is this related strictly to the Antero proposed development?
Commissioner Samson said it doesn't have to be; no. We could be faced with those problems in the future.
Commissioner Houpt asked if it was a policy discussion on general oil and gas regulation in the county.
Chairman Martin asked; or do you need clarification of the policies we have in place?
Don said if you are seeking legal advice in the development of a policy, we can provide that to you in executive session; but you cannot develop a policy in executive session.
Commissioner Samson replied no never; he knows that. We are not going to formulate a policy in there; he wants to know what the options are. He wants Don to give the Board some options that we might have for the future concerning if this happens and so on and so forth.
Chairman Martin stated; you want direction so that we can develop a policy that we will have more involvement in.
Commissioner Houpt said Commissioner Samson doesn't even want a policy he wants to know what kind of legal options we have and Commissioner Samson said yes.
Chairman Martin restated; he wants to know what options we have in reference to oil and gas policies.
Don stated which are legal alternatives.
John Colson said he would reiterate his objection; he doesn't think that falls within the scope of allowable reasons for executive session.
Don said he wanted to explain why he thinks it does. When his office provides legal advice to the County Commissioners that is privileged communication. That's why he was concerned about the development of a policy. If we provide legal advice to the Board; that is privileged communication. What the Board may do with that advice, in terms of development of a policy is not, and that is a public discussion.

Chairman Martin thinks that Mr. Samson is looking for more understanding and a legal foundation of why the policies are there, what policies make them up and to just understand a little more legally of what he has in front of him and what options he has.
John Colson believes that is a policy discussion in and of itself and by its very nature. He thinks that the law provides for your attorney to give you legal advice regarding cases that are filed and regarding even potential cases that have you have some grounds are about to believe are about to be filed. That is a kind of gray area in the law; but he believes this is a policy discussion and not a request for legal advice on any case.
Don explained that they provide legal advice on a broad range of issues; although we do, to some extent he would have to agree, we have to be very careful on what occurs. As he has said previously this afternoon; our advice to the Board is legal advice and how you use that advice is a policy and that is why we have to be very careful about what occurs in executive session.
Commissioner Houpt asked if these are questions you have that you wouldn't want to say in public session?
Commissioner Samson said they he didn't know if he really wanted the Board to tip their hands to anyone as to what we are doing to do. We are not going to go in there and formulate a policy; but he would like to know what options as a Commissioner might be.
Chairman Martin said it may be you might have to do that on a one on one with your legal advisory in reference to direction and understanding of the policies that are in place and not a legal briefing or advice in executive session.
John Colson stated that is a different thing entirely.
Don said that may be the best way to go; the Chairs suggestion is well taken.
Chairman Martin explained they will not include within our executive session and discussions.
Commissioner Houpt – I make a motion to go into executive session.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Action taken
Chairman Martin asked for a motion to come out of executive session.
Commissioner Samson - So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Energy Advisory Board:

Chairman Martin asked if any public direction/recommendation regarding the advisory board.
Don asked if they wished to give any direction to the Board.
Commissioner Houpt stated yes, she thinks what she would like to see is all of the stakeholders involved in the advisory board. Find out whether they believe they are still productive; then the board can come back to this Board with their recommendations. I make a motion that a message be relayed to the Energy Advisory Board for all stakeholders to have a discussion how effective the EAB is and should it continue and why.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Colorado River:

Don stated that previous the Board received legal advice on the Colorado River use; do you wish to set any public discussion.
Commissioner Houpt said yes at the next meeting.
Chairman Martin asked what is the financial obligation and what does it entail.
Don said they will set for March 1st.

Prather's:

Judy asked the Prather's what they want to do; she talked with Dick and John Salvage and they will go forth as property owners with their own action. They would like the county's support in that.
Chairman Martin asked; what is the action by the Board to see if there is any evidence we can support this.
Commissioner Houpt stated she can't speak on this.
Don stated they need direction if they are to seek a hearing by tomorrow.
Chairman Martin stated they have asked oil and gas for 2 years; we need technical data to be presented in the hearing.
Don said either way; if they are filing own request, simply say they want county commissioners to come in and testify as you did with resolution or we request a hearing. Did they ask for a hearing?
Judy didn't ask that question specifically; she felt the Board would make a decision if they want to request hearing. She can go back and ask them.
Chairman Martin said; if we ask for hearing the burden of proof on us and we have nothing. They need to go forward with their request on their own.
Commissioner Samson said that was fine.
Judy stated she will not request a hearing; but will refer back to the Prather's they will offer support when hearing is posted. She will come back and ask for support and what it will look like.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MARCH 1, 2010
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 1, 2010 with Chairman John Martin and Commissioner Tresi Houpt and Commissioner Mike Samson were 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

REQUEST OF COSTILLA COUNTY FOR A CUT AWAY VAN

Mildred Alsdorf Senior Transportation with the Travelers asked the Board if they would like to give one of the cut away vans to Costilla County with no fee as it has met its useful life. Mildred explained there is a CDOT lien on it until March 14, 2010. If the County is agreeable to turning this over to Costilla County, they want someone appointed to work with them. Since the title is in RFTA's name, CDOT would allow it to be signed off by Dan Blankenship for RFTA. Mildred agreed to coordinate the arrangement.

Don - When this comes back on the agenda, the Board needs to clarify whether the transfer will be to CDOT or Costilla County.

REQUEST TO REZONE PROPERTY – CHRIS JANUSZ

Chris Janusz supplied historical documents from escrow at the time he purchased his property, which stated it is zoned as commercial limited. His request is to have the county rezone his property as commercial limited. Since he purchased the property, there have been five different designations including RLUD, single family residence and last year when he completed a lot change, it became urban residential.

Don – Chris indicates his request is for rezoning and has discussed this with the planning department. The process to change the zoning to match Chris' request would require a formal application and public hearing as this needs to proceed under our land use code.

Chris explained the cost associated and his concerns; he asked if the Board could change it without him having to go through this difficult process.

Chairman Martin said the request is to review these documents and give Chris the direction he needs to follow the process or have a hearing in a different manner. They will ask Don for legal advice and give Chris the direction.

COUNTY MANAGER UPDATE – ED GREEN

COLORADO RESOURCE ALLIANCE – JOHN MARTIN

Chairman Martin presented a membership application to join Colorado Resource Alliance explaining the benefits keeping updated on state and federal legislation. It is a non-partisan resource and it supplies daily information on non-political issues.

Commissioner Houpt expressed this may be non-partisan but as it is clearly written with the slant from one industry in a biased manner in which they write their rules calling the BLM's new rules making an already cumbersome process even worse. If we were to join this service, she would want the Board to join an environmental service as well so they are not just receiving the perspective of the industry but also from a different perspective so they can balance those judgments. If you read the directors reports they are really representing their industry; but as a government, we need to understand both sides. She will not protest joining but she will expect the Board to seek out other resources that will bring the other side of that story so we have a balanced education on these issues.

Chairman Martin asked for a motion to join Colorado Resource Alliance for one year at the cost of $5,000 or less depending upon if the Council of Governments joins. That is negotiable.

Commissioner Samson will be talking about this at the AGNC meeting next Thursday, March 11, 2010. I move we subscribe to the Colorado Resource Alliance and legislative updates. Commissioner Houpt – Second.

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

I-70 COALITION – TRESI HOUPT

Commissioner Houpt presented a handout that explains the significant achievements of the Coalition to date, the current state of the organization and key next steps. They are asking members to commit a special assessment and for counties it is $5,700.00 to accomplish strategic and organizational plan.

Commissioner Houpt – I make a motion we approve the special assessment requested by the I-70 Coalition in an amount not-to-exceed $5,700.00. Commissioner Samson – Second.

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

ACCESS ROARING FORK SCOPE OF WORK – STEVE KAUFMAN

Steve presented the After School Program of Access Roaring Fork Scope of Work, 2010 (Phase I) and mid to long-term goals and explained they currently have 223 kids registered in the Garfield County portion of the RE1 school district split between Carbondale and Glenwood Springs with 338 children being served currently if you include Basalt middle school. He explained the three areas of focus.

Commissioner Houpt asked Steve for clarification on fundraising and what grants he was seeking. Is there a fee structure? She emphasized in-kind contributions and the importance of foundations wanting this information. The project is a non-profit, provides a great service yet Steve needs to be set up to survive when the County of Cities cannot allocate funds.

Commissioner Samson voiced concern that educational funds are being dramatically reduced in Colorado and every school district is making cuts in staff etc. Tomorrow we have a work session to discuss the budget and we will be looking closely at the expenditures and revenues.

Chairman Martin – Steve was requested to bring in a scope of work including activities and goals. It is not Garfield County's job to provide these programs; it is the responsibility of the school district to provide education. He explained the mill levy process and how funds are collected from the taxpayer and distributed to school districts to provide education for our children.

Commissioner Houpt reminded Steve his job is to do fundraising. His program has a record of accomplishments and she encouraged him to go forward.

Chairman Martin – This item could be discussed at the work session scheduled for tomorrow however a decision could not be made until this subject was on the agenda for a regular meeting.

Steve clarified he was only asking for money already approved.

Carolyn asked about the scope of work for what was approved and it would help the commissioners tomorrow on their discussions if they knew exactly how you were going to spend the budgeted amount.
Chairman Martin – Make sure this scope of work goes to the contract administrator and have the appropriate amount of money either allocated to you or not allocated to you; but at least see if your scope of service lives up to what you are going to deliver and how much. They will make that determination and then we will put on the agenda.

CITY OF RIFLE CLEAN-UP – MARVIN STEPHENS AND KRAIG KUBERRY

Garfield County Landfill received a letter from Charlotte Squires, Administrative Assistant for the Rifle Planning Department, letting them know they have tentatively scheduled a citywide clean up for April 19, 2010. They are requesting a free dump or a special fee for their 2010 City project between April 19 to April 30, or at a reduced rate.
Ed suggested instead of waiving the fees for two weeks; what if we gave a credit against the per pound rate and suggested it be 1.2 cents instead of the standard 2.4 cents.
Commissioner Samson did not have a problem doing this reduction in per pound rate.
Marvin Stephens reminded the Board that every Garfield County resident received a fee dump coupon.
Commisioner Houpt wanted a notice sent to all municipalities and offer the same service and price per pound in case they want to implement the same program for their community clean up.
Commissioner Samson - I move we reduce the per poundage cost to the City of Rifle from 2.4 cents to 1.2 cents for the time period of April 19th through the 30th of April for the Rifle City wide clean-up for 2010; and instruct Marvin to send a letter to all the other municipalities to see if they would be interested in participating in a likewise manner. Commissioner Houpt clarified that the other municipalities would not have to follow the dates that Rifle determined but could do it whenever they want to. Second.
In favor: Houpt – aye Martin – aye Samson – aye

ORION ENERGY BOND RELEASE – MARVIN STEPHENS

Orion has tendered correspondence to the Road and Bridge Department requesting they acknowledge satisfactory performance and release their surety and bonding company from all obligations. Marvin's department has reviewed the permit, any work performed, as well as the condition of the road that may have been subject to use oversize/overweight vehicles and in Marvin's opinion Orion has satisfactorily performed all conditions of their permit and there are no potential claims that may be asserted by Garfield County against Orion. Marvin feels the County Commissioners should release Orion and the surety company from the terms and conditions of bond number LPM874778. Jake said they sold everything to Williams except for one well and that is on Conn Creek and they are going to cap it. Jake said they would not have any activity.
Commissioner Houpt - I make a motion we approve the release of Orion Energy Partners and Fidelity and Deposit Company of Maryland' Surety Company from the terms and conditions of bond number LPM8874778. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

COUNTY ROAD 252 SNOWPLOW ROUTE – MARVIN STEPHENS

Marvin provided a hand drawn map of the area. County Road 252, north of the intersection with County Road 253 has been designated as a "no winter maintenance" road. It is very narrow and there is not much room for snow removal without taking down fences. There is also a lot of brush and trees on both sides of the road. There are three residences on County Road 252 and only one resident resides there year round. Sam Potter has requested we plow up to his residence. It would take approximately an additional two hours to plow from the snowmobile turnaround to the Potter residence at a cost of $130.00 per hour. Marvin is requesting direction on adjusting the snowplow route. A map was provided to the Board.
Don wanted to know about the narrowness of the road and if they had any idea if we had a deeded right-of way.
Marvin thinks it is probably prescriptive like the rest.
Commissioner Houpt – I make motion that we uphold the staff's recommendation of continuing plowing service as is established for the remainder of this winter season and alter the plowing schedule to stop at the intersection of County Road 252 and 253 for next year and ongoing. Commissioner Samson mentioned he has a first cousin involved in one of the properties here, so should I recuse myself.
Don's advice was only if you are not comfortable or feel it is appropriate to participate then legally you should not participate. The other factor is if you or your immediate family has a financial stake in the outcome in this decision.
Commissioner Samson - Second. Chairman Martin believes we may hear from many people in a similar situation, but we can always revisit this issue.
In favor: Houpt – aye Samson – aye Opposed – Martin - aye

US FOREST SERVICE-MODIFICATION OF 2009 AMENDMENT – MARVIN STEPHENS

A modification of Grant or Agreement with the Forest Service was submitted to change the performance period from December 31, 2009 to December 31, 2010. Marvin explained he is asking the Chair to sign this agreement, as they did not spend all the money that was agreed upon with the Forest Service from them last year. He would like the Board to authorize the Chair sign so they can give back the remaining money for the 2009 season and it will apply to the Schedule A roads for 2010.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A CONTRACT WITH THE STATE TRAVEL MANAGEMENT PROGRAM TO ALLOW GARFIELD COUNTY EMPLOYEES TO USE DISCOUNTED AIR FARES – IF THE LOWEST POSSIBLE FARES – TO COMMUTE BETWEEN GARFIELD AND PITKIN COUNTY AND THE FRONT RANGE – JAMAICA WATTS

Jamaica stated that staff is recommending County employees be able to utilize the State Travel Management Program to use discounted airfares and rentals. Jamaica's department was asked to look at different options for employees traveling on county business. They tried to look at bulk ticket options, which was not an easy option to do. They did find this program, which is a liaison between the vendors and us. They have already received the lowest prices; we do not have to use those prices if we find a

different airline that offers a cheaper price. There is nothing holding us to those prices. Jamaica is asking the Board to sign a contract with the State Management Program for travel.
Commissioner Samson - So moved we approve it. Commissioner Houpt – Second.
They voted and approved, then tabled this for more information.
Commissioner Samson moved to withdraw his motion.
Discussion:
Carolyn - The State contract is long and one of the things they are asking us to do is to establish policies and procedures including pursuing appropriate personnel action for noncompliance. She would be curious to know what Katherine Ross has to say about this in terms of the personnel manual. They do say that we have to use all of the services so you have to be willing to commit to using their automobile rental as well as their airplane fees and the entire package, you cannot just pull pieces out.
Jamaica - We have the option not to use this if we can find a lower price.
Commissioner Houpt would like to read it more thoroughly. Commissioner Samson said he was fine.
Chairman Martin - We need to table this and review it on March 15.
Lou said he would not be comfortable with this if it becomes more of a mandated contract. He does many last minute extraditions, and they have continual training.
Commissioner Houpt would have a hard time with this also because there are certain Hotels in Denver that have made adjustments to their rates and the hotels they have in this contract are not ones that are anywhere near where we end up. She would want to make sure that we had complete flexibility.
Chairman Martin – We will make a final decision in two weeks and if it needs to be continued we would do so.
Carolyn wanted to point out one other thing; there also appears to be a requirement that we have a US Bank visa card to use this. Which will mean a contract with that bank, and because of all the different entities, the Treasurer has all of her statutes doing business with in-state banks.

STAFF RECOMMENDATION TO APPROVE TERMS AND CONDITIONS FOR A MASTER CONTRACT WITH QWEST FOR FUTURE REQUIREMENTS ORDERED THROUGH QWEST – KENT LONG

The process for QWEST to approve new job orders by Government Agencies requires the submission of the Government Contract or Purchase Order along with their signed contract and terms and conditions before work can be scheduled. Staff is recommending the Board give authorization for approval of the QWEST Corporation contract, terms and conditions for a master contract contingent upon completion of the legal review.
Kent – The Board previously approved this back in 2008. He is asking the Board to approve this language for the remainder of 2010 and authorize them to negotiate with QWEST to come to final terms on a master agreement for the Garfield County Airport.
Kent explained this would allow Brian to move along with his work and not cause any delays.
Carolyn explained the Board approved this in June 2008 but not as master contract. At that point, in time, she and Brian brought a one-year contract to the Board and pointed out the differences in our standard contracting paragraphs and you all approved it then. What Kent is asking for now is that this be ongoing.
Commissioner Houpt – Clarified that Kent was asking to have authorization to enter into contract negotiations on the terms and conditions for a master contract.
Kent - Correct and it would also need to be approved to the current agreement that is out there between the airport and QWEST to move a line back, and the work is about $38,000.00.
Chairman Martin clarified it is $33,574.25
Kent - We will have to come back to the Board at some point and say here are the final terms for QWEST for the remainder of the airport work.
Commissioner Houpt - You need approval to continue the contract that has a balance of $33,574.25 and authorize the County to work with QWEST on contract terms and conditions for a master contract contingent upon completion of the legal review and that is my motion. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A FIRM, FIXED PRICE CONTRACT IN AN AMOUNT NOT-TO-EXCEED $108,427.00 WITH DELLENBACH MOTORS FROM A STATE OF COLORADO PRICE AGREEMENT FOR THE PROCUREMENT OF FOUR CHEVROLET TAHOE SPECIAL SERVICE VEHICLES – JAMAICA WATTS

Staff is recommending the Board award a firm fixed price contract to Dellenbach Motors, off of the State Price Agreement, in the amount not-to-exceed $108,427.00 for the procurement of four 2010 Chevrolet Tahoe Special Service Vehicles for the Garfield County Sheriff. Commissioner Houpt asked if it was all budgeted and it is, so moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CH2M HILL RTC 6 – BRIAN CONDIE

Brian stated this was a release of contract for the engineering services on this year's project. They have complied with all of the Federal requirements and they have the grant. They have complied with the independent fee review, which came back very close on all the items. He also has their letter of negotiations for the Boards review. His request is that this contract be approved for $1,571,565.00.
Commissioner Houpt clarified that was the release contract number 6 with CH2M Hill for the work for 2010 - So moved. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

AIP 19 CONSTRUCTION CONTRACT AWARD – BRIAN CONDIE

Garfield County intends to sign the notice of award to the winning bidder on March 1 giving a full month prior to the runway shutdown on April 5 for mobilization. They mentioned at the pre-bid that the dates for the runway shutdown from April 5 to November 18 are set in stone. While it is not expected and highly unlikely that there will be a delay in contracting or notice of award, the milestone dates will not slide if there is a delay.
Brian – This is the actual construction contract. They did not open bids until Thursday. Fiore and Sons was the low bidder. From their engineer's estimate, they have just over $15 million to work with. They were able to award up to Schedule 2 and most of Schedule 3 and they are $29,000.00 short of awarding

Schedule 3. He does have in the budget the ramp and taxiway, separate line item for $800,000.00 and he will take $29,000.00 out of that; put it towards this and get schedule 1, 2 and 3 awarded.
Chairman Martin –It is more than this amount to complete all tasks.
Commissioner Houpt asked what the total was for those three schedules. Is that what needs to be put in the motion?
Brian – For all three it is $15,793,841.31.
Discussion:
Carolyn asked if they were entering a contract for all seven schedules, with releases to contract, or are we entering a phase.
Brian would like to be able to award all seven schedules; even though he does not have funding at this time and make it dependent on funding. All of this contracting is subject not only to the Federal Grant agreement, but also to our local County Procurement Code. Under the Procurement Code, Brian can commit funds up to $50,000.00. Anything $50,000.00 or over has to come back to this Board. A change order, on a project of this scope, could easily be over $50,000.00. It does not matter what is the funding source. He just has signature authority under $50,000.00.
Brian's request is they have very tight timelines that he cannot miss a week or they will miss their deadline. He cannot commit Federal funds and has to go to them on a change order. However, he can commit County funds up to $50,000.00 as long as he has it budgeted. What that means on a project like this is if the FAA comes back and says here is $950,000.00; can you match that $50,000.00, and he says yes, then the County will eventually write out a check for $1 million dollars
Ed said if we hold up this project, it will cost big money.
Chairman Martin said we could always meet within 24 hours.
Brian said it is crucial if you we are not available because he cannot wait two weeks.
Chairman Martin – That is right you need it now and within 24-48 hours you need to say, go ahead. We can always call a special meeting.
Commissioner Houpt stated that Brian is saying a special meeting however; you are saying you want to have the authority to authorize the $50,000.00.
Chairman Martin said he is always cautious when it comes to that much money; we are still responsible in the end.
Brian - I could not commit the County money until the FAA has committed the money.
Commissioner Houpt thinks they have already made a commitment to work with the FAA on this runway. We are not going to say no to $900,000.00.
Brian said if it is more than $50,000.00 for the County he would ask for a special meeting.
Commissioner Houpt does not want to hold this project up.
Carolyn said that Brian needs a clear delegation of the Boards authority.
Commissioner Houpt - I make a motion that the airport director and the county manager have the authority to approve up to $50,000.00 of county funds in matching an FAA Grant that has come forward for this project. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Carolyn - Colorado has a very specific statute that is protective of design engineers and construction contractors. It says if you are going to award a contract, you have to appropriate and budget the full amount. Brian is telling you that he does not have Federal money to do Schedules 4, 5, 6 and 7; if you are going to award all schedules, then you have to float county money and have that budgeted and appropriated in 2010 to cover all 7 schedules. Carolyn does not know if they have $17,358,278.92 along with the Federal money, we have so far. Can we float the county money we need?
Chairman Martin asked if she was talking $17 million plus dollars.
Carolyn stated that is what the statute says.
Commissioner Houpt said it is minus the $15,793.000 that we had.
Don wanted to cut right to the chase on the statute on this. He thinks they can meet the language of the statute; but he wants to check. When we sign a contract, the construction contract provides, as required by statute that we have budgeted and appropriated the full amount of the contract you are signing. Brian stated that is correct. Don asked will that occur if the Board awards all schedules.
Brian stated no.
Don said that is the issue. We have to be able to do that as a matter of law. The question may be can the Board do a supplemental budget and appropriation of county funds that would meet the statutory requirement and still allow you to go forward and award all schedules now.
Brian - This is the discussion he wants to have with the Board because of the budget crunch, some of the schedules he would recommend they take out. We have put all the schedules in there to see what price they will get from the contractors, and if all the schedules could be awarded with Federal funds, that is great. Now that county funds have to be involved, he recommends that they award the first three schedules plus $29,000.00 that we have in the budget. The others he will come back to the Board and say these are our options; can we find the money for this. If not, then we do Schedules 1, 2 and 3.
Brian – There are deadlines with the other schedules so within a month he will come back to the Board. If it is any later, he will not be able to get them done. Today we need a notice of award, notice to proceed and the contract.
Carolyn - Today we are asking the Chair to sign the notice of award for three schedules and authority for the Chair to sign the notice to proceed and the contract after the contractor supplies the performance bond and the payment bond. Commissioner Samson – So moved.
Commissioner Houpt – For clarification, the notice to proceed, the first three schedules for $15,793,841.31 plus $29,000.00 for the first three schedules and that would be awarded to Fiore and Sons Inc. – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson said that Brian would need to be at the BOCC on March 15 unless they have a special meeting.

DISCUSSION AND DIRECTION TO STAFF RE: DEVELOPMENT OF WEST PARACHUTE INTERCHANGE

Don asked Kent Long if he was correct that he had requested an executive session discussion on legal issues raised on this request and Kent stated he was correct. Don would like to honor that request to

discuss this matter until they have an opportunity to provide legal advice and send in a request for a contract amendment/change order. Don thinks it will be better to go forward with the Sheriff right now. He also has one item under his time that will require an executive session and he will need the Assessor's office present as well as Lynn Renick for that discussion.

APRIL WORK SESSION – ITEMS TO DISCUSS

Ed – Only thing he had to add to his time they are going to delete the Procurement Code discussion from tomorrow's agenda and he needs to add a few more items and would like to move that to April.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou introduced Phillip Strouse, a new employee who comes with a lot of experience in emergency management. He has spent some time working with FEMA and he currently works in Lou's community relations division. He is learning all the school programs and he will be out in the community a lot; he has been writing some press releases for Lou. Phillip grew up in Grand Junction, went to Air Force Academy and was in the Air Force for 6 years of active duty. He came back home and worked for the Chamber of Commerce in Grand Junction working with business issues, with the County Commissioners, local governments and he was hired by FEMA to work in Mississippi with the Governor's office and the local counties hit by Katrina. He did this for 3 years as a governmental liaison doing external affairs, press releases, working with any local governments that had issues with the FEMA trailers. Phillip came back here this past summer, still with FEMA, but wanting to settle down.

REQUEST APPROVAL OF SERVER FARM HARDWARE FOR RIFLE ANNEX

Jerry Fields received a quote from Western States Contracting Alliance for servers for the Rifle Annex. Lou explained they are doing half of the equipment in the Rifle Annex and half in the Glenwood Office so that our e-mails and records management system can talk to each other, simplify and prepare for the possibility of the County moving into voice over internet and some future things that may come upon them. Cathy Redman explained there are two parts, the actual hardware through Hewitt Packard and the main part of the server is through ISC. They do not have three quotes because they have GSA pricing and contract numbers for these quotes. All the money is budgeted in their capital budget. $241,176.00 is the request. This software will coordinate the two building.

Don – I need to see the agreement on this and it would need to be made subject to the approval of the appropriate contract agreements with the County Purchasing and County Attorney's office.

Kent - This is a cooperative agreement under Rule 55 because it is using a Federal schedule, so competition is not required.

Commissioner Samson - I move we approve the contract with Hewitt and Packard and ISC for the servicer hardware for the Rife Annex in an amount not-to-exceed $241,176.88. Commissioner Houpt – Second.

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

REQUEST APPROVAL OF HIGH TECH CRIME LAB PURCHASE

The Sheriff's office is requesting the Board to approve a sole source procurement in excess of $50,000.00 to authorize the GCSO to purchase a "Forensic Recover of Evidence Device" (FRED) from Digital Intelligence, Inc. Digital Intelligence Inc. is the only company that apparently manufactures this equipment. Staff is recommending that the Board approve a sole source procurement from Digital Intelligence, Inc. in the approximate amount of $71,484.00 for a forensic recovery of evidence device. Lou said this was actually budgeted $70,000.00 and the price came in at $71,484.00. This is no duplication anywhere on the Western Slope.

Eric Ashworth explained how this software and equipment will assist the Sheriff's office with DNA and how computer forensics assists in processing this type of evidence. Usually working with CBI it takes one year if not more. We have been able to get some equipment that allows them to work some of these cases in-house and they have been assisting many of the other agencies in Garfield County who do not have the resources to do this. The construction and the outfitting of this lab would allow us to handle just about everything internally and we would be about the only agency in the entire Western Slope to have this ability.

Lou – Computers are such a strong part of our lives, internet trafficking, child pornography and things of that nature. We can get into computers, into hardware and into phones and extract evidence and information.

Tanny McGinnis stated this would also help in monitoring registered sex offenders in Garfield County Sheriff's Office. There are guidelines that come with registered sex offenders; the things they need to do and need to follow and comply so we would be able to make those contacts. Along with sex-texting, the threat and harassment issues, we are finding on phone and computers as well. One of the things that really bogs them down is if they have to wait 1 ½ years to get services to a child who is involved with a sex assault, a sexual predator in the community and it takes 1 ½ years to get the evidence; that is real hard to swallow. This is critical to the victims in the community as well.

Lou – This equipment allows us to tap into any type of hardware, phone, camera, computers, whatever and extract information that has been damaged or deleted; it gives us the ability to recover evidence necessary for very serious crimes in a much quicker manner than having to wait for another agency to provide that information.

Commissioner Houpt – I make a motion we approve a sole source procurement pursuant to Rule 5.3 GCPC by the Garfield County Sheriff's Office for additional intelligence in an amount not-to-exceed $71,484.00 for a Forensic Recovery of Evidence Device. Commissioner Samson – Second.

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

INTRODUCTION OF VINE PROGRAM

Lou provided the general information on the Vine program explaining it is free and it is an anonymous telephone service that provides victims of crime two important features - information and notification. VINE will monitor the custody status of offenders in county jails and state prisons. Information is available to callers 24 hours a day, 365 days a year. Lou went over the details highlighting Date Transfer Schedule; Information; registration; internet site www.vineline.com; notification calls; Date Transfer Schedule; General release, Escape, Release on bond, Release on court order and Parole from DOC; Transfers; Return to custody from escape, Death, Work Release and Out to court; notification patterns; non-emergency calls; letters and e-mail; and lastly, the Appriss Operation Center at 1-800-865-4314. Lou

explained the whole system was paid by a grant. Every jail in the State of Colorado will have this. Only issue in the future is sustained funding for the maintenance, which they are working on a contract now. Lou's office will be sending a press release out about this; the victim advocates have all been trained. Lou showed the Board the posters they have in English and Spanish.
Lou presented the 2009 budget breakdown and mentioned he had over $2.1 million dollars of unspent funds, which he is returning in his budget. In essence, his office only spent 88% of their amended budget and they are returning 12%. There will be a press release today. Some of those monies will obviously roll over into 2010 items. Over 1.2% was from operating expenses and he is very proud of this.

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF RESOLUTION AMENDING RESOLUTION NO. 05-90 ESTABLISHING THE COMMISSARY FUND

This fund is established for receiving all revenue from the sale of commodities to inmates in the Garfield County Detention Center and the use of telephone service by inmates while housed in the detention center. Lou explained the changes to the resolution that finance and the sheriff requested in operational expenses and other inmate related issues. The new wording is "All payments from the Commissary Fund shall be for the sole purpose of paying for expenditures incurred to provide recreational equipment, educational services, operational expenses and other inmate related services to the inmates housed in the Garfield county Jail."
Commissioner Houpt – I make a motion we approve the resolution amending resolution 05-90 establishing the commissary fund. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

APPROVE AND AUTHORIZE THE CHAIR TO SIGN TOLLING AGREEMENT WITH PETROLEUM DEVELOPMENT CORPORATION

The county is in the process of completing the audit of ad valorem property taxes levied for the tax years 2003 through 2007 against oil and gas leaseholds and lands in the county operated by PDC ("Audit"), which was commenced on February 1, 2008. This agreement is made between Georgia Chamberlain-Treasurer, John Gorman-Assessor, the Board of County Commissioners, Garfield County and Petroleum Development Corporation. Don explained that the Board has seen this type of agreement in the past relative to other companies, related to our ongoing audits of the property tax issues concerning energy companies in the county. Both the company and the auditor are asking that the Board approve a tolling agreement on the statute of limitations so we are not under pressure to move forward until we have complete information.
Commissioner Houpt – I make a motion we approve the tolling agreement on the production audit for PDC as presented and authorize the Chair to sign. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

APPROVE AND AUTHORIZE THE CHAIR TO SIGN TOLLING AGREEMENT WITH ENCANA OIL & GAS (USA) INC.

The county is in the process of completing the audit of ad valorem property taxes levied for the tax years 2003 through 2007 against oil and gas leaseholds and lands in the county operated by EnCana ("Audit"), which was commenced on February 1, 2008. This agreement is made between Georgia Chamberlain-Treasurer, John Gorman-Assessor, the Board of County Commissioners, Garfield County and EnCana Oil & Gas (USA) Inc.
Commissioner Houpt – I make a motion that we approve the tolling agreement for the production audit on EnCana and authorize the Chair to sign. Commissioner Samson - Second
In favor: Houpt – aye Martin – aye Samson – aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don explained he had three other items set for public discussion. He needs to provide the Board with legal advice as it regards to item 3F for which the Assessors' Office and the Director of the Department of Human Services is present. It concerns the Senior Benefit program that the Board authorized and directed at the last meeting. He needs to provide legal advice concerning issues that have risen in the mechanics of implementing your direction. Don thinks they need to have a public discussion. Provide legal advice and also provide an update on the status of contract negotiations with the Town of Parachute and others on the development of the West Parachute interchange; receive direction from the Board concerning a request to sign on existing BLM permit concerning the road that connects Upper Basin and JQS Trail; Cassie needs to discuss code enforcement issues related to Rocky Mountain Hot Shots, Elk Creek and Cozza; and contract negotiations; any questions concerning the recent ruling on Amendment 54 and provide legal advice on the status of the 7th Street property acquisition. Chairman Martin wanted to add, legal advice on Go Rentals with Cassie.
Commissioner Houpt – I make a motion to go into executive session to discuss the items mentioned. Don already asked for executive session under Ed's time concerning contract issues with Palisade Constructors at the County Airport. He would like to move forward on the legal advice concerning senior benefits and see if the Board wants to go back to public session and discuss that before you address the other items. Commissioner Samson – Second. 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; motion carried.
Action Taken:

DIRECTION REGARDING SENIOR BENEFIT PROGRAM

Don wanted to explain why the decision was placed on the agenda today because the Board gave direction last week regarding a senior benefit program. The way it was stated by the Board that the benefit program would be closely tied and based upon the standards set forth in the State Senior Property Tax Exemption statute and constitutional provisions. During the course of the week the Assessor's office got well underway in assembling the information that would be needed to disseminate the benefit as directed by the Board. Part of that included the compilation of a list of the qualified individuals based on the standards set forth in the statute. As part of that, our office had a chance to take a close look at the statutory requirements under the State Senior Exemption provisions. The Legislature has been very restrictive in allowing use of the information that is complied for applications for senior property tax exemptions. Very

strictly limiting dissemination not only of the eventual list of individuals who are entitled to that exemption but also dissemination of any information by which a similar list could be compiled that would demonstrate who had applied for an exemption. Because of that provision and after discussions with the Assessor's office, the Treasurer, and members of my staff, we were having a very difficult time finding a mechanism by which we could actually disseminate who qualifies for the benefit. In other words, get the checks out because there was no permitted communication under the terms of the statute between our finance department and the Assessor's office. Therefore, we had some discussions among county staff, including my office and Lynn Renick to see if there was another approach by which we could get to the same substantive objective the Board was trying to achieve. We believe there may be. There are provisions that allow you to provide benefits to elderly or aging individuals within Garfield County. Both under general county powers and specifically under the Human Service provisions on the State level. But first we wanted to bring this issue back to the Board, both the difficult issue we were encountering as well as the potential to take a different route to get to the same objective in which case we will need some direction from the Board on how you would like to see that accomplished both in terms of standards and staff. We are looking for some direction from the Board.

Chairman Martin – My first request is to contact the State of Colorado and see if they can assist us in the distribution and the other proprietary information and following the criteria on the original motion to follow that to see if they can distribute that money. If not, I think we need to create our own request and allow the seniors to apply for that within Garfield County as a benefit, based on the criteria this Board establishes and then apply for that and pay them directly.

Commissioner Houpt asked Georgia, John, and Lisa to come forward in case they wanted to add something to this conversation

Chairman Martin – Clarifying, I suggest that we contact the State of Colorado and ask if they assist us in the distribution, other proprietary information and distribution of the money. If the State says no, then we need to create our own request and allow the seniors who qualify to apply for this benefit in Garfield. We need to determine the State Statutes regarding proprietary information, distribution of the money, the link to the identity of the seniors and who controls the issue of mailing out checks without violating State Statutes

Don –John suggests a payment of the exemption. The State of Colorado may or may not be willing to assist us. John is suggesting that we move forward and work on developing a program if the State does or cannot assist us.

Don anticipates we could have an answer from the State by the March 15 regular Board meeting.

Commissioner Houpt – It is important to make sure that we get the appropriate program in place so that we are doing this in a fair systematic and legal manner.

Don – To follow an orderly process, the direction I heard this year from the Commissioners is just getting it done. I am looking at John Gorman and myself primarily, we will see if we can contact the State and see what their response is and bring that back to you. If the State says, sure we will be glad to get this done for you then I guess we do not need much further direction from the Board. If the State says no that is not part of our job is that then the appropriate time to have a substantive discussion of what this program will look like.

Chairman Martin – It starts with a work session with all involved, putting all the items out on the table and then making sure that we do a public meeting, setting the protocols and the eligibility in the public hearing, do the advertising and see if the seniors wish to come out and ask for the benefit or not. That would be up to an individual. Of course, not all seniors in Garfield County will probably hear that or read the information and will be lost in the cracks one way or another. I hope that with the way we had it originally everyone that would be eligible will be able to receive it; but that is the risk we take and that is the bureaucracy of trying to give money back to citizens.

Don – Is Chariman Martin's suggested course of action consistent with the desires of the other Board members?

Commissioner Samson – I think that would be the easiest way if the State will help us out.

Commissioner Houpt – I think it is fine to call the State and see if they are able to do it. I know that their staffing has been cut, there have been many furlough days, and freezes on hiring so they may not be set-up to do that but it certainly is worth the phone call.

Don – John Gorman, maybe you and I can look into this with the State and bring it back to the Board when we get an answer.

John Gorman – Confirmed he would happy to work with Don on this issue.

REQUEST FOR LETTER OF SUPPORT FOR STEELE PROPERTIES, LLC REGARDING GLENWOOD MEADOWS AFFORDABLE HOUSING PROJECT – HUD KARSHMER

This project is part of a master-planned community, which includes residential and commercial developments. The City of Glenwood Springs previously approved a 120-unit affordable rental unit development on this site. They are proposing to develop the project in phases, with the first phase comprising only 60 units. This makes the project significantly more attractive to potential lenders and tax credit investors. They also believe this approach makes the project a stronger candidate to receive an award of low income housing tax credits. Secondly, by proceeding with a smaller scale project they can better ensure the project success and confirm the City has sufficient demand to fill the new units. Third, this approach also decreases construction and lease-up time, lessening the risk for investors and lenders. Phase 2 would only proceed after all the units in Phase I are full and only after an evaluation of the demand for the units in Phase I justified additional units in Phase II. They believe the site represents an ideal location with the adjacent commercial amenities. This project will also serve the disabled and some elderly tenants both of which will benefit from the proximity of these amenities. Hud explained how the phase would work and what they would consist of in detail. They have met with the Garfield County Housing Authority who has indicated their support for the project. They believe the City of Glenwood Springs demonstrates an extraordinary demand for affordable housing. The cost of living in the mountains and western slope regions of Colorado is well above the state average and the availability of affordable housing options is low. They have commissioned a market study that has demonstrated strong demands for affordable units at this particular location. Steele Properties have over 45 years collective experience in

affordable and tax credit developments. They have successfully completed over $100 million in acquisitions, including thirteen tax credit projects. Hud continued to explain the award of house credits and how in the past they were unable to proceed because of zoning issues. He knows there is another project that has talked with this Board about doing a development in the area. He does not think it is likely that Colorado Housing and Finance Authority would approve both projects. They usually do not want to see two projects funded and compete in the same area, as it would be detrimental. He is asking for support from the Commission for this project and knows there are some funds available for this. If the project receives an award of tax credits then they would like to talk to the County about getting some of those funds to help with the cost of the project.

Commissioner Houpt – Since we have not heard any information from the City of Glenwood Springs if they supported the Catholic Charities, she reminded the Board at the last meeting that is important to her when you are looking at a housing development, within a municipality, they need to be the first people to come out with support.

Hud said they met with City Council two weeks ago; in fact the other developer was there from the Archdiocese as well and the Council was generally supportive of both projects, and expressed their desire to see some affordable housing.

Commissioner Houpt said we need to see their letter before we commit to writing a letter of support for this project. Hud is asking us today for a letter of support in theory and I think it is important for them to know for certain that the municipality it is going to be housed in supports it.

Chairman Martin – These projects have to be funded with non-tax dollars. Those funds are drying up real quick. I think we need to prioritize these projects and ask the citizens if they wish to tax themselves to build housing. We have very little discretionary money for a project like this in his opinion.

Commissioner Houpt said this Board would discuss this further. We are having a budget discussion tomorrow and we all feel differently about affordable housing; whether we should make that a priority or not. I think it important for the city to be here and for them to have taken action and write a letter, so that they have that in front of them. She told the Archdiocese the same thing.

Hud - The Archdiocese is in a different position than we are with regards to the city approval. For their application, they needed a letter of support from the City because as they are not zoned appropriately on that site right now. The City has already given the support to this site because they have approved the zoning and the site plan has been submitted. The City has taken affirmative action to support this project in the sense that the council has already approved the plan.

Commissioner Houpt – I want to see their letter of support.

Hud said he would get the letter and send it to Ed.

Commissioner Houpt said she supported this last time and she was very disappointed it fell through because there was an amazing partnership put together around that project. Do you have the other partners in place, or will that come later?

Hud - I would like to include the County Housing Authority in the partnership as well. He apologized and said he is not familiar with what partnerships were in that original affordable housing that you supported.

Commissioner Houpt – It was an extensive list of partners who were willing to bring money to table or in-kind support. When you eventually come to us for funding, that is a different perspective.

Hud – We have secured support from the city in the form of a waiver from tap fees, which is very valuable. We have been in discussion with Colorado Division of Housing and their process is such that they will not make a financial commitment until after the award of tax credits. The Division of Housing is almost certain to be a partner on this project; we have the City, the County Housing Authority, again the cast of characters is probably similar all are supportive.

Commissioner Houpt asked what he was anticipating asking the Board.

Hud said it is his understanding that the County had, at one point, $1.5 million, and in fact the County had committed that originally to the initial project. It is also his understanding, since that time the County has used the majority of those funds to help a project in Carbondale. He was hoping to ask for the balance of the fund that was available from the original request.

Chairman Martin said it goes back to his discussion in the budget where we are going to get those funds and how we are going to identify those funds etc. If we identify general fund dollars as tax dollars, we cannot use them, if we can identify other sources of non-tax dollars and the revenue we can use for those discretionary projects, then we will do so. Then we will decide what the priorities will be.

Commissioner Houpt asked Ed if we those monies were set aside for affordable housing projects.

Ed thinks they only have the $960,000.00. The $1.5 million was identified several years ago. Then we talked about the Rifle initiative and we had committed $1.5 million but that fell through and then the next thing that popped up was Carbondale.

Commissioner Houpt so you are in line with the Archdiocese and I do not know what kind of guarantee Hud needs with his letter of support. It does not sound like we could give a financial guarantee.

Hud said no, they appreciate that. He does honestly they would not ask for that because even if you had the earmark right now, he does not think it would be appropriate given there are two projects and only one is going to be awarded. Hud suggested that the Board wait and see before making a financial commitment.

Commissioner Houpt said she made a motion last time that we support the Archdiocese affordable housing project contingent on the City writing a letter and she would make the same motion for the Glenwood Meadows project as well. Commissioner Samson – Second.

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

CONSENT AGENDA

m. Approve Bills

n. Authorize the Chairman to Sign the Resolution of Approval and Conditional Use Permit for Extraction and Material Handling of Natural Resources for the Circle Dot Quarry Operated by Marathon Oil Company – Applicant; Berry Petroleum Company – Fred Jarman

o. Liquor License Renewal – Applicant; Battlement Mesa Management Company, d/b/a Fairway Café – Jean Alberico

p. Liquor License Renewal – applicant; Kum & Go Store #906, Battlement Mesa – Jean Alberico

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

Executive Session:

Chairman Martin – Back to Mr. DeFord on the items he has; Mesa Hubbard Road, JQS, West Parachute Interchange and the other legal items that were identified.

Don – Also, 7th Street as well as code enforcement issues that he previously identified. Ed wanted to talk about the interchange.

Chairman Martin – Also item with Palisade Constructors at the Airport under the morning session.

Don asked if they wanted to proceed with that first and Chairman Martin stated not necessarily. Don said he would rather proceed with the reservoir to JQS Trail Road issue.

Chairman Martin – A motion to move to executive session.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

Chairman Martin asked for a motion to come out of executive session.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A SECOND AMENDMENT TO CONTRACT WITH PALISADE CONSTRUCTORS, LLC (PALISADE) TO EXTEND THE EXPIRATION DATE OF THE CURRENT CONTRACT TO ALLOW PALISADE TO COMPLETE THE WATER, SEWER, AND ROAD IMPROVEMENTS AT THE GARFIELD COUNTY REGIONAL AIRPORT – KENT LONG

Invitation for bids was initially issued on or about September 21, 2009. The current contractor, Palisade Constructors, Inc. was deemed the lowest responsible and responsive bidder in response to that IFB. On or about October 30, 2009, the parties entered into a contract for the completion of the original work. The contract had 120 calendar days from November 2, 2009, to complete the original work. The deadline to complete the original work is March 2, 2010. Staff is recommending that the Board approve the second amendment to the contract to allow the contractor additional time to complete the original work and begin the assessment of liquidated damages against the contractor for the additional time necessary to complete the original work; allow the parties additional time to negotiate a price and time change to the February 1, 2010 directive, and authorize the Chair to sign the second amendment to the contract.

Don stated Kent Long placed this on the agenda and the project contract expires by its terms tomorrow. The project is substantially behind time in terms of its critical path and so the Board needs to authorize this amendment to extend the time to complete the scope of work.

Chairman Martin asked if he needed the ability to negotiate as well; is that right? Kent answered correct.

Commissioner Houpt – So moved. Do you want in one motion?

Don stated he actually wanted that separately.

Commissioner Houpt – I move on the amendment.

Commissioner Samson – Second, but he wants the record to show that he is very concerned about that project at the airport. In favor: Houpt – aye Martin – aye Samson – aye

AUTHORIZE THE CHAIR TO SIGN THE CHANGE ORDER FOR ADDITIONAL WORK BY PALISADE CONSTRUCTORS, LLC AND AN ADDITIONAL PRICE INCREASE TO COMPLETE THE WATER, SEWER, AND ROAD IMPROVEMENTS AT THE GARFIELD COUNTY REGIONAL AIRPORT – KENT LONG

Don said the second part of the Palisade Constructors, LLC is a request for a change order for additional work and an additional price increase. The staff needs authority to conduct those negotiations and bring this back to the Board for an appropriate change order request for that project.

Commissioner Houpt – So moved. Commissioner Samson – Second. However, once more he wanted to reiterate that he is very concerned. In favor: Houpt – aye Martin – aye Samson – aye

EXECUTIVE SESSION:

Don said the only items he has left for executive session are code enforcement matters, and as he has explained to the Board in regard to your meeting on the 16th there may be difficulty in getting appropriate staff for that meeting. Commissioner Houpt asked if he was suggesting that they should reschedule that. Don stated yes and he will come back to them with a date.

DISCUSSION AND DIRECTION TO STAFF RE: CONNECTING HUBBARD MESA ROAD AND JQS TRAIL

A letter was presented to the Board from October 14, 2005 from Garfield County to Sandy Hotard, Field Land Manager, Williams Production RMT Co., Sam Potter, and Jamie Connell, Bureau of Land Management regarding this subject. In that the letter it state the BOCC has been asked to state its position regarding the construction and acceptance of a road that would connect the current Fravert Reservoir Road (CR 244) and the JQS Trail (CR 242). Garfield County understands, from the requesting parties, this road would provide access for natural gas development on Hubbard Mesa. Additionally this road would serve as an alternate access point to the JQS Trail for heavy truck traffic as well as all other public purposes. Garfield County will accept with conditions (on file at Clerk and Recorders Office). On July 21, 2009, Marvin Stephens received an e-mail, forwarded by Gale Petry of BLM, with assignment instructions for the Hubbard Mesa access road. On February 22, 2010, Jake Mall sent Don DeFord an e-mail asking him to contact DJ Beaupeurt, as there was a form needing filled out and signed by Chairman Martin. He also indicated there was other information that needs to include language he had stated to Don. Jake believes that Scott already did the survey on the road and Rob has the GPS information on the road.

Don – We will bring back negotiations.

DISCUSSION AND DIRECTION TO STAFF RE: DEVELOPMENT OF WEST PARACHUTE INTERCHANGE

Chairman Martin –The development of the West Parachute Interchange has been discussed and direction has been given; is that correct.

Don said it has been and we are still in negotiation.

As above

PRESENTATION OF SH 82 CORRIDOR OPTIMIZATION PLAN AND CONSIDERATION FOR SUBMITTAL OF A LETTER OF SUPPORT FOR THE PLAN – MIKE MCDILL

The City of Glenwood Springs, the Colorado Department of Transportation (CDOT), the Roaring Fork Transportation Authority (RFTA), and Garfield County have identified the need to plan for transportation improvements along the State Highway 82 (SH 82) Corridor in Glenwood Springs. It is recognized as the city's main street, while also serving as the main regional transportation artery serving the Roaring Fork Valley; therefore, strategies to address future regional and local transportation demand must be developed within the context that any transportation strategy will have an impact on one or more areas of the city.

Mike explained in detail the Corridor Optimization Plan (COP) saying it is the third in a series of documents designed to identify concerns with existing and future transportation on SH 82 and to provide decision makers with the information necessary to determine the appropriate direction for the corridor and the City.

Chairman Martin said, what you are requesting today is the letter of support of that document.

Commissioner Houpt said they are supporting the plan and she can support the plan in theory only since they have not received copies of it. She would like a copy to read.

Chairman Martin - The County would also like to acknowledge this plan will be a valuable tool that can be used by decision makers to identify potential impacts, varying transportation strategies on viability, and community values the Board of County Commissioners recognize this plan will help decision making bodies to use the information of this document to identify solutions.

Mike McDill is sure they will not take it forward to the State without the support from the County. Again, he expects and hopes that City Council will take action on Thursday. He does not know how they will react without the County. The plan was to have the RFTA and the CDOT letter ready for the City to take action. He cannot tell them that if we do not get it done by the end of March it is not going to happen.

Chairman Martin said the position of the Board is to wait on the letter.

Commissioner Samson - Why not wait; he asked when they could get a copy and Mike said this afternoon.

Commissioner Samson said to make sure they put this on the on the agenda for March 15.

CONSIDER A REQUEST FOR A PIPELINE/PUMP STATION TO ALLOW FOR THE USE AND OPERATION OF A FRESH-WATER PUMP AND RELATED CONVEYANCE SYSTEM (PIPELINE) TO TRANSPORT FRESH WATER FROM THE COLORADO RIVER TO A WATER IMPOUNDMENT ON JOLLEY MESA – THIS SITE IS ON A 7-ACRE PARCEL SITE LOCATED BETWEEN THE COLORADO RIVER AND COUNTY ROAD 335 SOUTHWEST OF NEW CASTLE – APPLICANT; JACE, LLC – KATHY EASTLEY

This Application has been rescheduled for Public Hearing on April 5, 2010 due to Public Notice Issues.

CONSIDER A REQUEST FOR A FRESH-WATER IMPOUNDMENT ON A 2,130-ACRE SITE LOCATED ON JOLLEY MESA SOUTH OF COUNTY ROAD 335 SOUTHWEST OF NEW CASTLE – APPLICANT: RICHARD AND MARY JOLLEY FAMILY LLLP – KATHY EASTLEY

This application has been rescheduled for Public Hearing on April 5, 2010 due to Public Notice Issues.

REQUEST THE BOARD ADOPT A NEW BUILDING CODE FOR UNINCORPORATED GARFIELD COUNTY – ANDY SCHWALLER

Don explained this was a noticed public hearing. The only notification required is publication of notification in a newspaper of general circulation; 14 days prior to today's hearing. Mr. Schwaller has presented the original; published on January 21 in the Citizen Telegram giving notice of today's hearing to substantiate the International Building Code of 2009 and the notice is complete.

Andy submitted a memorandum with all the information stating the background and proposed changes. The Board held an in-depth discussion and a motion was made to continue this until the April 5, 2010 regular meeting. The minutes would be placed in the Board's packet for that April 5 meeting.

Chairman Martin - Do I have a motion to continue this discussion until the Board meeting on April 5.

Commissioner Houpt – So moved. Commissioner Samson – Second.

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

TO CONSIDER AMENDMENTS TO THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED WHICH GENERALLY INCLUDE THE FOLLOWING: - FRED JARMAN

Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.

Planner Fred Jarman submitted the following exhibits: Exhibit A – D. Chairman Martin entered Exhibits A – D into the record.

Planner Fred Jarman explained what the discussion today would entail:

1. Corrections to internal references from one code section to another
2. Corrections to tables of contents and pages references
3. Corrections to typographical errors
4. Amendments to uses listed in Tables 3-501 and 3-502 and certain uses in Article III
5. Certain amendments to the Temporary Employee Housing regulations
6. Clarify the References to the "County Road Standards" for all uses
7. Clarifications and Amendments to certain uses and review processes
8. Amendments to the "Notice of Potential Violation section
9. Address conservation easements as interests in land
10. Clarify what submittal requirements are required for a preliminary plan/final plat combination application
11. Allow for changes to be reflected in flow charts
12. Consolidation of definitions from all sections

The Planning Commission unanimously (vote of 8 to 0) voted to recommend the Board approve the amendments to the Unified Land Use Resolution of 2008, as amended. He included an entire list of proposed amendments, which incorporate the points.

This discussion was continued until March 29, 2010 at 8:00 a.m. The Minutes of this discussion will be included in that meeting packet.

EXECUTIVE SESSION:

Don would like to discuss Cozza, Commissioner Samson has recused from that item, and he would like to discuss that last. Rocky Mountain Hot Shots; Elk Creek code enforcement, and Sober house; lastly an item that came up from citizens not on the agenda, Chris Janusz made a request and the Chair indicated he could speak with council.
Chairman Martin had Go Rentals, code enforcement as an ongoing update.
Commissioner Houpt – I make a motion we go into executive session to discuss the mentioned items.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Do we have a motion to come out of executive session?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
ACTION TAKEN:
SOBER HOUSE CODE ENFORCEMENT
Cassie would like to continue to hold all litigation in abeyance pending their application for a text amendment.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
ROCKY MOUNTAIN HOT SHOTS
Don stated there is no public action on that.
ELK CREEK
Cassie requests public direction for the Chairman to sign a proposed stipulation so long as the stipulation contains the terms they talked about in Executive Session.
Commissioner Houpt - So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
GO RENTAL AND COZZA
No action
CHRIS JANUSZ:
Don said they need public action authorizing the Chair to sign a letter to Mr. Janusz informing him that he needs to submit his application.
Commissioner Houpt – So moved. Commissioner Samson – Second.
Chairman Martin stated that he and Fred Jarman will make sure that all of the procedures will be in that letter as well and that will go out to Mr. Janusz in reference to our answer.
In favor: Houpt – aye Martin – aye Samson – aye
MEETING ISSUES
Don stated one is a conflict set for 16th of March, therefore, we ask to reset that workshop on code enforcement to a different day.
Commissioner Houpt said they have a work session on the first Tuesday. We have the energy district, open space, administrative buildings, and a cafeteria plan discussion. We blocked that day out for meetings and the work session is for April 6.
Don asked if Mr. Green also reset the amendments to Procurement Code to the 6th.
Commissioner Samson said for April 6 that he had the cafeteria plan, forming the energy district, building information and open space.
Chairman Martin asked if Mr. Green placed the Procurement Code on that work session on March 2.
Commissioner Samson said he wanted to change it from tomorrow to the 6th.
Cassie - The Code Enforcement workshop would be held on April 6.
March 2, 2010 – Comprehensive Plan meeting in Carbondale at the Town Hall
Fred stated it is a meeting to discuss the current alternatives, the scenarios we have with the planning commissions from around the different jurisdictions in the county. This looks different from the last time we had the same meeting; we invited the elected officials to join us.
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

APRIL 5, 2010
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 5, 2010 with Chairman John Martin and Commissioner Tresi Houpt being 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 CITIZENS NOT ON THE AGENDA
Steve Smith – 63 116 Road, Glenwood Springs is with one of four primary organizations that make up the Hidden Gems Wilderness Campaign. Steve gave an update and submitted a proposal. His report included the submittal for the 2nd Congressional District; Eagle and Summit Counties. They will be having a sequel coming along in a few weeks for the 3rd district that includes the other counties as part of this bigger proposal. This proposal has been built on the most extensive public outreach effort he has ever seen in quite a few years of doing this kind of work. Steve explained how over the last four years they have sought out groups with interest in water, recreation, local government management, federal officials, and wildlife. There have been a variety of people who have had opinions. This group would be open to any recommendations you and your staff have about next steps in pursuing this process. They hope that congress will take this up as a legislative resolution to resolve and get some areas protected.

Steve said in response to Commissioner Samson's regarding an open meeting that yes, they are open and prepared to do additional conversations, additional public comment opportunities, as this inevitability evolves even more as it goes through the congressional process. They are more inclined to have events that foster conversation and specific suggestions of how to improve the proposal. What they learned from the experience in Eagle County several people stuck around after the meeting, looked at maps and said here's where I ride, here's where I want to know where your boundary is. Let's go out this week and take a tour; we did all of those things and those were the conversations that really helped everyone understand each other. The third part is the kind of conversation they have been doing ever since. They have been meeting with leaders of motorized organizations and bicycling organizations, along with many others to have that specific map based conversation and they are delighted to do more of that if that will help people feel heard, and make Hidden Gems smarter.
Fred – Indicated was they wanted to engage smaller groups on a more intimate level so they could get around this issue of the shouting match and focused on conversations rather than a large open house format.

COUNTY MANAGER UPDATE – ED GREEN

- **A. Discussion of Final Changes to "West Fest" Scope of Work – Kent Long**

The parties have concluded negotiation of the final changes to the scope of work for this event and the changes have been approved by the Garfield County Attorney. Michael Martin Murphey on behalf of Wildfire Productions, Inc. has executed the contract and its related attachments. The execution of the contract and its related attachments is a necessary condition precedent for the Board's approval of these documents and its authorization of a wire transfer to Wildfire Productions, Inc. in the amount of $150,000.00. Staff is recommending the Board approve the contract and authorize the Chair to sign the Contract and authorize the Department of Finance to initiate a wire transfer to Wildfire Productions, Inc. in the amount of $150,000.00. Kent informed the Board they actually have a signed contract from the vendor's side. Kent is looking for a motion for the Chair to sign the contract.
Commissioner Samson – Rifle is an intricate part of this it is vitally important that the City of Rife be enthusiastically engaged. He has received correspondence from the people in the Chamber and they seem to be very enthusiastic about it and have donated money. Thinking of other little incidental things that will have to take place such as police, cleanup, whatever, we need Rifle to be on board.
Kent said he has had discussions with both John Hier and Jim Neu and Rifle and has forwarded copies of our original scope of services and our final scope of services along with the contract to them.
Keith Lambert stated they are enthusiastic about the prospect of West Fest coming to the community. It is certainly meaningful to have an event of this scope and nature come to western Garfield County and Rifle specific. As far as the scope of services, they have not had a full chance to review. However, he doesn't see anything that is really problematic but it may warrant a few more minutes of opportunity to view these documents before they would be able to say yes, Garfield County and Rifle collectively are on board with each and every one of these. If the commissioners are so inclined to sign their contract this morning and Rifle negotiates separately for their portion of the direction that this is all taking, he is okay.
Kent said they have removed specific provisions and sent to Jim Neu their attorney to review. The provisions, scope of services that mention both entities, Rifle and Garfield County, Sheriff, provide this or provide that and they are going to get a proposal from West Fest that specifically deals with what their outlines and what they are asking from the City for services. The document he is looking at deals with everything from vendors, provision of volunteers, vehicles, public safety and transportation and so forth. He very first draft when they were contemplating a three party contract.
Commissioner Houpt - One thing that does have to be discussed is the division of event proceeds.
Ed explained that it is directly proportionate.
Commissioner Houpt indicated she thought it was originally 50/50 and now its not.
Chairman Martin – Rifle is not in this contract but we still look for your enthusiastic support.
Keith thinks as a community, this is a boom to western, with the county in general but certainly western Garfield County and the City of Rifle specific.
Chairman Martin – Our Chamber of Commerce and our tourism group are enthusiastic. This contract really gets down to point of a $150,000.00 advance so they can secure entertainment. All the other details with the fair board, with all the volunteers and everything else we worked out afterwards with the City of Rifle and hopefully it will be a successful event by doing such. They will negotiate from their perspective what they can and cannot do. If the Fairboard could designate a point person, a coordinator for all of us to be working that would be helpful. He suggested Jimmy Smith
Commissioner Houpt commented her surprise that Rifle's negotiation on this contract wasn't happening at the same time because you will be playing a big role as hosts.
Kent mentioned that the liquor licenses have to be issued and coordinate all of their services, police, etc.
Don stated if you had a chance to review the latest draft; the changes are evident. He wanted to note for the record that they have stricken the termination for convenience from this but the board is aware.
Commissioner Samson – I move we as a Board approve this contract with West Fest and authorize the Chair to sign and authorize the Department of Finance to initiate a wire transfer to Wildfire Productions in the amount not-to-exceed $150,000.00. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. CSU Extension Update – Kim Schriver**

On March 2nd the Garfield County Extension Advisory Committee gathered to share ideas and formulate strategies to continue to serve the citizens of Garfield County. One of the primary messages they received was the need to increase community awareness of this program. Simple and effective means to accomplish this was discussed from flyers in community centers as public libraries, to radio spots and other low to no cost strategies. They will meet again in late September/early October. Other topics discussed:
Prudential Spirit of Community Award; After School 0 A "Taste" of other countries; Conferences and Camps, 4-H Leadership and Fun; Benefit – Denim to Diamonds; Clover buds; Garfield County 4-H week; Office updates from the administrative assistant, and Highlights of the First Quarter 2010. Documentation is on file with the Clerk and Recorder for review.
This is also their 100-year celebration. They will have some gardening classes and the Master Gardeners will be doing some community service projects in Garfield County.

- **D. EnCana Release of Bond – Marvin Stephens**

EnCana obtained a permit from Garfield County Road and Bridge Department authorizing use of a county road for either overweight vehicles or the placement of improvement and obtained permission for the above noted activity through the issuance of a permit. EnCana provided security in the form of a bond number 105073448. There exists no potential claims against EnCana. Subcontractors under that bond number and through the Board of County Commissioners, hereby releases EnCana from performance of its obligations under that bond number 105073448. This is a correction on a bond the Board had signed.
Commissioner Houpt asked if he needed the Board to approve the corrected satisfaction of the permit and release the security correcting bond no. 105073448 for EnCana - so moved.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **C. Scope of Services for Transit Consultant – Fred Jarman**

Project Objective – Within Garfield County, a transit system currently exists and primarily services the east and south parts of the county. Bus service is provided by Roaring Fork Transportation Authority (RFTA) with Carbondale, Glenwood Springs, and New Castle being formal members of that authority. By way of a separate agreement, which is negotiated each year, Garfield County pays RFTA to provide a bus route from Glenwood Springs to the City of Rifle, which is 25 miles west of Glenwood Springs, commonly known as the Hogback service as outlined in the submittal of Exhibit A. Garfield County is now seeking the services of a qualified public transit consultant who can help the county assess the realistic need for public transit services for those communities west of Glenwood Springs.
Fred explained the scope of work, which included conduct a transit needs assessment for providing transit service west of the City of Glenwood Springs to the Town of Parachute Western Garfield County. This assessment could include, but is not limited to review of existing relevant studies; stakeholder interviews; public outreach; review and analysis of travel models identified by Garfield County; review of funding options; and deliverable transit needs assessment and potential funding report.
Lisa Dawson passed out information on Exhibit A the RFTA schedule and Exhibit B is the four models that they came up with in their initial study. They would like to get the Boards comments on the scope, if this is what you were interested in and talk about funding.
Chairman Martin asked if they had extra money to do that; no.
Commissioner Samson – This is the scope he was looking for and he has met extensively with both Lisa and Fred to work on this. To hire a group to do a further study will cost about $50,000. We need this to have this go forward. The people in the west end want to go forward with something.
Commissioner Houpt – She has been a very strong supporter of public transportation and thinks it is important to get someone who understands transportation. One concern is we need to recognize the fact that there are existing services. We are talking today about spending $50,000.00 to bring someone in to look at potentially an alternative transportation system, we have a good structure in place. It is possible to extend that service to Parachute. We are talking about transit needs for only one part of our county we have not looked what particular gaps or voids might be at this end of the county. Glenwood Springs and Carbondale have been very proactive and have invested a lot in public transportation doing a great service for their communities. We need partners on public transportation and we need to work with the communities that haven't stepped up to the plate. She has a difficult time spending Garfield public funds on one portion of the county when there could be needs that we haven't even looked at in terms of public transportation. Many calls have been received wanting service to CMC and there might be other voids as well. If we are willing to work with the communities in western Garfield County and help supplement whatever is put together there, shouldn't we be willing to do the same thing at this end of the county even though those communities have stepped up to the plate. She would ask that we not restrict this study just for western Garfield County. Let's allow a full assessment on needs. It would be an easy assessment at this end of the county because there is structure in place. RFTA is established through Glenwood Springs New Castle and Carbondale. The county should be playing a role.
Chairman Martin said you are leaving out 2/3's of the county. Parachute is only middle of the county.
Commissioner Houpt –There is not the population out there John.
Chairman Martin – It is still population and they still need to have an equal voice. What we are trying to do is work with municipalities that really have a burning need or desire to go ahead and to explore this issue. We need to stay with this scope of services we have. We haven't even talked about Sweetwater or the north side up by Rio Blanco, they need that along Hwy 13. There are many folks that live up there. There are folks out in Roan Creek that need transportation as well and you haven't included them. What we are doing is step-by-step so the scope of services is to tie the population sections from Parachute to Rifle and Glenwood Springs. Let's do the study see if they can go together and if they can afford any kind of service. Keep it as simple as that instead of including everything in the entire county.
Commissioner Houpt - It is important to emphasis that county funds would not be spent on creating a new transit system in western Garfield County. If there's a new transit system that is created, those funds will come from a district because otherwise we are going to have people double taxed in the Glenwood and Carbondale area to provide service in western Garfield.
Commissioner Samson - Those people in those areas have decided they want that and they are taxing themselves. He would never envision this to go forward without it going to a vote of the people and the people of the west end taxing them for something of this nature. If we want to talk about transportation needs there is all kinds of transportation needs; but we have to take baby steps before we take giant steps.
Commissioner Houpt –Her district does not need to feel left out on this one. We have received calls about gaps in unincorporated Garfield County in this area.
Commissioner Samson understands. Two points on that, number one the people in the west end, his district, have been pretty emphatic that they don't want to be part of RFTA the way it is, would they open the door to contracting as a third party to be with RFTA? He doesn't know; but it seems to him for the past five years this Board, this Board, has given money for the Hogback route. We gave RFTA $614,000.00 so to say that we as a Board haven't subsidized that transportation that's wrong - we have been subsidizing.
Commissioner Houpt –You are talking about spending $50,000.00 on a study that is looking at one part of the county. She is asking the Board to recognize the fact that we have the Roaring Fork Valley in our county as well and we've never even asked the question of what we can do to help fill in the gaps in public

transportation that we have in this part of the county. We need to look at the bigger populations centers for public transportation.
Additional discussion took place regarding the gaps in service, having a clear understanding of the transportation needs are throughout the county and the goals was basically from New Castle, Parachute and Battlement Mesa.
Fred - The direction thus far is to really a look to replace an existing thing that currently operates. He received an e-mail from Matt Sturgeon a couple of weeks ago and they were successful in getting a FTA grant to look at a circulator system within the City of Rifle. Now that's not part of this scope, to be very clear; but that's been their marching orders to look at really replacing what currently exists. That in some ways you can see as a huge gap. Right now, they are trying to figure out another way to fill that huge gap, so that's one way to view this anyway. He is hearing a route to Sweetwater, a route to CMC, a route to Ski Sunlight so is it a route to provide everyone who lives on a county road with service? How do you define that gap because we don't want to send the consultant on goose chase here.
Commissioner Houpt – All she needs is to have a clear picture of what the gaps are for our county.
Commissioner Samson –You want the consultant to consult with RFTA as to what the other gaps are besides this that we have defined.
Commissioner Houpt stated we don't have to pay the consultant to do that; we can have our staff make that call and see if they have done any studies on a CMC route or any other major corridor routes in Garfield County.
Commissioner Samson – I move we approve a scope of work that our administrative team has worked out here concerning west county transit needs study and action plan not-to-exceed $50,000.00.
Don explained that Debbie has some legal points she needs to make for you but his understanding is this is an RFP. So we really don't know on the not-to-exceed until we get a response what the actual number. You shouldn't advertise a figure, you should see the response.
Deb Quinn had two points; when we presented to you early on in this process, we made a clear distinction through her office of the difference between forming transportation authority verses pursuing your statutory authority and it seems to her that scenario two, on here, seems to blend them without making any distinction. She just wanted to point out that there are two distinct options that the county can follow if it wanted to pursue its own bus system. The second point is; under point number two on page three, about Garfield County having the statutory authority to levy a sales or use tax, that has to be with voter approval, we can't just do it on our own. She just wanted to make sure that both of those points were clear in your minds before this goes out; because with the transit authority you have a lot more flexibility, she thinks then just doing the statutory 1% sales tax that has to be county wide. She wanted to make sure that was in the mix.
Commissioner Samson – Points very well taken and he would hope that the consultant would be able to come in and dot the I's and cross the T's and tell us all the pitfalls and pros and cons, and why he/she would recommend we do what we do and why. What would be the best to serve the citizens of this county?
Chairman Martin – That would have to be in agreement with all the other municipalities and participants as well. They would have to sign off on it.
Commissioner Samson – We would want them to buy in.
Chairman Martin – Before we make any final decision.
Commissioner Samson - Part of his motion would also include that we instruct our staff to meet with RFTA and ascertain the gaps of transportation services within Garfield County within the corridors.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **E. Grand River Gallop (Special Event Road Permit Application) – Marvin Stephens**

Marvin stated this is more informational and is an event for Grand River Hospital. The roads affected are County Road 332 and County Road 320 and the number of participants is less than 50. The applicant has provided proof of insurance and will have volunteers warning drivers. It will be a walk and run event starting behind the hospital. Marvin believes they have approval of the City of Rifle. The event will take place Saturday the 10th.
Chairman Martin - On the cover sheet it needs to indicate that the Sheriff has been notified.

- **F. Letter from Lisa Bracken Regarding West Divide Creek**

Lisa's letter was dated March 30, 2010 to the Commissioners to inform them of recent events concerning impacts to ground water in the former West Divide Creek moratorium area and in proximity to the seep events, which occurred in June 2008 and continue. Along with the letter, Lisa provided requirements promulgated by the COGCC, which formed the assumptive foundation of the decision to lift the moratorium.
Chairman Martin - We need to forward her letter to the State of Colorado to the Oil and Gas Conservation Commissioner. He stated they have answered this question numerous times and he thinks it is up to the State to do any kind of moratorium and not the County.
Ed said she is asking for the moratorium to be re-introduced.
Chairman Martin said they could send this in as a request from Mr. Bracken.
Commissioner Houpt stated for the record she needed to point out that she has been recusing herself from this discussion because she had this discussion at the State level as Oil and Gas Commissioner.
Ed asked if the Board wanted Judy to forward this to the Oil and Gas Commission.
Commissioner Samson – I move that we as a commission, forward the following letter received by us from Ms. Bracken concerning the impacts to ground water in West Divide Creek and request that the COGCC take this up posthaste and get an answer back to us.
Chairman Martin – Back to Ms. Bracken and us as well.
Commissioner Houpt asked if they had a preference, could I ask that.
Don stated you recused yourself.
Commissioner Houpt said the county would be asked what their position is on this.
Chairman Martin - We requested an answer for the information that was submitted. What is the Oil and Gas Conservations position on this information that has been provided to them? We would like to know.

Commissioner Samson – We did that before still have not received a response from them concerning all that work that was supposed to be done and completed and sent back to us. Chairman Martin – Second.
In favor: Martin – aye Samson – aye Houpt – Recused

- **G. Staff Recommendation and Discussion to Approve Contract Award for the Human Services Annex Office Furniture – Matt Anderson**

A total of seven proposals Sandy's Office Supply was rated the highest in past performance and technical areas but their price was the highest. Office furniture and design was rated with high confidence in past performance and acceptable in the technical area. These two vendors were selected in the competitive range to continue discussion. Kent fully explained the bidding and the Board is being asked to either approve or disapprove the award of a firm fixed price contract to Office Furniture Grand Junction and Design in the amount of $238,676.00 for the design and installation of furniture for the new Human Services Annex or approve a contract award to Sandy's Office Supply in the amount of $271,178.00 for the design and installation.
Commissioner Houpt - There are several different considerations as John has pointed out in product satisfaction, continuity, service, local business which she thinks is really important in this economy. I make a motion we award the contract to Sandy's Office Supply; we aren't renegotiating today, but I am going to say in an amount not-to-exceed $271,178.00 with a contract that uses the parts we have on hand and those parts being subtracted from this not-to-exceed price that I'm giving now for the design and installation of furniture for the new Human Service Annex.
Commissioner Samson – Second; but I would like to point out the reason, because of what you said I agree with, I think we need to, as times get rougher, really put out the indication that we as a Board will look very strongly towards those that have the lowest bid with the economic times that we are going to face. Because of what Commissioner Houpt said, I'll agree with you; but I'm still a little upset about this Board giving that mosquito contract to that company and paying $35,000.00 for it when the people that were before us did not tell us that, that company would do, couldn't tell us they wouldn't do the same exact; but both of those firms were not local. Therefore, he understands, this is local and the things you have said; but I think in the future we need to look at who is the lowest bid.
Chairman Martin – We have a motion to go ahead and offer to Sandy's Contract based upon the findings that Ms. Houpt has done in reference to the procurement contract finding, items above and beyond what the lowest price is and those things have been stated. Call for the question.
In favor: Houpt – aye Martin – aye Samson – aye
Matt wanted to point out regarding procurements and lowest price. In particular to this one, if were making a decision now, if we start to see future furniture buys in any new buildings; or we have requirements for furniture, there is really not a better chance that any other company is going to ever provide what has happened right here in order to provide new furniture. If it's going to be any new furniture and we put out another RFP and all these companies all over Colorado spend their time and money putting together an RFP, I guess my point is, if we don't want to have them do that if we are just going to go ahead and make that decision.
Commissioner Houpt –I like would like to put on our agenda our final discussion on procurement policy.

- **H. Staff Recommendation to Authorize the Chair to Sign a Firm, Fixed Price Contract in an Amount Not-to-Exceed $144,828.00 with Mesa Mac for the Procurement of One 80 Barrel Water Truck for the Road and Bridge Department – Jamaica Watts**

Jamaica - Staff is recommending the Board award a firm, fixed price contract to Mesa Mac Sales and Service, Inc. in the an amount not-to-exceed $144,828.00 for the procurement of one 80 barrel water truck for the Road and Bridge Department.
Commissioner Samson – I move we approve the fixed price contract to Mesa Mac Sales and Service Inc. in an amount not-to-exceed $144,828.00 for the procurement of one 80-barrel water truck for the GARCO Road and Bridge Department. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **I. Staff Recommendation to Authorize the Chair to Sign a Firm, Fixed Price Contract in an Amount Not-to-Exceed $60,717.00 with Glenwood Springs Ford for the Procurement of Three (3) Ford Fusion Compressed Natural Gas Vehicles for the Garfield County Motor Pool Fleet – Jamaica Watts**

Glenwood Springs Ford has offered to match the State of Colorado Pricing Agreement therefore no further competitive action is needed. Staff has determined that Glenwood Springs Ford, Inc. is the only dealership on the western slope that would install the CNG as well as match the State Price Agreement. Staff is recommending the Board award a firm, fixed price contract to Glenwood Springs Ford, Inc. in an amount not-to-exceed $60,717.00 for the procurement of three 2010 Ford Fusion compressed natural gas vehicles for the motor pool fleet.
Commissioner Houpt – I make a motion we award a fixed price contract to Glenwood Springs Ford Inc. in amount not-to-exceed $60,717.00 for the procurement of three 2010 Ford Fusion compressed natural gas vehicles for the Garfield County Motor Pool fleet. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **J. Staff Recommendation to Authorize the Chair to Sign a Firm, Fixed Price Contract in an Amount Not-to-Exceed $111,641.00 with Heritage Ford Lincoln Mercury, Inc. from a State of Colorado Price Agreement for the Procurement of Two (2) Ford F550 Trucks for the Road and Bridge Department – Jamaica Watts**

Staff is recommending the Board award a firm, fixed price contract to Heritage Ford, Lincoln-Mercury, Inc. in an amount not-to-exceed $111,64.00 for the procurement of two Ford F550 trucks for the Road and Bridge Department.
Commissioner Samson – I move we award the firm fixed price contract to Heritage Ford Lincoln Mercury, Inc. in the amount not-to-exceed $111,640.00 for the procurement of two Ford F550 trucks for the GARCO Road and Bridge Department. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **K. Staff Recommendation to Authorize the Chair to Sign Multiple Indefinite Quantities, Indefinite Deliveries Contracts One to Grand River Construction, and One to Frontier Paving with the Total of Both Contracts Not Exceeding $500,000.00 for the Procurement of Asphalt Material for the Road and Bridge Department – Jamaica Watts**

Staff is recommending the Board award two separate indefinite quantities, indefinite delivers contracts; one to Grand River Construction for District One, and the other to Frontier Paving for Districts Two and Three with the total of both contracts not exceeding $500,000.00 for the procurement of asphalt material for the Road and Bridge Department for fiscal year 2010. Jamaica explained when they put this out, in the specifications; they had to be within a 10-mile radius of a district. Frontier was the lowest bidder however for district one they were not within the 10-mile radius.

Commissioner Houpt – I make a motion we award two separate indefinite quantities, indefinite deliveries contracts; one to Grand River Construction for District One and the other to Frontier Paving for Districts Two and Three with the total of both contracts not exceeding $500,000.00 for the procurement of asphalt material for the Road and Bridge Department for fiscal year 2010. Commissioner Samson – Second.

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

- **L. Resolution of Approval CDOT Contract South Canyon Trail**

This resolution is granting authority to the Board of County Commissioners to execute an agreement with the Colorado Department of Transportation to provide partial funding for the design and construction of the South Canyon Trail Project. This is for approval to spend $562,000.00 on approximately 1,200 feet of trail.

Jeff Nelson stated that Matt Anderson was going to come and ask the Board for an actual resolution on the IGA that was approved a month ago with CDOT.

Don stated that was correct; the IGA with CDOT, which he thinks Jeff brought to the Board with Larry Dragon, the terms of that grant agreement require the Board authorization to sign the agreement be approved by resolution. This resolution is identical to the ones you have adopted in the past when we have had agreements with CDOT for development of the South Canyon Trail. The dollar amounts were placed in the resolution; he supposed to reflect what you have already approved. This is not a new approval. The Board voted on the contract not this resolution.

Commissioner Houpt - This was carry over money.

Jeff explained, approximately $400 carry over from Phase I and there is about $160,000.00 coming from CDOT. LoVa Trail has $10,000.00 or $50,000.00. There was a grant with State Trails for $130,000.00. They have $970,000.00 in funding between LoVa, the grants they received and the left over from Phase I LoVa trail, and CDOT and they are estimating it will come in underneath.

Commissioner Houpt said this is the technical part of this trail, the first few phases.

Commissioner Samson – Garfield County is spending $400,000.00 plus the other to make it $550,000.00 to construct a trail that goes 1,200 feet.

Jeff – Yes

Commissioner Samson – Why?

Jeff – Because the cost originally was so high that there wasn't enough funding so they started piece mealing it looking at three to four phases to accomplish their goal. The only way to go about this is to build it in this manner unless they come up with the total funding. We are looking at the library trail that is coming in at an estimate now of $800,000.00 for 1,400 feet.

Chairman Martin – It is expensive because it's a traffic lane instead of a trail. Trails are about two or three feet wide and this is 10 foot concrete with all the amenities that go along.

Commissioner Houpt told Commissioner Samson that LoVa has also been meeting with all the communities west of Glenwood Springs to create a trail and communities have worked with everyone on different sections throughout western Garfield. Jeff has been very involved in that and there has been discussion about prioritizing the trail you're talking about as well. This is one we agreed to do, we have an IGA signed to do this and it's a formality now to get a resolution in place. It doesn't mean that the next step won't be to look at a Coal Ridge High School Trail.

Commissioner Samson said you're telling me the Battlement Mesa trail, when all is said and done, to do 1,400 feet is going to probably cost $800,000.00?

Jeff – Yes, what we are looking at currently and explained the initial cost on trails are high because you're are building a traffic lane. A trail has is constructed in a manner structurally to handle vehicles. You are going to maintain this trail; you're going to fix parts along the trail such as safety improvements, etc.

Chairman Martin – Referenced the Ute trail how many centuries old and still exists across the flat tops. We may philosophically disagree in putting that much money into a trail within economic hard times. This is allocated; he hates to say yes, but it's there and it is the money that is to be used by the LoVa trail folks.

Commissioner Houpt – I make a motion we approve the resolution granting authority to the Board of County Commissioners of Garfield County Colorado to execute an agreement with the Colorado Department of Transportation to provide partial funding for design and construction of the South Canyon Trail project. Commissioner Samson – Second.

Don wanted to bring out three things. As Commissioner Houpt has noted you have approved the IGA for this project; this is a regulatory requirement of CDOT that you confirm what you have already done. He would also like to point out in the last whereas clause on the first page; he will take this opportunity again to note that by signing that IGA, much more so than this resolution, you have undertaken the duty to maintain this trail. There are real liability issues if you fail to do that. Given that, this portion of the trail will lie wholly in unincorporated Garfield County; arrangements need to be made so that on completion of the trail it is maintained. You need to make sure that is done and it's not just a matter of verbiage; your trail license with CDOT also requires that you maintain this trail in a safe and adequate condition. Some department of the County has to have that responsibility. Lastly, the $562,000.00 is supposed to be the matching funds not the total funds; that is what he requested from contract administration was the amount of our match. Is that accurate?

Jeff said it doesn't sound accurate $562,000.00; no, the total funding is like $960,000.00 and Garfield County is somewhere in the $400,000 range. The carryover from 2009 Phase I of LoVa trail is $462,000.00 and that's Garfield County funding. Additional funding in 2010 is $100,000.00 from Garfield County; so that's where Don is getting the $562,000.00.

Don – That's right; it is $562,000.00 and that's the matching funds.
Jeff explained the entire trail from South Canyon to West Glenwood was originally estimated at $2.5 million dollars and he thinks it came in at three when they bid it.
Commissioner Houpt said they would have to look at many things in the County as we move forward. She is going to make a motion that we approve the resolution granting authority; she already made this motion.
Commissioner Samson – Call for the question.
Chairman Martin said they needed more information and it is acceptable. We put that into the record in reference to the overall cost of the question that was answered.
Commissioner Houpt said it is consistent with the IGA.
Chairman Martin asked if any other questions or concerns. None – and he stated it is the wrong time to be building trails in his opinion. In favor: Houpt – aye Samson – aye Opposed: Martin – aye

- **M. Staff Recommendation to Approve Third Amendment to Contract Between the Board of County Commissioners of Garfield County, Colorado and Palisade Constructors, Inc. to Extend the Completion Date for the Construction of Water, Sewer, and Road Improvement at the Garfield County Regional Airport and Increase the Amount of Liquidated Damages that can be Imposed Under the Original contract – Kent Long**

The purpose of the third amendment is to clarify the amount of additional time the contractor, Palisade Constructors, Inc. was entitled to for weather delays; b. The amount of additional time and compensation the contract is entitled to for the additional work requested by the county; c. To establish a date when liquidated damages would begin to accrue against the contract if it did not complete the original and changed construction work by a date certain; and d. The amount of liquidated damages that would be assessed against the contractor if it does not complete the construction work by a date certain. Staff is recommending the Board approve the third amendment to contract and authorize the Chair to sign.
He stated that all of this would happen around May 24th or 25th. There will have 31 days for weather, 31 days for the first change directed because we the County changed the work and 21 days for a generator.
Ed said and then you have added $37,000.00 to the agreement as compensation right?
Jeff said the $37,000.00 is for the pipe; we rerouted pipe. What happened was, they were in negotiations with Bob Howard at bid time and he decided he would rather not see it go through his property. So they rerouted down at the main entrance.
Commissioner Samson – He originally said it could go through his land and then he decided no.
Jeff explained they were in negotiation so it was never a definite. Without penalties, the contract is to go through July 30th.
Commissioner Houpt – I make a motion we approve the 3rd amendment contract for water, sewer, and road improvements at the Garfield County Regional Airport as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Executive Session:

Ed has one item for executive session that deals with contract negotiations with the City of Rifle

COUNTY SHERIFF UPDATE: Lou Vallario

Lou deferred his time.

COUNTY ATTORNEY UPDATE – DON DEFORD

Don has indicated he has one executive session item concerning the Sheriff's department and the Vandehay litigation update.

- **B. Signature Authorization: Closing, Battlement Mesa Fire House**

Carolyn explained they are set for closing on the Battlement Mesa Fire House on the 23rd of April. She is looking for authorization for the Chair to sign and as backup for all three of the commissioners to sign just in case something goes wrong. She explained they will be closing at the Rifle office at Commonwealth Title and she would like to know availability in the morning or the afternoon of whoever is signing.
Chairman Martin stated he thinks that the Chair is available as long as he has advanced notice so they have the time instead of an undetermined date or time. Chairman Martin said this works a lot better for him.
Commissioner Samson explained if there are things in Rifle that need to be signed; there is no need for Chairman Martin to go all the way down there to sign it. He would be more than happy to do that.
Don explained all they need is authority for someone to sign.
Commissioner Houpt – So moved. I'll make a motion the Chair is authorized to sign if he is not available we'll go through the chain of command. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Consideration/Approval of Resolution Concerned with Acceptance of County Road 317A as a New Public Right-of-Way**

On August 17, 2009, the BOCC entered into a road construction agreement for construction of proposed County Road 317A and was constructed in accordance with the agreement. The BOCC has received a request from the Road and Bridge Department to accept County Road 317A and to accept the deeds of the real property, attached as Exhibit A and B (deeds) for county road purposes.
Deb gave a background on this item and said this road has been the subject of discussion for a number of years now. Initially started out as a proposed vacation of existing County Road 317 and replacing it with what we are now calling County Road 317A because of concerns about access and neighborly disputes. It went forward as a private project with Laramie Energy building a new road. That road was completed last October. The Road and Bridge Department did participate in inspecting and accepted as it as being built in accordance with the plans and specifications last October. The contract that she developed with Laramie with ETC Canyon and with the landowners required a number of things to happen before this Board could accept title to that road. They thought that all of them would have been dealt with by today; but they have one last remaining item. She wanted to thank the Road and Bridge Department and Jimmy Smith for all the work they have done to try to get this to this point today. The outstanding item has to do with a release of a private easement between Laramie Energy and the landowners. All of the easements that were put in place for the private development of the road, except for one, had language that automatically extinguished those easements once the Board accepted title. The property owners agreed to convey to the property free and clear of all liens. There is still one remaining easement that we have not yet received a release. Why

they anticipated was that the all the private easements would be released, a road and bridge permit would issue for the pipeline that is underlying the road; that has happened, it is not in place yet until the Board accepts the road. She thinks what would work best is for us to bring it back on a consent item for the Chair to sign the resolution as soon as they have that last outstanding document.
Jimmy Smith stated, on behalf of ETC he believes all documents are in place. The right-of-way agreements were written and it says they dissolve once the board accepted the new portion of county road. As far as Laramie, he can give the Board an update. Jim Neu, the Attorney for the City of Rifle, has been in contacted with Ken Lace in working out the details and obtaining that release for their portion; but he can't speak on behalf of Laramie.
Deb said the other thing she did want road and bridge to tell the Board was what was going to happen with the remaining portion of the existing County Road 317; it is not going to be vacated and Jake and Marvin could explain what's going to happen.
Marvin said they would keep it as a non-maintained County Road so people are free to use it; the county will still have ownership.
Jimmy – The length of the road is 2.3 miles.
Marvin – This new road will protect the City of Rifle's watershed; it was one of the big things, and easier to maintain.
Commissioner Houpt – But the other one people wanted to keep in place for maintenance.
Marvin thinks it is still allows a corridor for utilities as long as the property owners agree on the old portion of the road and it still offers access to landowners on that road.
Jake Mall – All truck traffic and industry traffic will all be on the new road.
Chairman Martin – That's what we were hoping would happen as well as the pipeline to get away from Beaver Creek.
Commissioner Houpt – So we will see this on a consent agenda.
Chairman Martin – Yes, if there are no other concerns other than the existing easement release.
Marvin said he thought there was still snow on that road; but if any of the Board would like to go up there and look at it before it comes to them again, he would be glad to take them on a tour.
Jake – We would have to get permission as it has a locked gate on it. Laramie locked it for liability reasons to keep the general public off of it until we did adopt that.
Deb said that brings up one final issue. The contract they negotiated, that the Board negotiated, did have a one-year warranty for the road from acceptance of the road, and so there is a question whether acceptance is the time that the road and bridge department accepted as being built in accordance with the specifications or the time that this board accepts it as a county road. You need to keep in mind that you haven't maintained it since it was built, so there may be a reason to have it run from the time that you actually accept it.
Chairman Martin – When this Board accepts it, it becomes a public right-of-way, that's when it should run. We would like to see it when the last issue is resolved.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don would like to go through the list of items he needs to discuss with the Board in executive session. He doesn't believe there will be time to initiate those discussions now. On 3A listed for public discussion; provide legal advice concerning the process for your participation in rulemaking; but he thinks there will be a discussion of the substantiate concerns that are raised by this petition, the administrative will need to address those issues; provide an update on The Continental Rifle litigation and discuss negotiations tied to that litigation; updates on two child protection issues that are confidential by statute; provide, as he noted, an update on the Vandehay litigation with the sheriff; discuss both the Bosley and Dunton matters relative to construction on County Road 306, those are both contract negotiation issues; item Ed noted on contract negotiations with Rifle.

Assessor's Office

Lisa Warder presented the abatements.
Chairman Martin swore her in.

Tina Kim and Robert Clay Velasquez – Abatement No. 10-060 – Schedule No. R011518

Lisa explained this parcel should have been assessed at residential rate due to improvements existing for tax year 2009. The abatement is in the amount of $3,691.04.

ALSCO, Attn: Shana Lembky – Abatement No. 10-070 – Schedule No. P004920

There was a clerical error; the property was changed on the appraisal side of the computer system; but not on the administrative side. We need to abate the entire amount of $1,581.56.

Charles Fuenzalida and Susan Savage – Abatement No. 10-076 – Schedule No. R300107

This is an agricultural property and there is a bit of the property, around the house, that should have been assessed at the residential rate of 7.96 instead of the 29% agricultural rate. The abatement amount is $3,412.32.

Marc Adler – Abatement No. 10-091 – Schedule No. R031332

Lisa stated the petitioner for this property got hold of the commercial appraiser, in the office, based on his taxes and John did a physical inspection and determined that assessor's records were inaccurate as they portrayed more of the land value as commercial as opposed to residential. It is a mixed-use property and so part of the property is assessed at the 7.96% rate and part is at 29% and he determined that more of that property should have been assessed at the 7.96% rate. The amount of the abatement is $4,144.28.
Commissioner Houpt – I make a motion we close the public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Motions to approve the abatements:
Commissioner Houpt – I make a motion we approve abatement no. 10-060, schedule no. R011518 in the amount of $3,691.04.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement no. 10-070, schedule no. P004920 in the amount of $1,581.56. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt – I make a motion we approve abatement no. 10-076, schedule no. R300107 in an amount of $3,412.32. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve abatement no. 10-091, schedule no. R031332 in an amount of $4,144.28. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **A. Glenwood Springs Summer of Jazz – Mary Noone**

A letter was received by Commissioner Houpt from Mary Noone to request funding for the Glenwood Springs Summer of Jazz, Inc. in the amount of $25,000.00. This is the 25th and final season providing the community a series of concerts at Two Rivers Park in Glenwood Springs. Mary explained this was the first year they have asked for fund from the BOCC as they have been successfully sponsored by over 200 local businesses, family sponsors and the concert going public. This season the financial climate mandates they approach funding in a different manner. They have budgeted $15,000.00 per show and at this time, they have received $22,000.00 in donations. The funding deadline is April 23, 2010 and at that time, they will contract for as many concerts as finances allow. They have one concert booked for July 7th at this time. She has 96 sponsors this so far this year. With the economic times being what they are it is just a new thing and we have to reevaluate how we do this. She is asking for the money up front. Last year the City of Glenwood Springs bailed them out at the end because it was a combination of lines and credits not being there for them and just participation with the crowd.
Commissioner Houpt invited Mary to come today; she thinks the no one's have given a gift to Glenwood Springs and Garfield County and surrounding communities that has been huge for the past 25 years. The Summer of Jazz Program has drawn thousands of people, it has been a wonderful program, and she wanted to thank Mary. The 25th years for the Summer of Jazz, the City's celebration for 125 years and she thinks it is definitely a program she would like to see them support. We seem to be supporting festivals this year in different communities; we have a new festival coming into Rifle that we have supported.
Commissioner Houpt - I make a motion we support the Glenwood Springs Summer of Jazz Inc. in the amount of $25,000.00 for the 2010 season. Commissioner Samson – Second.
Everyone answered yes that this would come out of the Commissioner's discretionary fund.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin stated for Mary to make her request through Kent Long.

CONSENT AGENDA

q. Approve Bills
r. Authorize the Chairman to Sign the Resolution Concerned with the Approval of a Land Use Change Permit for the Puckett Land Company LIPA 6239, Storage: Supplies, Machinery, Equipment and Products – Ton Veljic
s. Authorize the Chair to Sign a Resolution Concerning the Distribution of the National Forest Reserve Funds – Theresa Wagenman
t. Authorize the Chair to Sign the Resolution Concerned with the Approval of a Land Use Change Permit for Extraction of Natural Resources & Development in the 100-Year Floodplain for the "Scott Gravel Pit"; Applicant; River's Edge, LLC – Fred Jarman
u. Authorize the Chair to Sign the Resolution concerned with an Amendment to the Approval of Required Re-vegetation/Reclamation Security for the Valley View Commons Preliminary Plan Located within the Battlement Mesa PUD on a Parcel Owned by Darter, LLC – Fred Jarman
v. Liquor License Renewal for Aspen Glen Club – Jean Alberico
w. Authorize the Chair to Sign the Resolution Establishing that the 2010 Primary Election will be Conducted as a Mail Ballot Election – Jean Alberico

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

- **B. Ownership and Management of Workers Compensation and Liability Pool – Ted Lindtveit, CTSI**

A report was submitted from CTSI showing loss ratio reports for Garfield County. This report includes the counties casualty and property pool and the counties workers compensation pool.
The reserves are at $17 million for CAT and $13 million for comp as the Board was asked two years ago to move up.
Katherine Ross informed the Board that she thinks this 5-year record we is extraordinarily good. She thinks it actually has a lot to do with many things those individuals and department heads, elected officials and the Safety Committee have been doing. There is no way to draw a direct correlation between activities and the lower numbers that we have; but there is an indirect correlation with that and when she came here there was an active safety program, and the reason she is talking about it at is because HR is the sponsor of the safety program. This year they even did safety audits. What this county does is address issues and sees them as ongoing and constant education and she thinks you are starting to see the impact of those types of things.

Executive Session – Continued Session

Chairman Martin – We have a request for executive session based upon the items identified earlier. He asked if there are any others to add.
Don stated not at this time.
Chairman Martin – do we have a motion? Commissioner Samson – So moved. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – a motion to come out of executive session?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don – First on the claims and contract negotiations between the Dunton and Dixon families on County Road 306, he would ask that the Board consider setting that matter for public discussion and action on April 19th under Don's time. He anticipates about 15 to 20 minutes of discussion on those.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Don – On County Road 306 in regard to right-of-way acquisition from property owners mostly in Grand River Ranch's LLC he would ask for authority, by motion, to propose resolution in the amount authorized by the Board. Commissioner Houpt – So moved. Commissioner Samson – Second.
Chairman Martin said that was through this last executive session.
Don stated that is right and it remains confidential because it is a negotiated settlement matter at this point.
In favor: Houpt – aye Martin – aye Samson – aye
Don – In regard to the Vandehay matter; the litigation discussion, he has asked that it be continued for executive session discussion on the morning of the 19th by motion please.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don – The Continental Rifle land acquisition matter and that is ongoing litigation by way of eminent domain; Don is asking for action from the Board concerning the settlement proposal from Continental Rifle.
Chairman Martin – to reject the proposal as well as return the previous settlement offer.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don asked Ed if he needed action on the contract negotiations on the City of Rifle at this point and Ed said no. Don said in regard to the matter that is set on the agenda we would come back to that now.
Commissioner Houpt will recuse herself.
Don stated that Commissioner Houpt has indicated she will recuse herself. It involves a petition for rulemaking and role change of COGCC Rule 905.b.

- **A. Colorado Petroleum Association's (CPA) Application for Rulemaking Concerning Amending Rule 905.b**

CPA is a non-profit trade organization that represents member companies before state, regional and federal governmental entities in order to promote responsible and environmentally sound oil and gas exploration and development. CPA and its member companies are directly and adversely affected and aggrieved by the current operation of Rule 905.b.(3) and their interests are entitled to legal protection under the Colorado Oil and Gas Conservation Act. The Commission has the authority to amend Rule 905.b.(3) as proposed by CPA. The proposed text of amendment is on file in the Clerk and Recorders Office.
Don said this was placed on the agenda by his office simply to get direction on a process issue. Right now with the pending petition if the Board chooses to respond or take a position on that position. There are timeframes we must meet and currently the Oil and Gas Commission is set to meet at the end of this month. Don said they don't know if this will be on that agenda or not; but if it is we need some direction from the Board if you wish to participate. That's why it is on the agenda and the Board will have to give us direction on what they want to do at this point.
Chairman Martin asked Pati if she wanted to explain what the petition is.
Pati stated it is a petition by the Colorado Petroleum Association to change rule 905.b, which deals with the disposal of pit liners. The proposal is to allow leaving the pit liners on site if they meet certain specifications for disposing them the other methodology. Right now, this is not set for a public hearing; it's their understanding that the COGCC, as it is entitled, has requested some guidance from the Attorney General's office regarding this rule and some of the materials that may be involved in this rule. As she is sure the Board is aware, the Attorney General is counsel for the COGCC so they are just seeking some council regarding what makes some sense. For now, we can request to be made an interested party to receive notice and they can keep the Board informed more specifically of the time lines when this matter is set for a hearing.
Fred stated what is before the Board is a question on how your land use code would treat the disposal of these liners in the land use regulation context. The definition that you have for solid waste would include these liners, so should they be allowed to be buried on site, then your regulations do kick in and that would require a land use permit from this county.
Chairman Martin – We are talking about the four mil thick plastic liner between the plate liner and the material that is put in these pits.
Fred said it includes materials resulting from an industrial operations is the key note there.
Doug Dennison explained typically most companies do use environmental consulting companies to do those samplings. There may be companies that have internal programs but it done in accordance with EPA protocol for the sampling and analysis of the samples.
Charmin Martin said they are always subject to recall, extra testing by the EPA or the Health Department if they have exceeded or there is a question on exceeding those limits.
Commissioner Samson – How would a future property owner know there are these various pits when he buys property?
Doug - The existence of the pits during the drilling and completion of production process is all permitted by the COGCC, so there would be public records. If they leave the liners, they have to meet those standards for anything that is left behind on the location and he believes the proposed rule change requires that the landowner approve that the liner be disposed of in place.
Chairman Martin – in reference to your legal description or the previous owner having those on his property and then a new owner come in; under this proposed change, under 7, it says there will be a legal description on real estate property record kept, and to the data base will be kept both in County and State. That information would be available.
Don stated that is not in the chain of title though unless it's recorded in the Clerk and Recorders Office.
Chairman Martin said it says it needs to be recorded in the County of origin etc. Anyway, that issue has been discussed in this particular petition. Back to the Board in reference to making a decision; do we wish to make a protest, do we wish to be a party of interest, or do we wish to take no position whatsoever?
Commissioner Samson feels in the interest of everyone involved as a Board we should state our position to the COGCC, the State that we want to be an interested party. Thus that gives us, as he understands it from Patty, automatic notice as to when this comes up and lets them know we want to be informed. Of particular interest, we want the Attorney General to come out with a ruling so we can see what exactly, how do they classify that material that is on top of those liners.

Chairman Martin – Therefore identifying the particulars that would remain upon the liner and the proper disposal of that liner with the proper designation. Now back to Fred's problem; do we issue permits and make inspections and require that to be done when the pits closed or not. He thinks they are going to put that in abeyance until they get an answer from the Attorney General. He asked Patty if she had enough for the position to go forward so they can review the draft and they would send that to the Oil and Gas Conservation Commission on their position.
Patty said she is hearing two things; number one the Board would like us to move forward asking that Garfield County be considered in two party notice.
Chairman Martin – That's correct.
Patty - Secondly is she hearing that the Board is asking us to draft a protest or if that is premature.
Chairman Martin – That is premature. We are waiting for the Attorney General's position so that we can go ahead and take appropriate action at that time.
Don stated at this point you simply want to indicate you are a party and the interest and what notice the right?
Chairman Martin – Right.
Don stated it does require a motion, which is simple; but yes, it does take action of the Board.
Commissioner Samson – We need to direct the staff to notify the COGCC that Garfield County wishes to enter in as interested party.
Chairman Martin – Second. With those findings Patti we can clarify those and bring that back as a preferred draft and then sign it, after approval by both Mr. Samson and I.
In favor: Houpt – reclused Martin – aye Samson – aye

- **Scope of Work and Change Order for Kelly Trucking – Brian Condie**

Brian wanted to give an update on the closure of the airport. In order to be in compliance with the state and local laws; they have had to take out $1.5 million dollars of work at the end Kelly Trucking's contract. That funding threshold is $1.5 million dollars worth of work they took out, and then they put in the $1.5 million of rock blasting. Brian will be meeting with the FAA next week; but right now, they are giving him every confidence they will find additional money to put all of this back into Kelly Trucking's contract.
Chairman Martin stated the worst-case scenario; they don't come up with the $1.5 million, it's on the county to go ahead and pick up that tail end piece.
Brian said we wouldn't be reimbursed up front; it would take 10 years. The problem with waiting 10 years, we cannot put any other infrastructure in the airport that the FAA would pay.
Chairman Martin explained there is a certain amount of money that comes to each airport, each year, and that's the money Brian is saying would be a period of 10 years. That goes to the local airports on a distribution, which is annual right now, so that's what would do the back fill of $1.5 million over a 10 year period.
Brian said they have never funded an overrun yet; that's what they are telling him and they don't want to start on his project. It would make the western region look bad if it were the first one.
Carolyn – This airport is important to their GA nationwide plan.
Commissioner Houpt – I make a motion we approve the change order as presented with Kelly Trucking at the Garfield County Regional Airport as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consider an Application to Vacate a Portion of County Road 106 (Satank Road) – Applicant; Colorado Rocky Mountain School, Inc. – Tom Veljic**

Larry Green – Attorney @ Balcomb and Green, Jeff Lehey - Head of School @ CRMS and Joe White- Business Manager for Colorado Rocky Mountain School 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 – Garfield County Unified Land Use Resolution of 2008, as amended Proof of Publication; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application; Exhibit D – Staff Memorandum; Exhibit E – Staff Powerpoint; Exhibit F – Planning Commission Minutes from Site Visit, dated November 6, 2009; Exhibit G – Letter from David Mead, Garfield County Building and Planning/Addressing, dated December 4, 2009; Exhibit H – Letter from Jake Mall, Garfield County Road and Bridge, dated December 7, 2009; Exhibit I – E-mail from Daniel Roussin, Colorado Department of Transportation, dated December 7, 2009; Exhibit J – Memo from Jeff Nelson, Assistant County Engineer, dated December 11, 2009; Exhibit K – E-mail from Janet Buck, Town of Carbondale, dated December 23, 2009; Exhibit L – E-mail from Bill Gavette, Deputy Chief of the Carbondale and Rural Fire District, dated December 23, 2009; Exhibit M – Newspaper Article, the Post Independent, dated December 16, 2009; Exhibit N – Note from Jim Kirschuink, U.S. Forest Service, received on January 12, 2010; Exhibit O – Aerial photo of Carbondale area in 1975, provided by Larry Green at Planning Commission Public Meeting, January 13, 2010; Exhibit P – Vicinity/Preliminary Survey Map, with aerial image, prepared by Schmueser, Gordon, Meyer (included as part of the application documents, Exhibit C); Exhibit Q – Letter from Debra Burleigh received on March 19, 2010; Exhibit R – Letter from Joe Burleigh received on March 19, 2010 and Exhibit S – Proof of Publication and Mailing.
Tom produced more Exhibits today; Exhibit T – Letter from Greg Forbes dated received April 2, 2010 and Exhibit U –Resolution concerned with vacating a portion of public road right-of-way.
Chairman Martin entered Exhibits A – U into the record.
Tom provided the background for this application and some historical records showing the right-of-way existed on a 1910 roadmap. Letters documenting the request to vacate were included showing CRMS initiated the process as far back as 1977. On December 10, 1979, Garfield County Commissioners passes a resolution closing the portion of CR 106 passing through the CRMS campus. The minutes reflect the Commissioners discussion for the potential of reopening the right-of-way through the campus in the future. Garfield County and CRMS participated in constructing Dolores Way as an alternate roadway with CRMS dedicating Dolores Way for public use with a reversion clause if public use of the road ceases. The request to vacate the portion of CR 106 through the CRMS campus has a long history based on the School's goal of expanding the use of the campus. The current request uses the same rational and for increased security by

limiting access in the future if on-site safety becomes an issue. The area north of CRMS, known as Satank, has restricted access to the public roadway network. The single roadway for vehicular access, both in and out, is Dolores Way. Comments from the Colorado Department of Transportation indicate that future increases in traffic will further impact the SR 133/Dolores Way intersection and suggest that a future connection to Carbondale's Main Street might be warranted due to the controlled intersection with SR 133. The Garfield County Engineer has also commented on the adequacy of the pedestrian connection from the Satank Bridge to downtown Carbondale based on the pending restoration of the bridge for pedestrian use and connection to the Rio Grande Trail recommending that the right-of-way be retained. The Town of Carbondale has also stated that the right-of-way should be considered an alternate route for emergency access between Dolores Way and CR 106 into Main Street. Carbondale would prefer that CR 106 remain as a public right-of-way. Since the first discussions between CRMS and Garfield County concerning vacating CR 106 through the CRMS campus began approximately 30 years ago, the segment of CR 106 through the campus was recognized as an important link between Satank and downtown Carbondale. The most recent comments received from referral agencies reinforce the statements made by the Board of County Commissioners in 1979 that retaining the right-of-way is necessary to accommodate future traffic.

PLANNING COMMISSION RECOMMENDATION

During the public hearing on January 13, 2010, Planning Staff presented the proposed road vacation for a portion of County Road 106 and recommended denial. Following testimony by the applicant and his representative and other interested parties, the Planning Commission discussed the proposed road vacation. Based on the information provided by the applicant, referral agencies, and the requirements of the ULUR concerning roadway vacations, the Planning Commission recommends **denial** of the request to vacate a portion of CR 106, Road Vacation RVAC 6091, to the Board of County Commissioners as described on the Applicant's survey with the following recommended findings:

1) That proper public notice was provided as required for the hearing before the Planning Commission and the Board of County Commissioners;
2) The subject county road or public road right-of-way does not provide access to public lands;
3) The subject county road or public road right-of-way does not abut or is not connected to any property including any easement owned by the federal government, State of Colorado, municipality, county, or special district, where such property or easement constitutes a public park, recreational area or trail;
4) The subject county road or public road right-of-way is currently used and will be used in the foreseeable future for county or public road purpose;
5) That for the above stated and other reasons, the proposed public right-of-way vacation is not in the best interest of the health, safety and welfare of the citizens of Garfield County;

Discussion was held.

Joe thanked the Board for the opportunity and consideration of their application. He summarized their intentions to have this road right of way vacated, which essentially was to protect individuals from accessing the campus in the evenings when students are going to their dorms. He gave the complete history of the traffic and the Colorado Rocky Mountain Campus.

Larry Green explained the action that was undertaken by the Board of County Commissioners in 1980 was to restrict the use of the roadway in question to non-vehicular purposes. The direction of the county commissioners at that time was also to remove the road from the counties road system. They checked with the County Road and Bridge department and in-fact this section of road has been removed from what they refer to as the County Road inventory since at least 1990. There are utilities within various portions of sections of this right-of-way. The utilities they have identified are Town of Carbondale, water and sewer lines; there is an Xcel Energy electric line, a source gas natural gas line and some Qwest communication lines. As to the pedestrian use, it is actually shorter to go along Dolores way to Main Street and 133 then it is to go along historic road 106 right-of-way. The school would be willing to grant some additional pedestrian access ways on the west side of Highway 133 so it would not entail cross 133.

Brad Hendricks gave a letter to the commissioners. The point is, is there a need to go on how valuable is this to the community and why do we need it and emergency access.

Commissioner Houpt – What you're asking us is to deliberate and make a decision before we have hear everyone speak and she thinks for the public process they need to do that.

Brad - They have never had control of pedestrians walking through there. He said he was at the original county commissioners meeting when the county closed this. It was very clear at that meeting and it was very clear in their subsequent action; they didn't vacate and they kept it open for public purposes.

Harmony Hendricks –Brad's daughter and she also owns a house separate from their houses in Satank. She just wanted it stated that she has walked through CRMS thousands of times in her life. Before the road was closed and since and her kids have as well. It's not just access to Carbondale; but her best friends, when she was growing up, lived across the river and we would have had to go to City Market to get up the river on the other side and Crystal Village. She thinks in a way CRMS has messed it up because until that little improvement was made on the south end, it was hard to get through there. She pays taxes and she would be upset if Garfield County gave away three acres of land to a private institute.

John Hoffman is a trustee for the Town of Carbondale representing the interest of the community as a pedestrian more than any official does. It has been his experience in town with other right-of-way issues that if there is not a public right-of-way; there is a fear factor that happens if they are not required to have people go through there. Fear does funny things to us, fear made the school ask the town to stop the trail where it is now. Now fear is asking having the school ask the town to extend the trail on down to the river because they realize that the children are in risk being pushed into the roadway, not having a proper trail to go through. The community feels the same way. It is a convoluted path that goes through the school so very few people do use it. But those that do use it, use it almost on a daily basis and they need that access. Because going on 82 is risky; it's not good air, there are a lot of driveways, and the traffic is unacceptable. Chances are good the Satank Bridge will benefit, we'll see most of its traffic from the Town of Satank and from the Dolores Way area and most of the people that would use that as a right-of-way will continue on up the Rio Grande Trail, which is a good passage to go on into town. The people of Crystal Village will very likely pass on through as they have been because that is the natural way to go through. In conclusion, he

wanted to ask that we retain the right-of-way but he would like them to have some kind of a negotiation with the school so that the school can have additional protections to satisfy their designers and their needs. If they feel they have a measure of control over what goes through there; he thinks they would be satisfied to some degree. But by no means would he be for closing off a public right-of-way if a different alignment with a different public right-of-way wasn't at the same time included in the agreement. I was hoping they would bring a list of concerns that the school had about the right-of-way going through their campus that could be addressed in some kind of way in a governmental agreement. He is not is not sure if they have done or even if there is any agreement that would help relieve their mind or help them move ahead with their future plans.

Nancy Smith – 27 Mesa Avenue brought a letter. She would not favor opening 106 road through CRMS campus, if the school ceased to operate there it would be good to have kept the roadway. Additionally, the right-of-way should be given up without alleviating present and future congestion on the Dolores Way by means of a second exit to Highway 133 and widening Dolores Way. Both of these would involve the Town of Carbondale; but money and influence from CRMS and Garfield County would be more effective than complaints from the citizens of Satank. These improvements will be a benefit to all CRMS, industrial park owners, Carbondale and Garfield County residents. Her concern is mostly about the Dolores Way intersection and she just wanted to note that sometime in 2002 was the day of that Town of Carbondale, Highway 133 improvements study, and that was done back when the assumption was that the park-n-ride was going to be built where American National Bank is. That's why there would be a traffic flow on Dolores Way; but when the park-n-ride was built at Village Road then the traffic light was put in at Village Road and now there is no possibility for a traffic light at Dolores Way. Like Brad said in the beginning, it seems to her like the county code prohibits the Board from vacating this road. CRMS sent out certified letters to people within 200 feet. You know unofficially they didn't get everybody in Satank.

Jim Gye - Is an alumnus of CRMS, class of 1964. He came here from California. He has been teaching at CRMS for 31 years. His wife also teaches at CRMS. The very important part of his duties is helping supervise the residential life of each student who ranges in age from 13 to 18. At least one night each week, he is in one of the dormitories from 7:30 to 11:00 p.m., at which time he goes home. All the other teachers have similar responsibilities. Should an emergency arise after 11:00 p.m.; students are to call one of the teachers for help. There is always at least one teacher in each dorm throughout the night in his or her own residence. About four or five times each year he is on weekend duty; which requires him and about five other teachers to maintain on campus and in the dormitory providing activities for the students. In a very real sense, as well as legal sense, we are the parents of these students. Our campus is a large home. The central dining and social facilities and classrooms that are used on the weekends; for example a science project, or computer use and it is their job as teachers to secure the safety of our children at all times. This includes not only making sure that are students are engaged in acceptable behavior; but also making sure that unwanted visitors do not endanger their students. It could be very difficult for him to ask a disruptive individual to leave. He strongly supports the complete vacation of County Road 106 through the CRMS campus, as it will help him and the school to provide safety to their children. They need to know they can do anywhere on campus and not fear that their home has been compromised by unwelcomed visitors. At the same time, he is happy to allow people from Satank, or Carbondale to walk or bike through their campus during the day as long as they respect the needs for privacy and security. Finally, on Dolores Way can be improved significantly by the installation of traffic lights or a traffic circle at the intersection of Highway 133 or by extending Village Road through to Dolores Way. There is ample precedence for multiple stoplights within a short distance of each other. Chairman Martin took his letter as an exhibit as well.

Louis Meyer said he is speaking in front of the commissioners today as a parent. He would encourage the Board to vacate the road for vehicular use. He wanted to make it very clear he was not here representing the Town of Carbondale; but he has been involved with engineering for about three years. He can tell them that of all the traffic studies that have been done for Carbondale over the years, starting with River Valley Ranch, the Market Place, Highway 133, the connection of 106 from 108 to Dolores Way has never been part of the projections from a traffic standpoint. The issue of the intersection of Dolores Way and Highway 133 was discussed in the plan that the Town of Carbondale put together for expansion of 133 and four lanes. It was proposed for a traffic signal; it would improve the tenuous situation up there today. He pointed out that the bike path is along County Road 108 from Main Street to where it dead ends today was a collaboration between the Town of Carbondale and CRMS. CRMS dedicated that land so that a bike path could be put in there; much to the objections of the rancher. The rancher that was ranching the land for CRMS really didn't want to see that happen; but CRMS took the difficult decision to dedicate that so that the public path could be put in. Finally, if you look at CRMS as a planned unit development today would you put a road right-of-way, vehicular right-of-way there and he thinks the answer is no. In fact he thinks much of the projects have been before you largely views; the county has taken the position you don't want the right-of-way in a lot of the larger plan unit developments. These are difficult decisions and there's no good answer. He thinks you have to weight on is there more positives than negatives. He thinks the continuation of CRMS as a viable business, as a place to educate our kids, far out weights the other issues. He would say there is an opportunity for CRMS to collaborate with the Town of Carbondale and Garfield County on pedestrian issues.

Greg Forbes lives adjacent to the school on 106. The way the code is written, the way that the whole section on road vacations is written states that the BOCC shall not approve any petition or request to vacate a primary public road right-of-way when the following information has been submitted to the BOCC. He referenced Exhibit T. He sympathizes with the school, as they have been good neighbors. There are many people that use this who live in Crystal Village and come through with the kids. He would hate to see that possibility for the future go away. On a financial standpoint; he is a real estate appraiser, several of the properties in Satank that are developed that have homes are the old Satank town site is platted into 25 foot wide lots, and those large developed parcels that are two lots to three lots wide. So 50 to 75 feet wide and then 150 feet deep and with just 50 feet in front of you then the county road right-of-way, and they haven't seen much recently, the down turn in the economy but we have seen 50 by 150 foot properties selling for in excess of $200,000.00 in that area. We are talking about even just a little stretch of that easement is worth

a lot of money and in the public hands; to just give it away or trade it away for something a little strip is really not an equitable thing. he main thing for him is it is a public right-of-way, it's been a public right-of-way forever and it's not in the public interest to get rid of it. He understands why it benefits CRMS; riding his bicycle through he meets a lot of students and some of them we talked and get to know each other, it's a good thing.
Charles Moore lives in Satank. As far as he is concerned vacating any road dedicated to motor traffic is a good idea. It would be a disaster to have this road ever become a public motor way. It is true that the route from Satank to Carbondale is shorter if you take the path along Dolores. Unfortunately, the way it is now, when you get to 133 you are pushed into the traffic because there is nowhere to go except trying to dash across 133. He would suggest it would be good to continue the easement all the way over to where the hook into Main Street essentially along the south boundary of the school. He would also ask the County Commissioners to consider putting a sign up where Dolores comes off 133 saying Satank Road. The only sign saying Satank Road is coming off Highway 82, which dead ends.
Tamison – A sophomore at CRMS spoke about how she and her friend ride bikes through CRMS. It works great the way it is and she doesn't see a necessity for an improved bike path. CRMS is a unique community in a sense that the students feel a great sense of freedom and security. And that security is felt because of the way the school operates as it is now. She feels if they had an improved bike route slicing through the heart of their campus, the sense of security she feels in her home, which is CRMS, would be shattered.
Ethan – A senior at CRMS and expressed the sense of security. He knows he can trust all his friends however having people we may not know wondering through our campus all the time is not helpful for the school He doesn't want random people wondering through his home, CRMS.
Larry Green said this is an interesting set of speakers today and thinks he has known everyone who has spoken. He thinks the overwhelming thing you have heard here is that everyone believes CRMS is an asset to the community; but the different perspectives have different viewpoints about the use of this right-of-way. He thinks as to the technical legal argument that this is a prohibited vacation and he submits that section of code is not applicable because there is a portion of this historic right-of-way at the north end of it that we are asking be vacated that is not presently used for road purposes. The actual trail that folks use now is somewhat to the east of the strip of land that we are asking to be vacated. To Tresi, you asked a question about the concept of an agreement made with the County Commissioners in 1980. He believes that is part of the problem is that there really was not an agreement that was made with the County Commissioners back in 1980. There was the minutes of that meeting and a couple of sentences that said that the action the Commissioners took back then; but he doesn't think that anyone has a real understanding of what that means on a going forward basis. Is the road going to be reopened to vehicular traffic at sometime, is someone going to come through and put an improved pedestrian path, how long does that uncertainty linger over the head of CRMS? He believes if the county was willing to consider an agreement that we probably could work one out with the county. John Hoffman promotes us to the status of a government and suggests an IGA; CRMS is not a government so he thinks an IGA won't work. But there could be an understanding, a written understanding with Garfield County if they were willing to consider it about matters of what would happen to that historic right-of-way for so long as a school is operated on the property for example. If that is something that the Commissioners are willing to consider then he would ask that this matter be continue and let them work with staff and see if they can't put something together that would address everyone's concern.
Commissioner Houpt expressed the need for clarity in this proposal.
Chairman Martin thinks once established a right-of-way is a vested property right for all people within the county. It is extremely hard to get rid of and justify the use for other purposes in vacation, unless there is an absolute need. We face several things in another issue that we have had, actually several issues we have had on vacations of rights-of-way. Prehm Ranch is a good example of that; it's a vested property right, it's a deeded right etc and they gave it away. Now what is the biggest issue in Glenwood Springs; it is an alternate route to get from the south side of the river to the north side of the river. Preserving the right-of-way is fine and suggested a workshop with CRMS, the Town of Carbondale, the folks in Satank, and Cooperton. The recommendation presently is denial; based upon the rights-of-way and the belief of the planning commission and the staff. The only way he can say they cannot make a decision is if the applicant withdrew and we had to not make a decision. He thinks in front of us is make that decision; yes or no.
Commissioner Houpt stated for clarification Larry; your recommendation was to continue this and work on agreement or bring finality to this.
Larry suggested it be continued.
Deb stated there are provisions in the land use code; the resolution concerning road vacation that was incorporated entirely into our land use code that allows the Board to continue a hearing as it deems necessary to receive all information the BOCC seems relevant. Any continuation must be to a date certain with a decision to approve or deny approval occurring within 90 days of the initiation of the public hearing. There is another section that says the BOCC may elect to approve a resolution vacating a county or public road right-of-way in a form modified or altered from that presented as part of the initial required documentation. In that event the Board specifically directs staff to make alterations to the resolution presented by the petitioner or applicant by motion specifying those alterations. Therefore, there are two different provisions in our code currently that allow for a continuance; one for additional information, the other is to modify a resolution on terms that you dictate to us today.
Commissioner Houpt thinks people who are talking on both sides of this issue recognized the value of the historic use.
Deb – It may be the Boards desire to deny the petition and yet encourage the applicant to come forward with some further agreement that has nothing to do with vacating a right-of-way. It's up to the Board how you want to proceed.
Commissioner Samson has listened to everyone. It seems like people are willing to work together and once again he thinks that is the way to do things. We would not have to deny this if the applicant is willing to withdraw
Chairman Martin thinks the school wishes to have an answer to either deny or continue.

Larry - Based upon what they have heard from the public this afternoon they would ask that they be allowed to withdraw the application for this afternoon with the understanding that in the very near term they will be working with the county's staff and members of the public to try to reach an agreement. Chairman Martin – We can entertain that motion to withdraw. Larry would like to see have a workshop on site in reference to the county government, the city, the parks and recreation, the school, the neighbors, and sit down and actually come up with a workshop so we can make a recommendation back to this Board in reference to the right-of-way and how it should be used. He suggested that everyone be noticed and take time to have a discussion.

- **Consider a Request for a Land Use Change Permit for Limited Impact Review to Allow for the Storage of Supplies, Machinery, Equipment, or Products on Approximately 2.3 Acres of a 355.56 Acre Parcel Located off of County Road 215 (File No. LIPA 6185) – Applicant; Richard L. Prather, Lyle Prather, Ned Prather, Donna J. Koehler, Sue Stuart Mortimer Erupt Vanda Bovenkamp, and Daniel W. Stroock – Molly Orkild-Larson**

Alex Lopez with Enterprise Gas Processing and Shane McCoy 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. She was also provided a book from the applicant; she will submit as Exhibit A.
Chairman Martin swore in the speakers.
Planner Molly Orkild-Larson submitted the following exhibits: Exhibit A – Proof of Publication, Posting, and Mailing; 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 – Memo from Jake Mall, Garfield County Road and Bridge, dated February 19, 2010; Exhibit H – Memo from Steve Anthony, Garfield County Weed Management, dated March 10, 2010; Exhibit I – E-mail from Dan Roussin, Colorado Department of Transportation, dated February 26, 2010 and Exhibit J – E-mail from Jim Rada, Garfield County Environmental Health, dated February 26, 2010.
Chairman Martin entered Exhibits A – J into the record.
Planner Molly Orkild-Larson explained the applicant requests approval for a "Lay Down Yard" as a storage of supplies, machinery, equipment or products in support of natural gas extraction operations in the Parachute region. To better serve this industry, a centrally located storage facility is proposed on the Roan Plateau, which will minimize the vehicle trips required for supplies. The site has been disturbed and used in the past as a storage yard by IXP Inc. Staff is recommending approval with conditions.
Alex wants the Board to consider taking out the screening because of the areas, it has a fence already in place. Because of the activities associated with it and around, they feel they really do not need to do that if possible. There is no chance of material leaving the property. It will mainly be pipe and meters and things; if there are hay bales they will be contained. Any type of lose material will be contained in a box.
Ginger Latham – They own property just north of this property. Their concerns would be the runoff water. She continued with her concerns regarding straw bales into the draw, there was some runoff from this site. They weren't notified in a very timely manner and two the bales are still there, which will smother out the vegetation that is there and some of those issues. Control of the runoff water and how they will clean up, re-vegetate, and do everything because it all goes to their property.
Alex explained they have included a full storm water management plan. He also has contacted the Latham's and let them know if anything happens they can call him directly and they would have an on-site out there and look at the issues.
Ginger stated they have no problem with them doing it and it was the other applicants; but it is a big drainage area through there into their property.
Chairman Martin – The storm water management plan has been reviewed by engineering and feels it is adequate and if you follow those practices, you will mitigate the impact on the Latham's.
Molly explained in talking with the engineer he mentioned that he recognized the draw was taking the runoff from this site and from adjacent sites and that's why he has recommended and has proposed other locations that this site could drain to. There are two other exits for the storm runoff for this property.
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. Motion carried.
Commissioner Houpt stated it seems to here that it is appropriate to remove the site fencing; she didn't hear anything today that would leave her to any other conclusion. She thinks it is important that the neighbors be kept in the loop on drainage issues and she is hearing there was testimony today that, that will continue. I make a motion we approve the request from applicant for a land use change permit for the storage of supplies, machinery, equipment or product on a property owned by the applicant located in the southeast quarter of section 2, township 6, Silt, range 97 west in Garfield County with the conditions presented by staff deleting condition number 7 which would require site obscuring fence.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Consider a Request for a Pipeline/Pump Station to Allow Fresh Water from the Colorado River to be Diverted and Transported Via Pipeline to a Water Impoundment on Jolley Mesa – This use is on a 7-Acre Parcel Site Located Between the Colorado River and County Road 335 Southwest of New Castle – Applicant; JACE, LLC – Kathy Eastley**

Loren Prescott with Olsen and Associates, and Craig Richardson 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 Kathy Eastley 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 Presentation; Exhibit H – Memo dated August 24, 2009 from Jake Mall, County Road & Bridge; Exhibit I – Memo dated September 1, 2009 from Steve Anthony, County Vegetation (JACE); Exhibit J – Memo dated September 1, 2009 from Steve Anthony, County Vegetation (Jolley); Exhibit K – David Hayes, Petros & White – comments on water supply on behalf of County; Exhibit L – Letter dated March 11, 2010 from JT Romatzke, Division of Wildlife; Exhibit M – Easement agreement for access to Jolley Parcel and Exhibit N – Construction Management Plan by Williams Production RMT Company March 30, 2010.
Chairman Martin entered Exhibits A – N into the record.
Planner Kathy Eastley explained the project proposes to pump water from the Colorado River conveying the water via an 8" pipeline to an impoundment for storage (pond). The water will subsequently be piped and/or trucked for use in Oil and Gas related activities south of the project area. The intent of the project is to provide access to the water resource more proximate to the location of use in order to minimize water hauling traffic impacts to the County road system, particularly CR 335 and CR 312. The 'project', as described above, includes two separate and distinct uses defined by the Unified Land Use Resolution of 2008, as amended, thereby requiring submittal of two separate, although inter-related, Land Use Change

applications. "Compressor/Pipeline Pump Station" is a facility located on the north side of CR 335, just west of the Rapids Subdivision at an elevation of 5,340 feet. This use consists of equipment (pump station) utilized to draw water from the Colorado River and pump the water via a pipeline to a water impoundment (pond) located on Jolly Mesa at an elevation of 6,500 feet.

JACE LLC PIPELINE/PUMP STATION

Staff recommends the Board of County Commissioners **approve** the request for a Land Use Change Permit for a Pipeline/Pump Station on a 7-acre property owned by JACE, LLC located in Section 5, Township 6 South, Range 91 West of the 6th P.M., Garfield County with the following conditions:

1. That all representations made by the Applicant in the application and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Land Use Change Permit issued for the Pipeline/Pump Station permits pumping of fresh water from the Colorado River for impoundment on the Jolley Parcel.
3. The site and activity shall comply with all federal, state and local requirements including laws, permits and standards.
4. Prior to issuance of the Land Use Change Permit the Applicant shall be required to obtain a building permit for the constructed pump station and pay double the building permit fee due to permitting of the activity after the fact.
5. The re-vegetation process shall be initiated within 60 days if use of the pipeline for fresh-water conveyance to the Jolley water impoundment facility ceases. Re-vegetation shall meet the requirements of Sections 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution 2002-94) or the site reclamation standards in place at the time of the use cessation, whichever is more stringent. Should the property owner continue the use for agricultural purposes after cessation of the use for Oil & Gas activities the property owner may request release of the bond.
6. Prior to issuance of the Land Use Change Permit the Applicant shall provide security for re-vegetation in the amount of $4,250 for 1.7 acres of disturbance associated with the Pipeline/Pump Station.
7. Prior to commencement of installation of the pipeline, the contractors/consultants shall meet onsite with a representative of County Road and Bridge to discuss the safety aspects of the project and protection of traffic on CR 335.
8. The Applicant shall comply with the Construction Management Plan (Exhibit N) incorporated herein by reference.
9. The Applicant shall maintain its contract with the WDWCD (No. 081120OE(a)), and ensure that all annual payments required therein are timely paid to WDWCD.
10. Prior to issuance of the Land Use Change Permit, the Applicant shall confirm the Filing of a Notice of Intent to Construct a Non-Jurisdictional Dam with the State Engineer's Office.
11. The County's approval of the adequacy of the water supply plan for the Jolley Mesa Facilities shall be effective unless there is a material change in either the water supply or water demand for the proposed development or in the event the Applicant fails to obtain the requisite legal entitlements with conditions which establish the adequacy of the water supply plan. If there is such a material change in circumstance or failure to obtain proper legal entitlement, the Board of County Commissioners may reconsider sufficiency of the water supply even after the original Land Use Change Permits are approved.

Loren - Kathy's presentation accurately represents both the scope and the intent of his client's projects. Secondly, he wanted to reiterate when Williams purchased the properties form Orion they inherited these two facilities that had already been constructed. They immediately went about the process of completing the appropriate permitting in order to go ahead and essentially to the right thing, as they should. What they have at this point is a short presentation to provide a little more detail. The point made was that it would provide a significant decrease in traffic on county roads. There will be some truck traffic, and that was included within our traffic analysis that was provided to the County. The traffic will be primarily up on top of Jolley Mesa and associated with; in the cases where they can't relocate the water via the pipeline they will be using trucks. This will remove truck traffic from your county roadways.

Gene Hilton – He and his wife own property adjacent to the JACE property and he owns the half the mineral rights under the JACE Property. He wanted to let them know right off that he had no objections to this water diversion. It is needed for the development of energy, it will create jobs; it will provide energy resources. His interest in being here today is regarding the condition of how the water entered the pond. Can this pond become contaminated? He asked for a copy of the construction drawings so that he could request that it be considered a condition of approval. He was told that Williams does not do design of those but the pipelines, they essentially subcontract to a pipeline company and the pipeline company goes and builds it. There is essentially three ways of delivering water to a pond; the one shown on the presentation is great. It won't cause a problem if the water was delivered through the side, below the surface or through the metal under it like designs are done.

Kathy has the map that indicates the siphoning prevention and if they would like they could add it as an exhibit. First, she would like to add Olson's Association's presentation as Exhibit O, we could add this siphoning prevention diagram as Exhibit P.

Chairman Martin – This makes it a condition because of testimony. He stated he had two questions in reference to water rights; because we hadn't talked about those but you went ahead and gave the presentation he was looking for them. Is there a contract for the delivery of the water? The other one was the back-flow to the anti-siphoning device, which you also presented because he didn't see any diagram and his concern would have been the same as Genes in reference to where the outlet would be, or the inlet as it would be.

Loren spoke to the client, had anticipated this requirement, and would be happy to provide pictures of the final construction to the planning staff in order to reinforce the application of the condition of approval.

Chairman Martin said they would take that as one of those self-imposed conditions of approval.

Kathy – There was a condition of approval that staff is recommending regarding construction of the fence and construction of escape route. The construction of an eight-foot fence will require a building permit as well, just to make everyone aware.

Chairman Martin – Do we wish to go ahead and continue that recommendation.

Commissioner Houpt and Samson agreed.
Loren estimates two to three weeks to get the pipe in place.
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the public hearing. In favor: Houpt – aye Martin – aye Samson – aye

Consider a Request for a Fresh-Water Impoundment on a 2,130-Acre Site Located on Jolley Mesa South of County Road 335 Southwest of New Castle – Applicant; Richard and Mary Jolley Family LLLP – Kathy Eastley

Loren Prescott with Olsen and Associates, and Craig Richardson 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 Kathy Eastley submitted the following exhibits: As above
Planner Kathy Eastley explained staff recommends the Board of County Commissioners **approve** the request for a Land Use Change Permit for a fresh-water impoundment on a 2,130-acre property owned by Richard and Mary Jolley Family LLLP located in the Township 6 South, Range 91 West of the 6th P.M., Garfield County with the following conditions:

6. 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.
7. The water impoundment shall comply with all federal, state and local requirements including laws, permits and standards.
8. The Jolley Land Use Change Permit permits a water impoundment for fresh water only. No accessory uses are permitted for this site, other than maintenance-related activities for the pond and the pipeline that connects the pond with the pump station. In particular, no storage of equipment, vehicles or fuel is included in this approval.
9. The re-vegetation process shall be initiated within 60 days if use of the fresh-water impoundment facility ceases. Re-vegetation shall meet the requirements of Sections 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution 2002-94) or the site reclamation standards in place at the time of the use cessation, whichever is more stringent. Should the property owner continue the use for agricultural purposes after cessation of the use for Oil & Gas activities the property owner may request release of the bond.
10. Prior to issuance of the Land Use Change permit, the Applicant shall provide security for re-vegetation in the amount of $15,975 for 6.39 acres of disturbed area associated with the water impoundment ($2,500 per acre).
11. Prior to issuance of the Land Use Change permit, the Applicant shall treat the noxious weeds on the site and provide treatment records to Vegetation Management to determine compliance with the weed management plan.
12. Prior to issuance of the Land Use Change Permit the Applicant shall comply with mitigation measures recommended in the Wildlife and Sensitive Areas Report prepared by WestWater Engineering and by the Colorado Division of Wildlife to avoid wildlife entrapment in the impoundment:
    a. An eight-foot (8') fence shall be constructed around the pond to prevent access. If gates in the fence are needed for access to the pond, they shall also be eight foot (8') in height.
    b. Wildlife escape ramps shall be installed around the impoundment.
13. Prior to issuance of the Land Use Change Permit, the Applicant shall be required to obtain a building permit for the fencing around the impoundment.
14. Prior to issuance of the Land Use Change Permit the Applicant shall be required to obtain a grading permit for the constructed water impoundment paying <u>double the grading permit fee</u> due to permitting of the activity after the fact.

Commissioner Houpt – I make a motion we approve the request for a land use change permit for fresh water impoundment on a 2,138-acre property owned by Richard and Mary Jolley Family LLLP with conditions brought forward by staff adding a condition to incorporate the surface discharge provisions as illustrated in Exhibit P. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt also moved that we approve the request for a land use change permit for a pipeline pump station on a 7-acre property owned by JACE LLC located in Section 5 Township 6 South Range 91 West of 6 a.m. in Garfield County with conditions brought forward by Staff.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Request the Board Adopt a New Building Code for Unincorporated Garfield County – Andy Schwaller**

Andy submitted the March 1, 2010 Board of County Commissioner minutes.
Andy wanted to recap there were some questions on the home care. He sent an e-mail to the Commissioners since the last meeting and it shows the areas that it covers. This is pulled out of the IBC, the commercial code and made simpler being put in the residential code. If you have any questions regarding that it is essentially life safety issues, detectors, and egress from basements. The State rules and regulations still do apply, so if there were something that's in conflict the State would overrule.
The Commissioners held discussion with many questions and Andy answered all of the concerns.
Chairman Martin – Are we going to adopt the changes Andy has outlined; the recommendations made by the sprinkler committee and what have you.
Andy –It can be postponed indefinitely.
Commissioner Houpt – Much thought and staff always put consideration into this and she will not always agree with everything that is brought forward. Because there are so many provisions in here; but she thinks it is important that the Board adopts the new building code unless others want to continue this again and think of new language they want to bring forward.
Chairman Martin thinks they need to go ahead and continue it. He thinks they need to work out those particular issues and we haven't done that. He said they are lacking on this and Andy and everyone else is waiting on the Board; it's the responsibility of the Board to bring our notes and to be prepared on the subject and we are not.

Commissioner Houpt said she has all that; but she didn't see anything that she felt comfortable changing after having the conversation. However, if you have more things that you want to change.
Chairman Martin said he could go ahead and make a motion to allow us to do that, and this not to adopt them except for the fee structure; which we will have in front of us, and that we continue to work on this so that we have something we can move ahead on. We don't lose any ground and stay status quo, the builders know what's going on…
Commissioner Houpt wouldn't want to go in that direction. She would want to continue this to a date certain to make the ultimate decision because we are not changing our fees. We know what fees are going to be in place. What's being asked is that we update the building code to meet the standards that have been perfected over past six year, and she thinks that is a really important thing to keep up with. She would make the motion we adopt them unless you want to continue this today.
Andy – You can adopt and change in the future; there's nothing that says you can't change what is here six months from now. There is a problem with the ISO rating. They give us a bad rating because we are using an old code, so he told them as soon as this is adopted he will send copies.
Commissioner Houpt – That impacts every homeowner in the county because it will affect our insurance.
Commissioner Samson asked them to explain that.
Andy – They rate communities, jurisdictions, and people use their ratings whether it's the building code that is in effect; if there is a fire district there, if there is not a fire district, and when insurance companies issue insurance they go to ISO for that rating. They come in; he thinks every three or four years and does a long evaluation that is a very thick think. They rate us on based on if we do plan reviews, what codes are in effect.
Commissioner Samson – By us not taking time to update this, we are kind of penalizing everybody that owns a house and has it insured?
Chairman Martin – It could be; but it's not necessarily so, a rating versus Sweetwater because he knows that don't have a fire district. It's not going to change no matter what they do up there simply because they are too far away from civilization. It's not going to make any difference on them. It is close to urban centers, which is going to make a difference. The rules and regulations that you are adopting affect everyone.
Commissioner Houpt – I will not make a motion to adopt these if you want to continue this hearing to another date certain.
Commissioner Samson said he is leaning towards Commisioner Houpt making the motion, we'll adopt it and if we need to change some things we can do that later.
Commissioner Houpt is leaning towards that as well. She knows that it is important that we be able to review those.
Chairman Martin said he is concerned, it is too much restriction, too much rule and regulations, too expensive and a hardship on everyone. He also thinks it is too much invasion into personal space period. He is not going to change his opinion on that one.
Commissioner Houpt asked Chairman Martin if there were specific things that would change his mind on that.
Chairman Martin – We are too intent on protecting ourselves from ourselves. Too many rules and regulations that's all there is to it. The sprinkler stuff is over the top; the definitions really don't work with today's society. He never has agreed with them. He thinks they all need to be changed one way or another in reference to how you apply them to the rules and regulations and to the inspections. Proof of water and sewer; if you're not in a district how are you going to prove that you have a tap? You have to have a well permit, and then you have to have an ISDS system.
Andy – No. You can have a cistern in Garfield County; there is no restriction.
Chairman Martin – That is not what we approved.
Andy said the way this reads is if you are in a district and you are saying you are using the City of Rifle water; you have to provide proof that you actually paid the tap. People have actually tapped without paying.
Chairman Martin – Even hauling your water; and we have had this discussion with Fred, it is a totally different issue when we go through there and they are not in compliance with a permit source of water. Hauling water is not a permitted source; we have already had that discussion.
Andy – It is not in the building code; we issue building permits.
Chairman Martin – We have this rule and regulation that has these things; then we have the planning stuff over here, and they don't coordinate. It says you can go ahead and have a cistern. In another place, it says no you have to have a permit source of water.
Andy – Land use is a different thing in building your house.
Chairman Martin – My point exactly. You can build a house but you can't live in it because you don't meet certain requirements after you build the house. You follow the step-by-step process here and yet land use is different and that's his problem.
Commissioner Houpt thinks they keep them separate in terms of structure versus land use.
Chairman Martin – I see the invasion of personal privacy and space. I think it is an invasion of your constitutional rights, you have too many rules and regulations and make your motion, and we will go from there.
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we adopt the new 2009 international building code as presented by staff. She asked if that covered everything.
Andy said the fee increase to be approved by the Board.
Commissioner Houpt – And the fee increase be approved by the Board.
Commissioner Samson – With the understanding that if there are some major things that we may change in the future.
Commissioner Houpt – Absolutely.
Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Opposed: Martin - aye

Rule 905 – Oil and Gas

Don wanted to bring back to the Board is the issue on Rule 905 from which Commissioner Houpt recused herself earlier. So his question is directed at Commissioner Samson and Martin. After you took action pursuant to motion there was some discussion on this about what the Board actually did. He wanted to

make sure that they understood, particularly his office since Patty is working on a letter right now, which would request interested party status. His understanding, of the action of the Board by motion, was that the Board directed the letter be sent requesting that status to the Oil and Gas Commission in draft form; then it be brought back to the Board, you have a chance to look at it and approve that. There was also some discussion about whether there was action on the protest itself.
Chairman Martin said no there was no protest.
Don said that was what he wanted to clarify; he didn't hear that but he wanted to make sure.
Chairman Martin said they would like the answers from the Attorney General's definition and response and at that point, we can take an appropriate action.
Don said that is what he thought that was what they did and they will bring that back to the Board next week. Two other items on the Boards schedule; he wants to make sure that you know you have a meeting on Wednesday. He said he put that out as a question as his calendar shows they have a joint meeting with the planning commission on Wednesday

Commissioner Calendars

Commissioner Houpt stated at noon and it was a meeting she had told them she would not be able to be there until 12:30.
Commissioner Samson – Comp plan work session; 12:00 to 2:00 p.m.
Don explained that is a meeting that needs to be posted then and actually that is for both; the Planning Commission.
Commissioner Samson thought that the planning department Tamara was to get in touch with Jeff Winston or have you already met with him one on one?
Commissioner Houpt said she hadn't.
Commissioner Samson said he was meeting with him from 10:00 to 11:00 a.m.
Commissioner Houpt said she had something planned and that whole day is just a difficult day; but she is trying to work with the planning department. She will be there just a little late. She has a meeting in Frisco at 10:00 a.m.
Don asked if Chairman Martin would be present for a quorum and Chairman Martin said he hopes to be present.
Commissioner Samson asked if they had to have a quorum for work session.
Don said if it is a meeting, yes you do.
Commissioner Samson asked why they had to have a quorum for a work session; nothing official is going to take place.
Don explained if it is a meeting; right now, if there is just one of you it is not a meeting of the Board.
Chairman Martin – If there is more than one it is.
Don said that is really what he is asking; he was told there would be a meeting of the Board at 12:00 p.m. If there is just one commissioner appearing there is not meeting of course.
Chairman Martin – We don't know if there is going to be one; Tresi will be there after that, so there will be at least two. And he plans on being there.
Commissioner Samson understands what is being said; but he thinks we are missing the point he trying to make here. If it is a work session, does it have to have a quorum? He would say no.
Don – No, but he started the discussion really because he was told the Board was going to have a meeting. A meeting by definition requires two commissioners.
Chairman Martin said it is not a meeting; it's a work session with the planning commission and the consultants.
Don – If there is no forum, there is no meeting, it does not need to be posted; if there is two commissioners present, it is a meeting and it does need to be posted.
Commissioner Houpt – We do need to post.
Commissioner Samson - We scheduled the work session and plan on all three being here; one shows up, we can still meet and have the work session.
Don explained that one commissioner could meet; but you will not have a work session of the Board. You will meet and discuss; whatever you will, but it's not a meeting, and not something that needs to be posted. He said he only started this discussion to find out if the Board needs to post this.
Commissioner Samson – Whenever we have a work session, we will always need to post it because we want all three commissioners there.
Chairman Martin – Yes and it is recorded.
Commissioner Samson said he thought they were just getting into semantics.
Don stated it is legalities as well and if you have a meeting and it is not posted and you are challenged the Board will look to his office as to why it wasn't done.
Commissioner Samson said he understood that perfectly; but he just wanted to make sure that he was right in his assumption. If these two don't show up; he could or one of them could still meet with the body and have a work session.
Don – You can meet with them.

COMMISSIONER ISSUES:

- **Approval of Minutes – January 4th, January 12th, January 18th, February 1st, February 8th, February 16th and March 1st.**

Commissioner Houpt asked Jean if she could give her the notes she made on the minutes. How do you want to start doing these?
Chairman Martin said they need to make a motion with the corrections.
Jean asked if they could give them back with the corrections.
Commissioner Samson said he only made it through January.
Commissioner Houpt asked if they should hold onto them until their next meeting.

- **Commissioner Reports**

Chairman Martin stated they had a letter of support for an RBEG grant from Ty Richardson, which represents the three different soil conservation districts in Garfield County. They would like to make sure that everyone reads the letter and submit it under their signature if they can.
Commissioner Samson read the letter
Commissioner Houpt asked if they could do just one letter with three signature.
Chairman Martin said they could. Local processing, local growers, local marketing and that's what they are trying to do.

Commissioner Samson – Does that require a motion for us to sign as a Board. I would so move.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye
Code Enforcement Violations – Special Work Session
Commissioner Samson- Let everyone know we are going to continue the code enforcement violations and penalties portion of their special work session.
Chairman Martin – If there are people here he would suggest that they go ahead and take that testimony and then continue it. However, to allow it to open as a posted public hearing and open it up under those rules and then continue it if you wish to.
Don – You can continue any item in a workshop; it is not set as a public hearing to his knowledge.
Jean reminded everyone that next week's meeting is in Carbondale
Commissioner Samson – Starting at 8 a.m. at City Hall.
Chairman Martin – That evening is the Humanitarian Awards.
Commissioner Houpt – This week, tonight, tomorrow night and the next night we have comprehensive plan meetings in every community. Tonight it is Rifle and New Castle.
Commissioner Samson went over what they will be talking about; cafeteria plans, open space working group, new administration courthouse and changes to procurement code.
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

APRIL12, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. in Carbondale on April 12, 2010 with Chairman John Martin and Commissioners Mike Samson and Commissioner 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.
Thank the Town of Carbondale for allowing us to use their facility.

COUNTY MANAGER UPDATE: ED GREEN
Carolyn Dahlgren presented Commissioner Samson with a tie-dyed shirt with "Police" on it since he does not get to this end of the County very much.
Commissioner Houpt informed the Board that she crashed really hard on the ski slopes on Sunday at Sunlight. She suffered whiplash with a mild concussion. Therefore, she will not attend after the break for lunch.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Judy Fox Perry, part of the Thompson Divide Coalition and since the Board came all the way to Carbondale, she wanted to be present and thank the Board for their support already given and provide an update and then ask support on the next step. We have continued our water-monitoring program and completed three of the four-water monitoring sample session. We continue to do grass root support and showing of split estate and what you need to know about natural gas. We have worked with the schools and we are chucking along. We are also working with our lobbyists in Washington and Chairman Martin is aware. Our next step is to prevent the leases that will expire in the near future in the next couple of years but at least have a moratorium so that we have at least addressed our issues and had our issues heard before they are just automatically renewed. We are going to be asking that from Washington and then ultimately we would like a letter with the Board of County Commissioner's support if possible to go to John Salazar asking for an amendment to all of the Thompson Divide area.
Commissioner Houpt asked if the Coalition was keeping in touch with Mark Udall office.
Judy – We are trying to do this through John Salazar because that is where we started. But there is no reason not to communicate with Mark Udall.
Commissioner Houpt asked if they were in contacted Ken Salazar's office.
Judy said all three have been contacted. Our campaign manager went to Washington a month ago and met with the Agricultural Interior and a number of different officers. She felt like she had been to the places where she needed to be. Judy just wanted to make sure this Board had all the information needed of what we are doing. There is a board meeting today at 9:00 a.m. We meet almost weekly. The next weekly meeting is next Monday at 9:00 a.m. Our last update with the community was right after Christmas; we are doing a lot of outreach for the non-profit for the Five Point Film Festival. We will have an information booth with our usual materials, maps and an education on what we are trying to do and what is going on. That will be a big push for the Coalition.
Commissioner Houpt asked if the Coalition had success in working with the industry on convincing them to let their leases go.
Judy - As John Martin knows we have worked with EnCana and SNG and we have sent a letter to all of the leaseholders asking them to consider retiring their leases. We received one response back saying they sold their leases to another company so we are following up on who they sent it to. We have not had a rush of responses back yet.
Chairman Martin – The industry has received a request, first it was a purchase of their leases then it turned to a donation of them to the Coalition. Then there is correspondence of working together between the Coalition and the mineral holders. They asked Dorothea and me to postpone our last meeting saying they could do more conversation back and forth, run it through the Board's control on each side. Then come up with an answer, then another joint meeting. Mr. Salazar's office is aware of that as well. The other issue is with the BLM who is in charge of leases themselves and would have to agree to either retire or withdraw them so there are still some vested rights to work out. They are doing so with repayment issues, which includes the State of Colorado, Garfield, Pitkin and Gunnison Counties so they people would probably end up having to pay back federal mineral rights to do away with this issue, worst-case scenario.
Judy stated there is a lot of work to do.

COUNTY MANAGER UPDATE: ED GREEN

ESF 14, ECONORTHWEST CONTRACT – LISA DAWSON

Lisa Dawson submitted a memorandum requesting a sole source to create an integrated and comprehensive Emergency Support Function 14 plan (ESF 14, Disaster Recovery) for Garfield County, therefore the request is a contract with ECONorthwest for the development of:

- Pre-Disaster Mitigation Plan
- Continuity of Operations Plan
- ESF 14 Plan

Lisa explained the reasons for the request included in the memorandum

Kent and Lisa presented saying this is an emergency operation in the sheriff's office that takes over the first 24 hours then the ESF 14 goes into effect for recovering from the disaster. It is a federally mandated program began after the 9-11 attack. Consultants have been hired and working in the last 12-months. ECO Northwest is a pre-mitigation plan and continuation of operation plans for each of the County offices. Eventually we will be eligible to apply for grants but it is up to us to get the ball rolling. This is a sole source contract to finish this portion of the contract.

Chairman Martin stated that various departments and key personnel all the way from finance through the sheriff's office, road and bridge, public health and all those folks have been included in that training. Many have certifications completed in the 100, 200, 300, 400, 700 classes and this summer and fall we will be having 900 classes specifically in recovery. Those 900 classes are scheduled consisting of a field trip and we will be ahead of the curve and ready for the disaster recovery and plan.

Lisa said we could qualify for federal grants after we have this next project done then we will start pursuing some grants. We need to get our pre-mitigation plan done, that is the primary price and then we will be able to get some grants to do further mitigation, so that have a grant that you can do some mitigation for flooding, but in order to quality for that you have to have an updated risk assessment and an updated pre-disaster mitigation plan which is what we are requesting. Garfield County also has a recovery plan in place.

Chairman Martin – Then when we are certified the biggest issue obstacle will be the political issues with the elected officials trying to interfere with the program which is a given.

Ed said that why we took the 408 classes.

Commissioner Samson asked about the 408 class.

Ed said it is emergency management for elected officials.

Chairman Martin – It is to establish what your role is and how you do not put the monkey wrench into the system which is a very important role. You make certain decisions and then step back and allow things to happen which is one of the hardest things you will find during a disaster.

Commissioner Samson - Will be scheduled for the next class. Lisa can give Mike the information.

Commissioner Samson made a motion to approve the $60,000 for the emergency support function ESF 14, to ECONorthwest for such services as a sole source contract. Commissioner Houpt - Second.

Carolyn confirmed this was a sole source justification, the contract manager has given you the worksheet and Ms. Dawson has given you her departments' justification.

Commissioner Houpt – Staff has done a fine job of illustrating the fact that they are already in planted into this process and have been working with us on this and it would be more costly to start over so I feel confident that we are following our Procurement Code.

Kent pointed out that because an RFP has been issued in the last year, under Rule 58a the Board has the authority to waive is a solicitation.

Commissioner Samson incorporated that into his motion. Commissioner Houpt accepted the addition to the motion with her second. In favor: Samson – aye Martin – aye Houpt – aye

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A FIRM, FIXED PRICE CONTRACT IN AN AMOUNT NOT TO EXCEED $385,500.00 WITH GMCO CORPORATION TO PROVIDE AND APPLY MAGNESIUM CHLORIDE TO VARIOUS GARFIELD COUNTY ROADS FOR THE ROAD AND BRIDGE DEPARTMENT – JAMAICA WATTS

Marvin, Kent and Jamaica Watts presented a proposed recommendation of staff that the Board award an indefinite quantities, indefinite deliveries contract to GMCO Corporation in an amount not to exceed $385,500.00 for providing and applying magnesium chloride to various Garfield County roads for the Road and Bridge Department.

Commissioner Samson made a motion to award the contract to GMCO Corporation for a not to exceed amount of $385,500 for magnesium chloride to various roads in Garfield County. Commissioner Houpt – Second and asked if the Road and Bridge Department is still diluting the mag chloride as has been done over the years.

Marvin confirmed they are still doing the diluting. In favor: Samson – aye Martin – aye Houpt – aye

STAFF RECOMMENDATION TO NEGOTIATE AND ENTER INTO SHORT TERM LEASES FOR THE USE OF PRI TELEPHONE LINES FOR THE RIFLE AIRPORT, HUMAN SERVICES BUILDING, AND JUSTICE CENTER – KENT LONG

Kent Long submitted a summary regarding the telecommunication services provided in the area officer in Rifle. It is staff recommendation that the Board authorize the Office of the County Attorney and the Office of the Contract Administrator to negotiate any final changes to the Cedar Networks' Terms of Service for fiscal year 2010. It is the further recommendation of staff that the current language in Rule 5.9.1 be construed to include this and similar types of telecommunications service as exempt from competitive solicitation requirements.

Kent explained this is for a security system to identify a caller and at present, these buildings do not have that capability. The IT department was asked to work on this and to negotiate any final changes. It will cost $420 a month for each of the buildings. Kent explained the rule in the Procurement Code under Rule 5.9 and it is exempt from solicitation of bids. Kent explained the buildings in question have the analog system and the current phone system does have the capability to identify callers. He also explained that each of the department housed in these buildings had this money in their budgets. Quest would drop off.

Commissioner Houpt made a motion to authorize staff to negotiate and enter into a short-term lease for the use of PRI Telephone lines for the Rifle Airport, Human Services Building and the Justice Center. Commissioner Samson seconded.

Discussion was held regarding some savings but the amount is unknown. Another discussion was held regarding have this same capability at the Henry Building. Jean said that would be very useful to include the security of caller identification as there are many upset residents calling in regarding the Faster Bill. Commissioner Houpt requested that Kent add the Henry building and withdrew her motion. Commissioner Samson withdrew his second.
The motion was withdrawn. Direction was given to Kent to add the Henry Building and bring this back to the Board with the amended contract.

STAFF RECOMMENDATION TO APPROVE NEGOTIATION AND EXECUTION OF A MASTER LEASE WITH CAPITOL BUSINESS SYSTEMS, INC. FOR THE REMAINDER OF FISCAL YEAR 2010 FOR COUNTY WIDE COPIER/PRINTER RENTALS – KENT LONG

Kent Long submitted the information pertaining to the copier/printer leases and recommended that the Board authorize the Office of the County Attorney and the Office of the Contract Administration to negotiate any final changes to the Capital Business Systems, Inc. for a long form lease for fiscal year 2010. Commissioner Houpt suggested Kent present the long form for the government and she was leaning toward the original recommendation. The direction given to Kent was to prepare the Resolution in the long form, negotiate and bring it back to the Board.

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A MODIFIED PURCHASE OF SERVICE AGREEMENT WITH OFFICE DEPOT , INC. FOR THE REMAINDER OF FISCAL YEAR 2010 FOR OFFSET PRINTING SERVICES – KENT LONG

Kent Long submitted the request for discussion to either approve or disapprove the final charges to the County's standard purchase of services agreement with Office Depot, Inc. The staff recommendation explained that neither vendor, Jean's Printing and Office Depot had the lowest price on each item designated for offset printing, and staff is recommending that the Board approve the final draft of the changes to the Contract's standard purchase of service agreement and authorize the Chair to sign that contract. Both of these entities would not exceed the amount of $199,143.00.
Don DeFord has worked with Office Depot on their contract. The request is to award this contact and authorize the Chair to sign. Commissioner Houpt – so moved. Commissioner Samson - Second.
In favor: Samson – aye Martin – aye Houpt – aye

STAFF RECOMMENDATION TO AWARD A SOLE SOURCE CONTRACT TO VAISALA INC, FOR THE RE-LOCATION OF THE ILS SYSTEM AT THE GARFIELD COUNTY REGIONAL AIRPORT – MATT ANDERSON

Matt Anderson submitted the summary of contract action requesting a sole source contract for the 2010 fiscal year for VAISALA INC for the relocation of the ILS. This request is based on the fact that they are the only company that can perform the relocation of the 1980's Mark 1 ILS system as it is obsolete. The amount of the request is for a not to exceed price of $170,000.00.
Matt explained that when he originally came to the Board with the request for the contract with Vaisala Inc for the relocation of ILS in conjunction with the relocation of runway, we did have to go back to Vaisala and negotiate with them particularly concerning a very aggressive time schedule that they have to adhere. The original proposal that came to the Board back in February was approximately $158,000 because we wanted to ensure that the schedules were met in time for the Airport to reopen, they have to mobilize at least 7 times which has increased the price to $170,000. Everyone is ready to go with this right now and we need to have these contracts awarded and in progress. The County Attorney's office has reviewed the standard purchase of services form, FAA does not need to review the contact, so we are ready to proceed. Commissioner Houpt made a motion approve the award for a firm fixed price contact with Vaisala, Inc. in the amount not to exceed $170,000 for the relocation of the ILS system at the Garfield County Airport and authorize the Chair to sign the contract. Commissioner Samson – Second.
Commisioner Houpt asked if we would be reimbursed by FAA funds. Matt believes we will be reimbursed.
In favor: Samson – aye Martin – aye Houpt – aye

PROJECT STATUS REPORT – 4-1-2010

A project status report was submitted for the Commissioner's review. The report was color coded to give clarity.
2010 BOCC Unanticipated Grants as of 4-7-2010 was also submitted for the Commissioner's review. The remaining balance if $602,800.00 for the remainder of 2010 budget.

DISCUSSION AND DECISION REGARDING CAPITAL PROJECTS FOR FIVE - YEAR PLAN – LISA DAWSON

Lisa Dawson submitted an outline of the major capital projects that were discussed during the 2010 Budget Forecast presentation on March 2, 2010. The projected recommended were color coded in blue, the ones not recommended in yellow. Finance would like to know if any changes are necessary for the County's Five Year Plan for operations.
It is time to make decisions as we develop the five-year plan.
Discussion:
Commissioner Houpt commented that many value judgments were being made and some of the issues previously discussed have included items that we absolutely cannot take off. However, a 5-year plan is a wish list and helps us to maintain a perspective. The economy is still in flux and, there are two ballot initiatives on the November 2010 ballot that may have an impact to the revenue for Garfield County. She asked for another opportunity for each of the Commissioners to review the items scheduled for expenditure in 2010 and participate in another discussion at the April 19 meeting. She is concerned that the elected officials building was taken off the list for 2011 and some of the projects should be continually evaluated. To discuss long-term commitments is not going to be terribly fruitful at this point. South Bridge is still in works, we are having regional discussions on transportation and the possibilities at the landfill with a great deal of interesting facts that we as a county have not looked at as well. We are still in discussion with the City of Glenwood Springs regarding the parking and a potential structure, so we are not here yet. There needs to be worksession on potential needs at the courthouse and engage many in that discussion to see if that needs to be taken off the list; we haven't had an opportunity to assess the needs for Rifle as far as an administration building. For the 2011 recommended projects, many of these are just regular maintenance or projects and the public expects us to keep our major roads in good conditions.

Ed reiterated these projects for 2010 are straight from the budget. He wants to have the Board's input fairly soon so his staff can prepare a budget kick off in June of this year. It is imperative to take a long-term look at our budget situation and determine the big-ticket items. If we move forward with the elected officials/administration building, it could have serious fund balance degradation.
Commissioner Houpt – We haven't really talked about if space is what we will need or combined with the current County Administration building is more than we need.
Ed – The point is you have to optimize the use of land in Glenwood Springs as there soon be no more opportunity; therefore, we should build as much square footage as possible.
Chairman Martin – Agreed we need more time to refine; we can do it quickly, have a work session on budget, and put aside money. The general fund balance is only for capital improvements and we may need to change the mills. He is uncomfortable but understands this is the duty of the Board and suggested to postpone this until our next meeting.
Commissioner Houpt – We may decide that we do not need a $4 million access road to the Airport.
Chairman Martin – Let's each one do our research and do a list, which should be a goal but not include in the absolute budget process. All of these projects are subject to the appropriate process. These are the major projects and we need to determine how we wish to get there. It is the responsibility of this board to refine the priorities and give those back to administration and then decide if they are realistic. We should be prepared to approve the 2010 projects by next week and then the next step would be to do the 2011 projects.
Commissioner Houpt is not supportive of taking out the administration building. She would like to see the projections from the court as to the future remodeling cost as they have said the current courthouse would meet their needs for the next 20-years.
Lisa - As we enter the budget for next year, we need the Board's feedback on the 2011 capital improvements so we can incorporate those in our budget.
Ed said in response to Commissioner Houpt's concern regarding square footage need for the elected officials/administration that we have already reached the determination from the programming at the Midland Center, which was at least 35,000 sq ft, therefore by building on the north of the courthouse we could build 40,000 sq feet and still meet Glenwood Springs requirements. We will only have one shot at this and we should have as our objective to maximize the sq ft.
Commissioner Houpt stated that the courts do not have an immediate need so this is something that can be slowly budgeted in.
Chairman Martin wanted to remind the Commissioners that we should be very aware of the sediment of the citizens
Commissioner Houpt confirmed the amount of severance tax we will receive this year as $11.6 million.
Ed said he projected about $3 million for severance tax for next year.
Chairman Martin – There may be shift for priorities and taking local funds–this is unknown.
Commissioner Houpt requested the impact of the initiatives on the November 2010 election and would like to plug in and see what kind of impact they would have on the County's revenue.
Lisa – We will prepare an analysis on how it would impact the County and she would prepare two different scenarios if the initiatives pass or not pass.
Commissioner Houpt believes this is very important and the sooner the people understand and we can show the realities the better we can inform the public.
Commissioner Samson stated there would be having workshops at CCI in Vail on these initiatives.
Ed said they would provide the Board with a project status report every month.

COUNTY ATTORNEY UPDATE: DON DEFORD
INTERESTED PARTY STATUS REQUEST, COGCC (RULE 905.B)
Carolyn Dahlgren and Judy Jordan submitted the letter to the Colorado Oil and Gas Conservation Commission regarding interested party status for Rulemaking, Cause No. 1R, and Docket No. 0803-RM-02 regarding the disposal of pit liners. The Board is interested in receiving notices of the hearing and deadline for filing written statements or protests regarding this application. The letter was submitted and Don requested the Chair authorized to sign.
Commisioner Houpt recused herself.
Commissioner Samson made a motion to authorize the Chair to sign the letter as submitted with no changes. Commissioner Chairman Martin - Second. In favor: Samson – aye Martin – aye Houpt – recused.
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE
Carolyn stated she needed to have a discussion with legal advice concerning the settlement office in the Board of Equalization regarding the Balcomb/Arbaney case.
Commissioner Houpt made a motion to go into an Executive Sesssion to discuss the aforementioned item.
Commissioner Samson – Second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Samson made a motion to come out of Executive Session. Commissioner - Second.
In favor: Samson – aye Martin – aye Houpt – aye
ACTION TAKEN:
CAROLYN – BOARD OF EQUALIZATION – PARTY IN CASE
BALCOMB/ARBANEY
Commissioner Houpt made a motion to go into the Board of Equalization. Commissioner Samson – Second.
In favor: Samson – aye Martin – aye Houpt – aye
Carolyn asked the pleasure of the Board, do you wish to accept or reject the taxpayer's proposal as presented.
Commisioner Houpt moved to reject the offer by the taxpayers. Commissioner Samson – Second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to come out of the Board of Equalization.
Commissioner Samson - Second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to come out of Executive Session.
Commissioner Samson - Second.
In favor: Samson – aye Martin – aye Houpt – aye
CONSENT AGENDA:

a. Approve Bills
b. Changes to Prior Warrant List
c. Authorize the Chair to sign the Land Use Change Permit for the Puckett Land Company (LIPA 6239) Storage: Supplies, Machinery, Equipment and Products – Tom Veljic
d. Authorize the Chair to sign the First Amended Acknowledgement of Satisfaction Release of Revegetation Security for Encana Oil and Gas (USA) Inc. Piceance Gathering Pipeline - Fred Jarman
e. Liquor License renewal for Ironbridge Club – Jean Alberico
f. Authorize the Chair to sign a Resolution adopting the 2009 International Building Codes – Andy Schwaller

Commissioner Houpt asked to remove item F, the 2009 International Building Code and Jean has indicated she wanted to pull item E.
Commissioner Samson made a motion to approve the Consent Agenda items A – D.
Commissioner Houpt - Second. In favor: Samson – aye Martin – aye Houpt – aye

Item F – Discussion: Our attorney has stated that we could make a motion to approve the 2009 International Building Codes and hold a new public hearing if there are changes to be made.
Deb – If the Board approves to adopt this and then resechuele a time we need to inform Andy Schwaller.
Commissioner Houpt made a motion to approve item F. Commissioner Samson – Second
In favor: Houpt - aye Samson - aye Opposed: Martin - aye

Item E – Jean informed the Board this was a change of class in the liquor license. She has spoken to the Department of Revenue and it would not be a requirement for them to resubmit their upgrade of improvements. They can continue to operate under the optional premise. The change was originally submitted in 2008 and then Lehman Brothers crashed and Ironbridge has requested another building contractor to complete the sales building into a grill. They are anticipating it to be completed by end of this year. It is okay for them to do a modification of premises as they plan to close the pro shop. She wanted to make sure the Board understood. The Board approved the optional premises liquor license and she understands Ironbridge can continue until they establish the grill and it is up and running and then do a change of class. There will be verification from public health that all requirements have been before they will continue to operate. It is up to the local authority to determine the unlimited time to compete the changes.
Commisioner Houpt made a motion to approve Item E on the consent agenda.
Commissioner Samson – Second. Houpt – aye Martin – aye Samson – aye

CONSIDERATION OF BID PROTEST BY OFFICE FURNITURE

Matt Anderson submitted the formal protest of the Commissioner's decision to go against staff recommendation that occurred on April 5, 2010 regarding the furniture bids for Human Services Annex in Rifle. The request is for an immediate stay of execution of the contract with any vendor. Dave Huerkamp VP, Sales and Marketing for Office Furniture & Design Centers, Inc. stated his bid proposal was $32,000 less that the other vendor chosen. He further stated that his company has been serving Rifle and Glenwood customers for the past 40 years giving a list of where his products can be seen throughout the area. The request is for reconsideration of this decision, which clearly is in conflict with your fiduciary duty.
Carolyn set the stage. This was not noticed as a hearing but it is an opportunity for the protester to be heard. This is not a courtroom but there will be a clear record. Carolyn outlined the procedure.
Matt discussed the memo regarding the protest from Dave Huerkamp, VP, Sales and Marketing from Design Centers. Bids were received from Sandy's Office and Design Center. The prices were evaluated and a determination was made based on best value, comparison of furniture, storage of parts and furniture on hand, input received by the various departments in the Human Services Annex where the furniture would be placed, and a determination was made to award the bid to Sandy's Office Supply.
Carolyn indicated the protester did meet the timelines and the Board was entitled to proceed.
Dave Kuerkamp – Office Design Furniture's has offices in Grand Junction and Delta. Dave has been with the company for 30-years. His brother started the business and serves as president. Dave explained his position and the issue that his company was the lowest bidder by $32,000. He submitted an in depth protest outlying what he believed to be unfair and clearly against the established Procurement Code established by the County. He believes the bid award to Sandy's was in conflict with the fiduciary duty of the Board of County Commissioners. Dave went into great detail about the quality of his furniture, clients who have used his furniture and named many of those firms. He explained his company is a full time furniture business, full service and extremely high quality. They used the best and highest quality furniture called Artopex. Sandy's furniture is called Teknion. Dave indicated he would be willing to do a side-by-side comparison of the two proposed brand named furniture.
Dave said as his last point in closing is related to the nature of competitive bids and he would really like the Board to consider the message this might sent to other Garfield County bidders. He does not feel that Garfield County had an open and honest process and wanted the Board to reconsider, take a fair look at the high level of products and service his company sells. He added he could not see how this Board could justify not making the award to Design Centers. $32,000 is a lot of money in savings when the dollar amount is so significant.
Commissioner Houpt stated the last job we awarded the bid to Design Centers was for the Justice Center in Rifle. There was a concern with staff in the Chief Probation office.
Matt – Explained the process we did go through to select the recommended award. It was based on market down furniture, past performance, the issue of the installers and the delays.
Dave explained he was aware of the specific incident and that project manager is no longer on staff and assured if given the opportunity, a timely performance would be guaranteed. Our Delta County office is where our main facility is located and bookkeeping however, they do have a large facility in Grand Junction with a 7,000-foot showroom. Once again, he offered Matt and other staff a very quick set up within a week for a side-by-side comparison.
Mike Husaluk, Vice President/Co-Owner of Sandy's Office Supply made a couple of comments for the record.
His wife Barbara it the president and they have owned the company for 28 years. With the current inventory of parts, there is a net savings of $12,000. He did not want to debate Design Centers nor Dave

Huerkamp's long list of customers. Sandy's has provided office furniture for many of the same clients. Clarification of one other point, when asked in this proposal and at the informational meeting, Mike explained the match of the existing furniture in the Human Services building would be the same quality and it would be interchangeable throughout the County. If we went from a change of products, it would open up a can of worms and the County wanted this furniture to match.
Commissioner Samson – You are saying your product is interchangeable with some of the things we already have installed and in addition, there is a $12,000 in savings. The level of quality of furniture you use is going to up your bid price which if we were to say we would consider changing the award and giving it to the low bidder, that you would need the ability to rebid. I also hear that Dave's quality level of furniture is a step down from what Sandy's bid and you would want to make new bid.
Mike – Yes, that is correct, we also have a series of Artopex furniture and we would rebid based on the same brand of furniture.
Carolyn confirmed with Mike that Sandy's main office is in Pitkin County but there is a store in Glenwood Springs.
Mike stated they lease space in Aspen and they have plans to move the total operations to Glenwood Springs.
Matt – One clarification, first we know that the office furniture did not compare to the quality of furniture called Teknion. We provided in our bid the list of rooms and functionality of each office, including a family room and kitchen. We stated in our proposal the factors that would be considered in evaluating the bids and clearly stated it would be a best value proposal. In a best value proposal, we consider technical aspects such as the quality of the furniture, past performance, pricing, style and functionality. One area we considered in recommending the award to Sandy's was the important factor that we could use various parts we had in storage. We did not specify a particular brand name of the furniture. We gave each bidder a conceptual floor plan and a complete listing to evaluate the style and furniture. We held pre-solicitations meeting, explained the styles, the moveable keyboards and other pertinent information. We did not indicate the furniture had to be exact, if so we would have used a brand name source.
Carolyn – Why not a brand name?
Matt – The main concern was when we put out bids for the Sheriff's Annex Office, we did initially make a brand name and found it severely limited the competition. According to our Procurement Code, we did not consider preference based on being principally located in Garfield County. Each offer was considered and we asked for clarification on those technical questions however best value was the basis for the recommendation. When we do a best value evaluation, we consider the higher quality of furniture, past performance, etc.

Commissioner Houpt asked to go into Executive Session to ask a legal question and made a motion to go into Executive Session. Commissioner Samson – Second. Motion carried.
Commissioner Samson made a motion to come out of Executive Session. Commissioner Samson – Second. Commissioner Houpt - Second. Motion carried.

ACTION TAKEN

Commissioner Houpt stated she has not been convinced we made the wrong decision from the last meeting and therefore she made a motion to not make a change and reaffirm the award to Sandy's Office.
Commissioner Samson – Second, however, I am real uncomfortable and have some things brought up in the last meeting regarding our bids. With all this being said, I have some heartburn and wondering if we need to throw out both bids and rebid the whole 9 yards.
Chairman Martin stated this goes against the motion in place. The motion is to affirm the Sandy's proposal based on past performance and the acceptance of staff.
Commissioner Houpt added as well as what was presented today in the protest.
In favor: Martin – aye Houpt – aye Opposed: Samson
Carolyn left it is up to Dave if he wants to file a 106 action. His bid was $32,000 lower than Sandy's but the evaluation was based on the difference in the furniture and past performance as well as other items discussed.

COMMISSIONER REPORTS

Commissioner Houpt wanted to talk about the initiatives on the November ballot and question is what information do you need in order to calculate the information. She would like a comparison type format around those issues and the possible affect on the revenue.
Lisa said a couple of weeks ago when this was discussed, they added a graph and policies that have been analyzed for Garfield County; they have pretty specifics to model.
Chairman Martin would like to address the pros and cons of these initiatives.
Commissioner Houpt said if we can give factual statements identify those then we are able to education the public - not campaign and beg people but provide the citizenry with education.
Commissioner Samson asked if each one could personally campaign for or against as a person expressing a personal opinion but not use this as a county meetings etc.
Chairman Martin remarked that some people would perceive you to be speaking for the County and it is a dangerous line to walk because you name is attached to your opinion.
Commissioner Houpt said if the numbers come out to be debilitating for our county, it does concern us and how we use our resources.
Carolyn – The County Attorney's office is putting a memo to all of you and once you receive it in your packets you may tell us you want a session to discuss the specific issues. You cannot use county telephones.
Chairman Martin – Since these are big issues we could put forth pro and con statements through Jean's office.
Jean corrected that this would be through the blue book supplied by the State of Colorado and can make your feelings know to them.
Commissioner Houpt suggested that beyond the pros and cons, if we have two budgets comparing the impact, this could be on our website.
Carolyn indicated she will add this to Patti' research.

UPDATE ON I-70

Commissioner Houpt - Go I-70 was the tool used this winter and we had 10,000 plus hits. It was especially helpful during the closure of the Glenwood Springs Canyon and with our heavy snows. This gave individuals times when they needed to plan ahead. We plan to add something for the summer months and member communities will showcase their counties. In Garfield County, we will showcase Glenwood Springs with events such as Strawberry Days and the 125th Anniversary for the City. Mary Ann Virgili is preparing the logistics for the website. This will be a good tool; the goal will be to forecast long-term congestions and how to manage. It will also provide great places to eat and get off the highway.

COMPREHENSIVE PLAN

Commissioner Houpt reported on the Comprehensive Plan and how well the staff has provided facilitation at these meetings. It is a fabulous process and good to see people engaged in the outcome. It is an interested project and there have been energetic discussion on all of the issues. There seems to be the same message throughout the county and she wanted to acknowledge staff for a job well done.

AGNC

Commissioner Samson – There was an AGNC phone conference and the biggest House Bill of contention is HB3365, Coal versus Nature. It is causing problems. Doug Monger was selected as the new chairman and vice chair will remain as Keith Lambert. The Resource Alliance is still recommended for us to join and it will be at a reduced governmental rate.

Commissioner Houpt replied that she had not a chance to see what other publication are available.

Commissioner Samson stated the next AGNC meeting would be held in Craig on May 13th with the topic Energy Forum.

UPDATE ON THE 125TH ANNIVERSARY FOR THE CITY OF GLENWOOD SPRINGS

Commissioner Samson stated the City of Glenwood Springs125th-year anniversary would be plugged in on TV. There is a picnic planned for July 4 where they will have many activities. It will be held at Two Rivers Park beginning at 4:30 p.m. The picnic cost is $1.25 a plate. They will have horseshoes and many give-a ways so there will be a great deal of neat things. There will be other days planned, one being the Frontier Historical Museum providing ghost walks, and a possible Founder's Day to be held August 25. They are hopeful of having a Doc Holiday reenactment.

Commissioner Houpt said there is no money for fireworks and this will be a celebration at Two Rivers instead of fireworks.

Commissioner Samson suggested the City of Glenwood Springs pass the boot as they do in Rifle and raise money for the fireworks. This method of fundraising has generated $10,000 in a couple of nights. He also mentioned the City is working on getting a guest band director and 125-member band for Strawberry Days. Those serving on the 125th Anniversary are fired up and said the City expressed appreciation for the donation we gave to them.

Reminder - April 21 – 10 am – Workshop – CODE Enforcement

SENIOR EXEMPTION

Lisa said Don has been waiting for the state searching the legality of our proposal.

Chairman Martin believes this is up to the local government. We need to get it done and it is up to us to make those perimeters. We are procrastinating. We need to establish our guidelines. We have people waiting to hear what we are going to do.

Ed stated his understanding was the Treasurer would issue the checks.

Lisa stated this is very confidential and needs to be controlled by the Treasurer and Assessor. The thing to be concerned with is not only the amount but also the name of the individual.

Commissioner Houpt sees there are two different things; one is using the information that is confidential; and if we use that for the benefit then finance cannot do that; but if we come up with a standard payment that would be when finance could do it.

This needs to be re-agended with more discussion. The recommendation was for a process from our legal staff, one that we are comfortable with and can get it accomplished.

Carolyn would email the Treasurer, Assessor, Don DeFord and Lynn Renick and come back to the Board with the most practical way to handle this senior exemption.

Commissioner Houpt would like to have the most practical solution combined with finance, legal and administration all working together and stay within the law.

Chairman Martin still believes this is the responsibility of the Board; it is a process for the County Commissioners as we are the key element. We should have the say and then run it through the legal limits and capabilities of the departments. We have access to the information and it is our decision; yes we should work with the various departments and elected officials.

Commissioner Houpt requested this come back before the Board with a solution.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Frosty Marriott, Carbondale Town Trustee and wildlife advocate reported on the State Bill to cut collisions between cars and wildlife. This is HB 1238 – the Wildlife Crossing Zones Traffic Safety Bill that would require the Colorado Department of Transportation to establish "wildlife corssing zones" that would be managed somewhat like construction zones. Within these zones, the night speed limit would be reduced and fines for violating the speed limit would be doubled. The zones would be established on stretches of highways known to have the highest number of vehicle-wildlife collisions. The crossing zones would be limited to a total of 100 miles within the entire state.

Frosty also reported on the current fencing area and how this has cut the number of road kill from 27 dozen down to only 9 at a cost of less than $400,000 to fix. Randy Baumgardner has voted no but said he might change his mind. Frosty asked that the Board of County Commissioners support this bill.

Chairman Martin reiterated the cost is tremendous to CDOT for the establishment of fences and signs, the DOW to track the animals who have been injured, as well as the individuals who damage their vehicles. We also incur a cost at our landfill that the citizens. There needs to be a consensus between Colorado State Patrol, CDOT and DOW to make this effective without spending more money. The road kill also affects guide and outfitters so they too would be a good advocate to request support.

BUILDING & PLANNING ISSUES-COUNTY ATTORNEY UPDATE – LAND USE ISSUES: DON DEFORD

None

CONSIDER A REQUEST TO VACATE AND RELOCATE A PORTION OF CR 121 (COULTER CREEK ROAD) RIGHT-OF-WAY APPLICANTS ARE JAMES AND HENSLEY PETERSON – KATHY EASTLEY

Mark Hamilton representing the Hensley's, Kathy Eastley, Deb Quinn, James and Hensley Peterson were present.

Deb Quinn reviewed the notification requirements for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing.

Chairman Martin swore in the speakers.

Kathy submitted the following exhibits into the record: Exhibit A – Proof of Public Notice Publication; Exhibit B – blank; 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 Report; Exhibit G – Staff Presentation; Exhibit H – Letter dated January 11, 2010 from Jake Mall, County Road and Bridge; Exhibit I – Letter dated January 12, 2010 from Travis Trant, Colorado Division of Wildlife; Exhibit J – Letter dated January 20, 2010 from Xcel Energy; Exhibit K – Survey from Schmueser Gordon Meyer locating Ralston ROW and existing road; Exhibit L – Letter dated April 16, 2009 from Bill Gavette, Carbondale & Rural Fire Protection District; Exhibit M – Draft Resolution with Exhibit A; Exhibit N – Amendment to road Easement Agreements – Coulter Creek Valley Ranch; Exhibit O – First Amendment to Deed of Conservation Easement in Gross for Peterson Ranch; and Exhibit P – Proposed Quit Claim Deed – Crystal River Ranch.

Chairman Martin entered Exhibits A – P into the record.

GENERAL PROJECT DESCRIPTION

In 1904, Amos Ralston provided a right-of-way (ROW) deed to Garfield County describing a sixty-foot (60') wide strip of land to be used for road purposes related to Coulter Creek Road. A roadway was constructed, and Garfield County has since maintained a portion of that road known as Coulter Creek Road. A recent survey provided by the Applicant indicates that the physical roadway was not wholly constructed within the deeded ROW. The location of the existing roadway in fact deviates considerably from the deeded ROW.

James and Hensley Peterson own a 78-acre parcel of land in the vicinity of the terminus of CR 121 as shown on the map above. The property contains a single family home, the Ralston homestead cabin, and a barn/garage. The existing physical road travels from the southeastern boundary of the property to the northern boundary along the western property line. However, the legally described right-of-way is located in the approximate center of the Peterson improvements. The Applicant requests that a portion of the existing legally described right-of-way be relocated so as not to adversely impact the constructed improvements.

The Peterson property is located due north of Highway 82 at the eastern edge of Garfield County. This area is zoned rural and is agricultural in nature. The surrounding properties consist of ranch operation with significant acreages, several of which, including the Peterson Property, are subject to conservation easements managed by the Aspen Valley Land Trust (AVLT).

The adjacent County Zoning Map indicates that rural zoning is predominant in the area, with the exception of BLM Public Lands to the west (BLM).

The Board of County Commissioners has the discretion to vacate a road; however, certain vacations are prohibited per the following code section in 4-110.

Replacement of the deeded Right-of-Way

The Applicant proposes to dedicate a 60' ROW in replacement of the ROW that is requested to be vacated. Staff and Planning Commission were concerned that the land being dedicated would not be available for road purposes since there were encumbrances that would affect the ability of the County to construct a road within the ROW.

Since the Planning Commission, meeting the applicant has provided documentation, including a statement from Land Title that upon recording of submitted documents the proposed 60' right-of-way will be free and clear of all liens and encumbrances. One document is awaiting signature, however all others are signed. These documents are included as Exhibits N, O, and P, and, should the Board approve this application, will be required to be recorded prior to the recordation of the replacement deed and Resolution of approval.

Prohibited Road Vacations

The referenced criteria for prohibited road vacation do not apply to this application as the ROW is proposed to be relocated such that the original ROW will not be affected.

Form Resolution

The Applicant has submitted a form resolution, Exhibit M, for Board signature. Should the Board determine that amendments to the resolution are required Staff would request that the Board authorize the Chairman to sign the corrected resolution on the consent agenda on April 19, 2010.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at a public meeting held on February 24, 2010. After consideration of the request, the Commission voted unanimously to forward a recommendation of **approval** to the Board of County Commissioners, with the following conditions:

15. That all representations made by the Applicant in the application, and at the public hearing before the Planning Commission shall be conditions of approval, unless specifically altered by the Commission.
16. That prior to the scheduling of the public hearing before the Board of County Commissioners, the Applicant's attorney must provide documentation sufficient to satisfy the County Attorney's regarding the issue of releasing encumbrances on the right-of-way proposed to be dedicated to the County.
17. That a right-of-way deed for the dedication of the 'replacement' right-of-way be provided to the County Planning Department for review by the County Attorney's office prior to the public hearing before the Board of County Commissioners.
18. The Applicant shall submit a form resolution for the vacation of that portion of the subject county or public road right-of-way as indicated in the application, which shall include provision for acceptance of the deed for the replacement ROW, and the resolution shall be reviewed and approved by the County Attorney's office prior to the BOCC hearing.

STAFF RECOMMENDED CONDITIONS (CHANGES TO PC)

The Applicant has provided information as required in the Planning Commission recommended conditions, therefore amendment to those conditions are appropriate as follows:

1. That all representations made by the Applicant in the application, and at the public hearing before the Planning Commission shall be conditions of approval, unless specifically altered by the Commission.
2. That the recording of documents necessary to release encumbrances on the 60' ROW proposed to be dedicated to the County occur prior to the Resolution being signed by the Chairman of the Board of County Commissioners.
3. That a right-of-way deed for the dedication of the 'replacement' right-of-way be provided to the County Planning Department prior to the Resolution being signed by the Chairman of the Board of County Commissioners.
4. The Applicant shall make all changes to the form resolution as required by the Board of County Commissioners. The corrected resolution shall be submitted prior to April 14, 2101 and place on the consent agenda on April 19, 2010 for signature by the Chairman of the Board of County Commissioners.

Kathy recommended the Board continue this application until all the documentation and a final resolution has been submitted then to hold a public hearing as required by the statutes.
Applicant comments: Mr. Hensley said he appreciates all the time put into this and the staff has been very helpful in this process to answer questions.
Mark Hamilton gave further explanation saying we are very close and have the warranty deeds for both the replacement road right of away and the northern boundary; those are in Ms. Quinn's hands. Corrections have been made to the legal description and the title exceptions have been resolved except one.
Deb Quinn stated the survey has yet to confirm the location of the existing road.
Mark Hamilton stated that SGM did the survey, Ken Wilson, and it was taken from the survey by former County Surveyor Sam Phelps so it should be identical.
Deb requested the public hearing be continued.
Commissioner Samson made a motion to a continue this public hearing until May 3, 2010 at 1:15
Commissioner Martin - Second. In favor: Samson – aye Martin – aye Houpt – absent

AUTHORIZE THE CHAIR TO SIGN THE RESOLUTION OF APPROVAL FOR CERTAIN TEXT AMENDMENTS TO THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED – FRED JARMAN AND KATHY EASTLEY

Fred Jarman and Kathy Eastley submitted the Resolution and stated the Planning Commissioner originally submitted the approved changes to the Board on February 24, 2010; the Board opened a public hearing on March 1, 2010 and gave opportunity for the public to express their opinions regarding the issuance of the Text Amendments; then on April 12, 2010 the Board closed the public hearing requesting staff place these changes in the form of the Resolution. This resolution is before the Board today and the request is to have the Chair authorized to sign.
Chairman Martin suggested this item be continued because Commissioner Houpt wanted to express her views.
Commissioner Samson made a motion to place this item on the agenda for April 19, 2010 as a Continued Public Hearing. Commissioner Martin - Second. In favor: Samson – aye Martin – aye Houpt – absent

COMMISSIONER ISSUES:
NONE
COMMISSIONER CALENDARS
NONE
APPROVAL OF MINUTES
NONE
COMMISSIONER AGENDA ITEMS
NONE

ADJOURNMENT

APRIL 19, 2010
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 and Commissioner Tresi Houpt being 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 CITIZENS NOT ON THE AGENDA
Lisa Warder, County Assessor's Office stated she has an abatement listed on the agenda for today. The petitioner Sterling Property Tax specialists and they have requested a phone conference for the abatement. Don explained that either he or Lisa should commit to a telephone conference in this matter; obviously, if the Board wishes to permit it, it is within your power to do that. Don had some concern about that because of the potential to create a record, sometimes that is difficult by telephone; not always, sometimes it works.
Chairman Martin asked the pleasure of the Board; call on the phone?
Commissioner Samson said he had no problem with that.
Commissioner Houpt thinks its fine however; she doesn't want it to set precedence.
Chairman Martin stated they would notify them by telephone and have the hearing at 1:15 p.m.
COUNTY MANAGER UPDATE – ED GREEN

- **Colorado Relay – Special Event Road Permit Application – Marvin Stevens**

Marvin explained this is information for the Board. This is the 13th Annual Colorado Relay on Saturday, August 21, 2010 and gave the particulars involved

- **Treatment of Produced Water for Surface Discharge – LNSP Nagghappan and Patrick Ryan**

Patrick explained this is a new technology and they are introducing to the market place.
Nagghappan gave a presentation giving the Board an idea of who they are and the technology they have.
Nagghappan said their key focus is to produce technologies, which will reuse, recycle and also reduce waste water use. The technology is called opus technology.

Patrick – We have talked to Williams and all of the people; they have had extensive conversation with those companies and are continuing those conversations with them. They have full-scale pilot systems where they bring out and show the process and they have done extensive testing on the water in the Piceance Basin from a laboratory standpoint and they also have roughly four years of field experience on the systems that are operating in the fields; not in Colorado specifically.
Commissioner Houpt – This is something that is out there in the free market and they are working with companies; other people are too. We are always happy to see technology advance.
Patrick – We appreciate the opportunity and their goal was to try to get this in front of the Board so you are aware of this and they are presenting it and offering it in the market place. They are in the process of looking at piloting a couple of different places in Colorado.
Chairman Martin – Doing away with the evaporation pits would be a great idea and being mobile and being packaged etc. He knows they have seen other different technology that is the size of half a semi-trailer that have come on site and are able to setup and do that. That's kind of what we are looking for.
Nagghappan – The design they have is in a containerized system; they can process 6,000 barrels a day of produced water.
Commissioner Samson – Go forward; he hopes they are talking with the gas companies and getting good a reception from them.
Patrick – The water haulers look at them as a loss of revenue.
Chairman Martin – There's a way to work with them too.

- **C. Consideration of Battlement Mesa Health Impact Assessment Professional Services Agreement with the Colorado School of Public Health – Jim Rada**

Via Telephone; Dr. John Adgate, Dr. Roxana Witter of CSPH and Brian Davis, Financial Officer.
Last month Jim Rada provided the Board with a draft document outlining the contractual details, scope of work and budget for the CSPH to conduct a health impact assessment and to design a community health study of Battlement Mesa. The Board approved the contract to proceed to the CSPH for review and signature. Last week, the CSPH research team informed us that contract administrators at the University had determined the document we prepared would require review by the university office of grants and contracts and would likely take up to two months for review and include the university's 53% indirect cost rate. In response and in an attempt to keep this project moving, at the advice of CSPH we have developed a less detailed Professional Services Agreement for the Health Impact Assessments in a format that CSPH believes will be acceptable to university officials for processing directly through CSPH without the university indirect cost rate. Although the scope of services included on the draft professional services agreement appears to be highly reduced from the original plan, Jim believes this proposal includes all aspects of the original scope of services for the HIA. CSPH has presented budget figures, which indicate the total cost of the two projects, regardless of indirect rates applied to the community health study design project, will be less than the $257,000.00 funding commitment the BOCC made earlier this winter while still accomplishing all of the scope of work from the original proposal. Jim is requesting BOCC approval to move forward on processing this professional services agreement. He will approach the Board again with a second contract for the Community Health Study Design when it is ready.
Carolyn discussed the legal aspects of the program and said there are two things on the lawyer one being the intellectual property ownership issue. She would like them to go back to their lawyer and ask if they have a problem "work made for hire" being inserted. The other a mutuality clause because both of them having governmental immunity.
John Adgate –Brian can comment on the "work made for hire" issue and said there was no issue.
Carolyn just wants to make clear of the basic ownership.
Brian said he is not familiar with the mutuality clause; usually it is an interagency agreement they do between governmental entities. He can send that over to legal today or see if he can get some information on that.
More discussion continued and John Adgate said they would come back with another contract that they would have passed through the office of grants and contracts. The whole idea of breaking this into two pieces was so they could start the work as soon as possible.
Chairman Martin realized that Jim needs action to go forward and he thinks that is what everyone is looking for.
Jim said they request the Chairs signature once they get this all in place so they can move forward for the beginning of May.
Carolyn said, today they would be asking for the professional services agreement on the HIA; general reschedule the study design.
Commissioner Houpt –I would make the motion we direct staff to continue working on the HIA contract with the 5% indirect assessment, and as she understands it that would be in an amount not-to-exceed $158,609.00 and when that is completed as represented in this meeting; she would make the motion that the Chair have the authority to sign that contract. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. Follow-up on Inter-fund Transfer Discussion – Theresa Wagenman**

According to the Colorado State Statues, the following Inter-fund Transfers are prohibited:

- ✓ No transfer is allowed from the Capital Fund into any other Fund (C.R.S. 30-25-202(1))
- ✓ No transfer is allowed from the General Fund into the Road and Bridge Fund (C.R.S. 30-25-106 (1); see also annotation to C.R.S. 29-1-112.
- ✓ No transfer is allowed from the Road and Bridge Fund into the Capital Fund (C.R.S. 30-25-202 (1)).

Theresa explained the issues and violation of the statutes to a reclassification entry or posting correction. This was brought this to the Board about a month ago.
Don – This is an instance if the Board desires additional legal advice, he should probably should do in executive session. He knows that the policy that is front of you has been discussed with the Treasurer's office and Georgia is here; it is his understanding that it is agreeable with the Treasurer's office, but because of potential conflicts between the recommendation and legal requirements, he really needs to discuss in executive session.
Commissioner Houpt said she would like to do that if we are being asked to approve this today.
Chairman Martin – It is also approved by the auditor.
Theresa said there were some other options they had; but the auditors were not in favor of those.

Chairman Martin asked Mr. Samson if he had a second to go into an executive session.
Commissioner Samson – Second.
Georgia stated there is a need to be able to correct errors and her goal is to make sure that everyone who is signing off on it understands why this request has been made, and she thinks that was what had been lacking before. You will hear from the attorney other reasons on that; but they are willing to work together.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – We need a motion to come out of executive session.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson – We don't need a motion at this time.
Don said it probably would and since Theresa has given you a concise proposed written policy for the finance policy for the department and for the Treasurer's office; perhaps it would be appropriate to consider approving the April 6, 2010 inter-fund transfer policy proposed by the finance department.
Commissioner Samson – And Treasurer's office - So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Weed Advisory Board Appointment – Steve Anthony**

Steve gave the background saying and the issue involved saying in 2009 the County made thirteen appointments to the Weed Advisory Board. The fourteenth appointment was made in March 2010. The appointments were staggered into 1-year, 2-year, and 3-year terms. Maria Porter's appointment was for a one-year term and expires at the end of this month. The Terms of the representatives from New Castle and Silt also expire at the end of the month. Both Silt and New Castle will be discussing their appointments during their next respective council meetings. Steve has submitted a letter of interest from Ms. Porter to Chairman Martin for their review today. The Weed Advisory Board consists of 14 members.
Steve stated they did advertise in the paper and Ms. Porter was the only one to apply.
Commissioner Samson – I move we appoint Maria Porter to the county noxious weed advisory board for a term of three years and that she be on regular voting status.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **F. New Castle and Cooperative Mosquito Program – Steve Anthony**

Steve presented a letter, dated March 22, 2010 from John Wenzel, Town of New Castle Public Works Director. The letter serves as notification that the Town will be financially unable to participate in the cooperative mosquito program. The letter indicates the Town is prepared to perform mosquito control in-house for 2010. However, they indicate that County sponsorship for their participation in the 2010 cooperative effort would be appreciated and they anticipate the Town's financial condition will improve in 2011. The County has budgeted $140,000.00 for the program in 2010 and typically pays the contractor on a monthly basis throughout the season. Staff is seeking direction from the Board.
Chairman Martin said he has made his comments to Mr. Green in reference to assisting New Castle.
Chairman Martin thinks they owe it to all the people and he thinks that $4,500.00 on this program is not that great.
Commissioner Houpt – No, and actually what we are being asking for is $9,000.00 at this point and Steve may be coming back to the Board with more requests. I will make a motion that we work with the Towns of New Castle and Silt on the mosquito Control Program and cover their membership amount both in the amount of $4,500.00 for 2010. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **G. Oil and Gas Quarterly Update – Judy Jordan**

Judy submitted a report on their activities and is on file in the Clerk and Recorders Office. Commissioner Samson wanted to know by how much their numbers have increased; referring to staffing.
Judy said in the Rifle office it went from six folks to eleven. A lot of them are assigned to the region so they are not exclusively assigned to Garfield County. Judy talked about the complaints, which is in her report. APD's; they have reviewed 203 in January 104 in February and 341 in March. The number of APD's bumped up in March; but that's a level that would, if projected out, produce about 2,350 permits this year through the county.
Judy said Chevron is drilling 22-24 per pad. What they are proposing on the Roan, it hasn't gone through yet, but they are proposing to do 64 wells. Wells in Garfield County is over 7,000 now; we are still well behind Weld County. The severance taxes we get back in distribution from DOLA are based partly on the residence reports sent. The last time she reported to the Board, a gentleman expressed a concern about a bubble that appeared in a liner of Antero's wastewater ponds. COGCC went over and looked at the pond; they verified it is there and they haven't decided what to do about it yet. The thinking is they may have to actually empty the pond out to try to address this. It is not leaking right now; but it's also not normal for these liners to have a bubble in it like that. They don't know what gas is actually coming up and creating a bubble; so they don't know what formed it in the first place, and they don't know quite how to address it. Because it would be a pretty big deal to empty that pond out and get to the liner.
Judy – It is in Anteros water storage facility on Scott Gravel pit property.
Don received a call from the attorney representing the Oil and Gas Commission informing him that the meeting on the proposed change to Rule 905 on disposable pit liners has been set for a week from today at 8:30 a.m. Judy's office received copies of letter from Gunnison entering its position in opposition to the proposed change, and also indicating that two other counties, Pitkin and Saguache objected to the proposed change. There are some legal issues involved, which he could advise the Board in executive session; but he thinks primarily this is a substantive issue and what position does the Board wish to take. He believes Commissioner Houpt has recused from consideration of this because it is a proposed change to a COGCC rule.
Don is really addressing Commissioner Samson and Martin on this. He doesn't know how you wish to proceed; you do have a special work session set for the 21st; but he doesn't know how you want to address it, if at all.
Chairman Martin will cover this meeting. He has read on the proposed change; he thinks it covers just about everything including the location; which is something that has never been done before and a record being kept, not only locally but also by the State. He thinks the change is fine the way it is. It still has to meet all of the test regulations, and if there is not a hazardous material that needs to be removed, the policy was to go ahead and shred that particular liner instead of removing it and leaving all the material there.

Again, it has to have notification to the property owner and everything else. He thinks the change is okay and he will not object to it. That's his position.
Commissioner Samson asked if they could schedule this to talk a little bit more about it on Wednesday at the special meeting.
Don said he would simply tell council it would be discussed further and inform him on Wednesday whether or not the County will participate in that hearing.

- **H. Colorado River Water Conservation District – Dave Merritt**

Dave provided the Commissioners with the agenda and reports, all reports are all available on the website with the exception, negotiated settlement discussions they have had with the west slope, Denver and northern, the Windy Gap and what the project entailed, wild and scenic discussions, Shoshone, proposing for the transfer of some property to Orchard Irrigation District, trying to reduce some of the demands on the Orchard Mesa system to provide additional water, Green Mountain Reservoir, a meeting for an update on DNR, the presentation by Williams Exploration and Production, annual policy discussions and external affairs.

- **Staff Recommendation to Authorize the Chair to Sign a Firm, Fixed Price Contract on an Amount Not-to-Exceed $229,203.28 with US Imaging for Scanning, Digitizing, and Indexing of Historical Documents for the Clerk and Recorder – Jamaica Watts and Kent Long**

Jean Alberico and Edna Place presented the recommended award to award a firm, fixed price contract to US Imaging in the amount of $229,203.03 to provide the Clerk and Recorder with scanning, digitizing, and indexing of historical documents. It is preserving our historical documents.
Edna –US Imaging has integrated with our recording system on several occasions; which is Tyler Technologies. They have a record of being able to integrate with our recording system, so we should have less problems.
Commissioner Houpt – I make a motion that we award a firm fixed price contract to US Imaging in the amount of $229,203.03 to provide the clerk and recorder with scanning, digitizing and indexing of historical documents. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Staff Recommendation to Authorize the Chair to Sign a Firm, Fixed Price Contract in an Amount Not-to-Exceed $2,719,903.93 with Frontier Paving to Apply Hot Bituminous Pavement to Various Garfield County Roads for the Road and Bridge Department – Jamaica Watts**

Kent presented the recommended award for a firm, fixed price contract to Frontier Paving in the amount of $2,719,903.93 for application of Hot Bituminous Pavement to various Garfield County roads for the Road and Bridge Department.
Commissioner Samson – I would so move that we award a firm fixed price contract to Frontier Paving in the amount of $2,719,903.93 for application of hot bituminous pavement to various Garfield County Roads for the road and bridge department. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Staff Recommendation to Authorize the Chair to Sign Multiple Indefinite Quantity, Indefinite Delivery Contracts with the Total Amount Not Exceeding $500,000.00 to Supply the Road and Bridge Department with Gravel Material – Jamaica Watts**

Jamaica presented the recommendation that the Board award five separate indefinite quantities, indefinite deliveries contract as follows: United Companies, Grand Junction Supply, Lafarge, Silt Sand and Gravel, and Western Slope Aggregates with the total of all five contracts not exceeding $500,000.00 for fiscal year 2010 for the procurement of gravel material for the Road and Bridge Department.
Commissioner Houpt – It's nice to spread the wealth. I make a motion we award five separate indefinite quantities, indefinite delivery contracts to United Companies, Grand Junction Supply, LaFarge, Silt Sand and Gravel, Western Slope Aggregates with the total of all five contracts not exceeding $500,000.00 for fiscal year 2010 for the procurement of gravel material for the road and bridge department.
Commissioner Samson – Second.
Kent explained it is $500,000 for the entire contract. He thinks he can cover this with a blanket purchase order.
Ed – You don't have a set amount for each vendor; it is based upon individual releases.
Don – That is a violation of your procurement code; you need to have a not-to-exceed figure in the contract.
Commissioner Houpt – I would amend my motion to specify $100,000.00 for each of these identified companies. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated he has three items but want to note that Mr. Marks and the Sheriff are present specifically to participate in an executive session to provide the Board with legal advice on the ongoing jail litigation and as he previously advised the Board they need some time for this. Don hopes to do this morning while Mr. Marks is present.

CONSENT AGENDA

x. Approve Bills
y. Liquor License Renewal (bed and breakfast) for The Lodge on the Roaring Fork – Jean Alberico
z. Authorize the Chair to Sign the Resolution Concerned with the Approval of a Land Use Change Permit for Richard L. Prather, Lyle Prather, Ned Prather, Donna J. Koehler, Sue Stuart Mortimer Erupt Vanda Bovenkamp and Daniel W. Stroock (LIPA 6185), Storage: Supplies, Machinery, Equipment and Products – Molly Orkild-Larson

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

REGULAR AGENDA

Human Services Commission

- **Education – Jenny Lindsay-Garfield County Human Services Commission, and Rick Blauvelt-Roaring Fork Valley Early Learning Fund.**

Rick wanted to talk about early childhood education. Many of the challenges that are faced in early childhood educations are based on misconceptions about the value and critical importance of early

childhood education. The research shows that early brain development during the first five years of life is critical to oral language development especially for grammar, pronunciation, bi-lingual capacity and for the development of vision, tactile senses and social and emotional health. All future learning will be impacted by the fundamental brain architecture that's formed during the first five years of life. Early childhood education is clearly one of the best investments we can make in the future of our children and in our communities. He works with a program called Raising a Reader which provides an enhanced curriculum in preschools; it is an early literacy program.

- **Semi-Annual Report from the Treasurer and Public Trustee – Georgia Chamberlain and Bob Slade**

This report includes the Treasurer's Semi Annual Report 2nd 6 months of 2009; Property Tax Collection Report, 2008 taxes collected in 2009; Treasurer's Fee Collection Report; Sales Tax Reports for 2009, Distribution report for 2009, Revenue by collection month (5 years), Revenue by actual receipt month (5 years) and Public Trustee Reports which include: Annual Income Report 2009, Release 1982-2009, Foreclosure History 1980 – Present, Foreclosures by Cities 2009, Status of Foreclosures 2009 and Status of Foreclosures by location 2009 (bar graft). All records are available in the Clerk and Recorders Office.
Georgia explained as above. She asked if they had questions on her numbers or figures.
Georgia – What she would like from the Board is a motion for her office to publish this in the newspaper.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consideration/Approval of MOU with Nathan Dutton, David Dutton, Muriel Dutton, Linda Dixon and Dutton Family L.L.L.P. Regarding County Road 306**

County Road 306 runs through this property and there is a dispute as to the legal title of such road. During the fall of 2008, a contract for Noble Energy, Inc. entered onto the property and caused certain damage. At this time, the parties support resolving the dispute on County Road 306 in a non-litigation setting. The parties anticipate that resolution of this dispute shall include:

1. A Garfield County Board of County Commissioners proceeding that vacates any and all public roads on the property.
2. A Garfield County Board of County Commissioners proceeding that dedicates and accepts County Road 306 as further described below.
3. An easement from Nathan N. Dutton (NW1/4Ne1/4 Section 12, T8S, R96W, 6th P.M.) to David S. Dutton and Muriel Dutton (NE1/4NE1/4 Section 12, T8S, R96W, 6th P.M.) for ingress and egress.
4. Certain repairs, re-vegetation, fencing, traffic controls, restoration and similar of County Road 306 as further described below and depicted on the attached maps.

Garfield County's objective is insuring public access across a portion of the property.
Don – Linda Dixon and Marvin Stephens addressed that there is a memorandum of understanding that has been executed by Ms. Dixon and other member of the Dunton family and as the result of at least several months of discussion and negotiation. This commits the County and the Dixon and Dunton families to certain conditions on the transfer and vacation of property in the vicinity of County Road 306. They will also transfer to the county necessary right-of-way pursuant to deed to properly locate the road both as it lies now and as it will be reconstruction.
Linda Dixon – The road doesn't go through her property. The only thing she has a concern is making sure that her water stays in that top ditch and it flows under the road and the county has done the engineering work to see that the proper culverts and the flow of water is still maintained through there. She currently has access now.
Commissioner Houpt – I make a motion that we approve the memorandum of understanding between Nathan and Dunton, David S. Dunton, Muriel Dunton, Linda M. Dixon and Dunton Family LLLLP collectively the Dunton Family and the Garfield County Board of County Commissioners as presented today. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **CEC Solar Array Revised Concept Plan – Brian Condie**

The Clean Energy Collective is requesting continued consideration and approval of their concept plan application for a solar PV array at the Garfield County Airport. At the original concept plan hearing on February 10th Commissioners and staff requested additional information on seven items. The accompanying presentation outlines the CEC's response to these seven items (On file in the Clerk and Recorders Office).
Paul Spencer presented the details.
Brian – What we need to do is decide if we want to support it and then go to the FAA and say, yes we would like to support this; these are our reasons for supporting it and get them to buy off on it. We put in there that in 20 years if someone wants to develop that; then we give them a year's notice, something like that. I am in support of this project.
Commissioner Houpt – I would make a motion that we support this concept plan and direct staff to communicate with FAA about our support to move this forward as presented.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Executive Session:

Don – Thinks they should limit this to the sole topic of the legal advice concerning the jail related litigation. Mr. Marks and Sheriff Vallario are present; we would like to have an executive session for that purpose.
Chairman Martin asked for a motion to go into executive session for that item.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I would make a motion we come out of executive session.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Action taken:
Don would like the Board to consider a motion to authorize his office as well as special counsel to engage in settlement negotiations consistent with the confidential direction of what they discussed in executive session. Commissioner Houpt – So moved. Chairman Martin – Second.
In favor: Houpt – aye Martin – aye Samson – nay

Board of Health

- **WIC Contract with CDPHE**

Mary – She has to bring before the Board of Health for consideration the WIC contract with the Colorado Department of Public Health and Environment and it is for an increase of $35,358.00. The reason for the increase is that our WIC caseload is at an all time. It is the highest that it has been since the inception of the WIC program. The State has been putting more dollars forward in their contract this year to help them mitigate that.
Commissioner Houpt – I make a motion into the Board of Health. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Mary – The request is for your consideration and approval to increase the WIC contract with the Colorado Department of Public Health and Environment by $35,258.00.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Mary gave the Board a brief update; the regional down coalition has hired a regional dental consultant; her name is Kelly Keiffer, she started last week. Dental Aid, out of Boulder Colorado, is doing the feasible study to look at that fixed base low income dental clinic. So that is in process. The school base health care centers; RE2 was awarded a planning grant. They are moving forward and we are participating in that planning grant process. This is school base health care clinic.
Chairman Martin - We need a motion to come out of the Board of Health
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Third Supplement to the 2010 Adopted Budget – Theresa Wagenman**

Theresa provided a list of requests for changes to the 2010 budget
Chairman Martin swore in the speakers.
Theresa presented Exhibit A supplement number three, which includes some increase or decreases to the existing 2010 budget and she is requesting the Board allow her to make these changes.
Commissioner Houpt – I make a motion to close public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion we approve the resolution concerned with the third amendment to the 2010 budget as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Board of Human Services

- **A. Approval of EBT/EFT Disbursements for March, 2010 – Lynn Renick**

For the month of March, 2010 client and provider disbursement for allocated programs totaled $292,664.74. Client benefits for food assistance and LEAP totaled $615,292.83. Total EFT/EBT disbursements for March totaled $907,957.57. The department is requesting Board approval and signature.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. Consideration and Signature Approval on the Northwest Area Agency on Aging Grant Application for Caregiver Support and Senior Services/Equipment Programs – Lynn Renick**

The department is requesting the Board's approval and signature on the State fiscal year 2011 application for the continuance of the Caregiver Support Program and Senior Services/Equipment Programs. The application, budget information and associated Assurances are required for funding through the Area Agency on Aging. The amount requested totals $132,744.40 for both programs. Requesting signature approval on the application.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Consideration and Signature Approval on the Northwest Area Agency on Aging Grant Application for Senior Nutrition Programs – Lynn Renick**

The department is requesting the Board's approval and signature on the State fiscal year 2011 application for 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 $116,890.00. Asking for authorization, they are due on the 23rd and may not be the exact figure; it will be in excess of $140,000.00. They are actually asking for signature authorization on the grant application as soon as they can get it finalized.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. Brief Annual Update on the Fatherhood Program – Steve Aurand**

The department is working on a grant application to extend the County's Fatherhood Program through Federal fiscal year 2011. This will be the last year funds are available through this State grant. The department is requesting a total of $50,000.00 to continue the program.

- **F. Program Updates**

  A letter from the Colorado Department of Human Services provides information on a one-time only county allocation of $42,896.00 to support the cost of the administration of the Food Assistance Program. The Department of Defense (100% federal) funds are being made available to 18 Colorado counties due to increase in caseload size since August 2009. The funds must be expended by September 30, 2010.

  April 25th is the 10th Annual Child Care Provider Appreciation Brunch at the Hotel Colorado. This will be a discussion with the Commissioners at the June CCI Conference.

- **E. Month of the Young Child Proclamation and Early Childhood Presentation – Thelma Zabel, RFSD**

Thelma requested the Board proclaim April as Month of the Young Child in Garfield County. Thelma also presented information on quality childcare and early childhood initiatives. A link has been provided for a four-minute video; Change the First 5 Years and You Change Everything:
Thelma read the proclamation and she will give the Board a copy.
Commissioner Houpt – I make a motion we adopt the proclamation recognizing and celebrating the month of the young child as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

PUBLIC MEETINGS:

- **ALP North and South Side Agreement – Brian Condie**

Brian provided a draft to the Board for Excavation/Construction Material Removal, temporary construction easement and permanent water and sewer line easements, which is entered into by and between the Board of County Commissioners and Airport Land Partners, Limited a Colorado limited liability company.
Mark (PRT Consulting) and Brian being present. All of these agreements are part of the overall upgrade of the airport. We are requiring some easements for the construction project on the north side of the airport and Airport Land Partners has agreed to grant those and in return we will construct some water and sewer for them on the south side of the airport; on the Westside of their development. Some of them are temporary construction easements and some are permanent.
Mark – It went up about $6,000.00 or so since this morning. The issue is that this is taken a bit of time to get approve and since they don't have this contract they have covered up some of the work that they now have to uncover again.
Brian –We have $50,000.00 from the FAA. He would be committing the county to the $60,000.00 to cover the difference. In his easement budget line item, he did not account for this assuming that the FAA would pay for 95% of it. We may still get that; but at this point, what he is asking is for their authorization to approve this; we don't have it. It would be a budget supplement, hoping we get the match; but we can't promise that.
Chairman Martin – The request is to go ahead and authorize this agreement understanding that there is $60,000.00 coming from the general fund of Garfield County.
Commissioner Houpt – Do you want to make a motion that they can move forward with the work without an agreement in place.
Commissioner Samson – We need it to go forward. He is not sure what they are wanting them to do. He doesn't feel comfortable in approving this contract because it is not completed.
Commissioner Samson – I move we approve the contract with Kelly Trucking for the Rifle airport water and sewer step-out improvements for an amount not-to-exceed $101,257.60.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Last Chance Ditch Agreement – Brian Condie**

Brian provided a draft for an agreement with Garfield County Commissions of Garfield County, State of Colorado, the Loesch and Crann Ditch Company, also known as the Last Chance Ditch Company, and Airport Land Partners, Limited. Design engineering for drainage improvement to the north side of the airport is being accomplished by CH2M Hill, Inc. No action today.

- **Loop Water and SS System IGA – Rifle – Brian Condie**

Brian provided a revised agreement for the Boards consideration between the Board of County Commissioners and the City of Rifle.
Carolyn gave the details saying we are no longer going over ALP property; they are going down runway road. The City has approved those construction plans etc. The major issue here is the City is still charging us out of city rates because the City Council has not approved this IGA within City Rates. We really need one or all of you to visit with the City Council in Rifle and talk to them about this issue.
Chairman Martin – So we don't have to take action on this particular item.
Carolyn – Not until after Mike makes a visit to the City Council.
Brian wants to tell the City this is what we agree with except for we would like in City rates.

- **Annex/De-Annex, Road and Utilities IGA – Rifle – Brian Condie**

Carolyn – This is primarily an update and explained that they will have to bring it back to the Board
Brian passed out maps to the commissioners.
Carolyn - These agreements, the loop water system and this one will replace the old three party agreement; pre-annexation agreement among ILP, the county and the city.
Don – On the de-annexation maps what is the proposal for the existing airport road right-of-way that lies within the county?
Chairman Martin – The intersection of 319.
Mark – We are going to vacate the easement or the right-of-way.
Brian – We just need to go to the City of Rifle and say this is what we want; say the Commissioners have reviewed it. We are moving in the right direction is what they want to hear from the Board.

Executive Session

Don has one item for executive session as it relates to land usage for 1:15.

Executive Session

Don needs to discuss a code enforcement issue, which is also litigation on the Rudd property; discuss a personnel matter and provide you with legal advice concerning a personnel matter involving the treasurer office and the treasurer is present. He would like an executive session for those two purposes only.
Commissioner Samson – I move that we go into executive session. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin - Motion to come out of executive session.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Action taken:
Don – There was one item concerning the Rudd property in Rifle.
Cassie - Staff is requesting direction as to the code enforcement issues on that property; whether, if in the event the property owner files a Rule 106 action against the county, if the county would want to counter claim for an injunction and civil penalties to enforce the code. Or, if the county wants to authorize a lawsuit, or both, or do nothing on the code enforcement portion of this and wait and see what happens.
Commissioner Houpt – She thinks it makes sense to cover their bases. I make a motion we do both a counter claim and in case there is a 106 action we certainly want to enforce the code.
Commissioner Samson – Second for discussion. Is it necessary for us to authorize a lawsuit? Can we just do step one?
Cassie – Step one of waiting to see if they file? The Board really could do three things. The property owner may appeal that decision in a 106 action to district court. In the event they do that, the Board could counter claim for an injunction and civil penalties to enforce the code. Right now it's staff's position there is a violation of the land use on that property.
Commissioner Houpt – The reason she put a motion on the table with both was because the BOA supported the staff's actions. So it has gone through, not only the administrative process, but the process as well.

Commissioner Samson – But what he is saying is it necessary for us to enter a suit against them if we are just doing the counter claim.
Cassie – If they do not choose to file a 106 action, because that is up to them, the county doesn't have to do anything; but that is allowing this property owner to violate the code by doing nothing.
Commissioner Samson – So we do have to file suit if we want to enforce the code?
Cassie – If you want to enforce the code either through an individual separate action or to have it as a counter claim in the event a 106 is filed.
Commissioner Houpt restated that her motion was just that if they file 106 then we counter claim; if they don't then file a motion to uphold our code. File a suit to uphold our code.
Chairman Martin always thinks there is another alternative and that is to go ahead and have the property owner appear before the Board, at least have a facts finding on public record if they would appear and find some solution that way.
Cassie – There was the fact finding to clarify; the BOA was a full hearing of several hours that is public.
Don – It's not just matter of your code; state statute provides that the appeal from an administrative officer, Fred, Director, runs through the Board of Adjustment not to the County Commissioners. At a county level there is no appeal from the BOA to the County Commissioners, it goes directly to district court by state law.
Chairman Martin – Under this present system if we had the process that we would have the appeal directly to us and if we upheld it then it goes to the BOA at that point then the process would go to the court and on through. We would have some kind of part in hearing the local land use issues prior to BOA. We don't control the BOA and their decisions.
Don – That is actually correct and that is state law has been setup in that manner so that appeals don't run directly to you; they run to the BOA and the district court. That's state law and it's the reason that actually this Board has been a party to appeals from the BOA to the district court. You as a Board have appealed the decision of the BOA.
Commissioner Houpt thinks we heard pretty clearly from staff this is state law and we have a code in place that we want to make sure that our staff is able to enforce and so that's the purpose of this motion.
In favor: Houpt – aye Samson – aye Opposed: Martin - aye

- **Consideration of Request for Funding Public Opinion Strategies Poll – Garfield Trails and Land Conservation Initiative Representatives**

Action items were presented from the April 6th work session to address items discussed and included requested information in regard to conducting a public poll on conservation and transit topics. Clark Anderson, Chris Harrison, Mary Noone were present and via phone representatives from Public Land Dee Frankfort.
Christopher Harrison explained that we are here today to address an action item that was identified out of the April 6th work session, which is to specifically requesting funding for a public opinion survey to gage public opinion, give more information on the issue of land conservation, open space and as well to address an additional item that the commissioners had brought forth in relation to transportation issues in the Western part of Garfield County. The expenses for the public opinion survey would not be more than $16,500.00.
Commissioner Samson thinks this would be a valuable tool in many ways.
Commissioner Houpt – It is a good fit because trails are often used as another form of transportation as well.
Chairman Martin represents a different focus saying there are 1,800,000 acres in Garfield County that is open space. He understands that there are land conservation for those who wish to have it. Publically owned land, under again either conservation easement or open space is not palatable for many people. Especially when you go ahead and take dollars away from programs that were needed now; trails are an amenity right now. He thinks the economics of reality needs to set in on them. All of these things are great when we have money. We have to find another way of doing it. He thinks that you are going to get loud and clear they are tired of spending money. It's a nice thing to have and communities don't want to grow together, he understands that. That's up to land use and the applications therefore, annexation program, resources they have from it, the structure on through. Public transportation is extremely expensive; users don't always pay for it, it's always a subsidy no matter what we do. He thinks if you need that opinion, it needs to be there. Maybe he is the minority out of the bunch but he thinks you are going to hear that loud and clear. People are struggling to stay alive, look at the cost of living, look at the cost of education and everything else and now we are going to ask them to pay more to preserve the land that is already open space unless it is privately owned, and then the individual there has to make a choice if they can live with conservation easements or dedications.
Commissioner Samson – What you say may very well be true and he thinks this will either bear out what you are saying or not. We might possibly get a split on this; we might say heck no to conservation and let's go with transportation or vice versa.
Chairman Martin – It's a possibility; but then what he looks at and try to justify another expenditure $16,000.00 to the taxpayer dollars just to get that answered. Is it worth it or not; maybe. Again, we are trying to cut spending and all he sees is continuously spending money and donating money for different activities and we are not cutting our budget, we are increasing our budget.
Commissioner Houpt – Well the value in this is there are many examples nationally of how conservation of land and focusing on habitats and cultural preservation has helped with the economies of other areas and so it could very well be an economic boost to many people who respond to this. She thinks John is right people do look differently on this question. She also thinks since they are spending a great deal of money on researching various transportation opportunities therefore it is really important to have public opinion on how they feel.
Don – We need to have a contract for the expenditure of county funds; it could be a purchase order at this level. Normally staff would evaluate as to whether a sole source is appropriate or not and then if an RFP is to be done, write it accordingly or to develop the scope of services for the PO which is really the meat of the contract.
Commissioner Houpt would like to see is the county enter into an agreement with the Trust Public Land to jointly have this public opinion poll be conducted. It sounds like the Trust for Public Land could manage that program and the product would be brought back to us and we would be invoiced for our amount. Is that doable and Don said yes and she said that is her motion. Commissioner Samson – Second.

Don suggested that if the scope of project is anticipated to be $16,500.00; we specify that as the cost of project and then specify each party's contribution.
Commissioner Houpt – That would be fine; which would be $5,000.00 for Trust of Public Land and $11,500.00 for Garfield County. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Opposed: Martin – aye
Chairman Martin explained he is still opposed because of principal and we have to stop spending period.

- **Consider a Request to Correct the Preliminary Plat Resolution of Approval for Quicksilver Court Subdivision to Remove Condition 13 L and Clarify Condition 13 M – The Owner/Applicant is Gregory Hassenberg and George Daniels/Jena Skinner Markowitz of Knight Planning Service – Tom Veljic**

Greg Hassenberg, Jena Skinner Markowitz and Jody Daniels being present.
Planner Tom Veljic submitted the following the Final Plat consists of subdividing 79.82 acres into seven (7) single-family residential lots with access provided from the existing private road Quicksilver Way and an internal cul-de-sac. The Final Plat consists of subdividing 79.82 acres into seven (7) single-family residential lots with access provided from the existing private road Quicksilver Way and an internal cul-de-sac.
Commissioner Houpt –I made a motion to approve and authorize John to sign.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

PUBLIC HEARINGS:

- **Crystal River Marketplace LLC – Abatement N. 10-110, Schedule No. R341206, R590002 and R090120 – Lisa Warder**

Lisa explained to Kendra she was called about abatement 10-110, on behalf of the Board of County Commissioners today. Lisa is handing out to the commissioners Exhibit B of the assessor package, which she e-mailed to Kendra earlier today.
Kendra replied that she had received it.
Chairman Martin – Swore in the speakers.
Lisa – John Zimmerman is here today, he is the commercial appraiser, and he will present the assessors view on the abatement requested by Sterling Properties.
John presented the materials to the Board.
Kendra on our abatement petition; where we are requesting a $1.25 per square foot, that's the value that would have been placed on the larger parcel, which is not an issue at today's hearing. Schedule number R341206, they requested a value of $12,000.00 which is a rounded figure. Schedule number R590002, they requested a value of $38,100.00 which is rounded. Schedule number R090120, they requested a value of $46,600.00 which is also rounded.
Lisa – When she started looking at the property we used as a comparable of the Crystal River Market Place. She fully explained the process. Lisa has attached the screen shots showing the value of this property from 2006 to 2009; the clerical error is obvious. When they became aware of the clerical error in 2009; she contacted the Division of Property Tax immediately and said, what can I do about this because this was an error in 2007 and 2008. They said; nothing, if you had discovered it in the tax year you could have gone to the County Board of Equalization, which you may have remembered they did on a property last year and said; hey we found an error in this property we need to raise the value of it. But because they discovered it after those tax years; they are not able to raise the value of the property that they are using as a comparable property. This property would have been valued at $6,250,000.00 had this error not been made. For her part of it and in looking at this error they had no recourse to change this in 2009 when they discovered it. It would be highly inappropriate to lower the values on the properties noted in the abatement based on a comparable that had an incorrect value on it due to a clerical error. The tax representative is asking that you extend the error that they made on this property to the other properties; which creates further inequities in Carbondale. She asked the Board to deny this abatement. We would like the overall abatement to be denied leaving the values at; the original value for R341206 was $232,168.00; R590002 was $503,120.00 and R090120 was $614,530.00 and the total value is $1,349,810.00.
Chairman Martin asked if they had a motion to close the public hearing.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – Aye
Commissioner Houpt – I make a motion that we deny abatement no. 10-110, and uphold the values presented by the Assessor for Schedule R341206 valued at $232,160.00, R5900002 at $503,120.00, R090120 at $614,530.00. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye

- **Carbondale Senior Housing Corporation Phase V – Abatement No. 10-087, Schedule No. R045458 – Lisa Warder**

Lisa – This property was determined to be exempt by the Division of Property Tax, as of March 17, 2009 and they need to abate to the Carbondale Senior Housing Corporation $3,205.80.
Chairman Martin swore in the speakers.
Commissioner Houpt – I make a motion to close public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – Aye
Commissioner Houpt – I make a motion we approve abatement no. 10-087, Schedule number R045458 and approve abating $3,205.80. Commissioner Samson – Second
In favor: Houpt – aye Martin – aye Samson – Aye

- **Consider a Request for a Text Amendment to the Unified Land Use Resolution of 2008, as Amended to Allow for Fences of Greater Than Three Feet in Height to be Located in the Front Yard Setback Within the Commercial General Zone District – Applicants; Rocky Mountain Hotshots and Transportation, Inc.. – Fred Jarman**

Chad Lee and Tiffany from Hotshots, Cassie Coleman and Fred Jarman were present.
Cassie Coleman reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
The Applicant has requested an amendment to the Unified Land Use Resolution of 2008, as amended, which currently limits the maximum height of fences within the front yard setback in the Commercial General Zone District to three feet (3'). The request is to permit fences of up to eight feet (8') in height in the front yard setback within the Commercial General Zone District of unincorporated Garfield County.

This application is the result of a process that began in 2008 when investigation of a violation commenced. Chris Chappelle, Garfield County Code Enforcement Officer, issued notice to the property owner on November 3, 2008 regarding construction of a fence within the required 50' foot front setback from Hwy 6.
A Notice of Anticipated Enforcement was issued by Mr. Chappelle on June 18, 2009 and a Notice of Violation was issued on June 29, 2009. In an effort to seek correction of the violation, the Applicant scheduled a pre-application conference with planning staff. That conference was held on July 16, 2009 and focused on the submittal requirements and processing of an application for a **variance** to the 50' required front setback. An application was submitted on August 24, 2009 for a variance from the three-foot (3') maximum height provision for a fence within the front yard setback. The Applicant subsequently withdrew that application. A Pre-Application conference was held on November 6, 2009 for a request to amend the Unified Land Use Resolution of 2008, as amended. That conference resulted in the application currently under consideration. It is important to understand the evolution of this process, and in fact, to understand the property that instigated this application. The following site plan indicates the location of the fence, as constructed, in the front yard setback. The code provisions do allow for a fence of up to 8' in the rear yard, and the code provision currently allow a fence in the front yard setback, however it is limited to three feet (3') in height. This particular site is further complicated by the fact that it has two front yards, due to the public rights-of-way on two sides of the property. Therefore the existing fenced area of the property is in violation of the maximum height within the front yard setback.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at a public meeting held on February 24, 2010. At that meeting the Planning Commission discussed several issues – including the potential impact to the towns and cities as it appears that a majority of the commercial zoning occurs at their gateways; the variety of uses permitted by-right within the Commercial General zone; and the fact that a text amendment application was being used to abate an existing violation on a property, even though the text amendment would apply to all Commercial General zoning in the County. The final vote of the Commission was 4-2 to approve the request.
Fred – This has come to you because of a code violation; there is a taller fence that the code allows in the rear and front of the subject property.
Chad thinks that Fred pretty much summarized their request. First, the correct name of the entity applying for this text amendment is Rocky Mountain Hotshot and Transportation Inc. The applicant was noticed for violations for setbacks in the front and the rear of the property. The property actually has two front yards because it is along two streets. One has a 50-foot setback and on the rear, there is a 25-foot setback. The rear fence issue has been cured; the county no longer has a problem with that, so right now it is just the front fence. He thinks this text amendment would improve security and safety within the CG district.
Commissioner Houpt – I know; instead of voting against this, she is trying to find a solution that will allow the opportunity for businesses to have an 8-foot fence.
Cassie – That was a violation. It is existing across the county and she thinks amending the text in this case address more of the potential violations including her neighbors.
Commissioner Houpt - It address the violations but does it address the concerns that were brought forward by the communities that have our commercial generals areas located right at their gateways. If they were located in different areas around the county they would not have any impact on the communities then she could see doing this without having some kind of review from the communities.
Cassie - What Mr. Lee was trying to say that Carbondale is more upset about the location of the commercial property itself; not necessarily, the fence heights allowed on commercial property. But the affect would be if it was some sort of review process for fence height; we would be going through the same process like Mr. Jarman talked about; every time an application came before you it would essentially get the same letters from Matt Sturgeon and from Miss. Buck that you are getting here. So even though this application started as a violation on an individual piece of property; there also are other similar violations across the county and she thinks that's why this was addressed locally. At least from staff's perspective; it was addressed more globally than piece mill. The application was withdrawn because staff recommended denial because the applicant hadn't established that it would meet any of the statutory criteria that are specific to the piece of land. Under the statute, it has to do with topography, and the property owner not doing anything to the property. This property is essentially flat; it is rectangular piece of flat land. There are no topographic issues; she put the fence there herself. Nothing came down and made it have to be like this. It wasn't under the statute; staff didn't feel like it was going to meet the criteria for variance and looking across the county at the other violations.
Chairman Martin – That's why he is saying fence people out for a security issue and to have a 3 foot fence in your front yard; set-back sure isn't a deterrent to crime. 7 foot/8 foot fence is a little more difficult to get through than a 3 foot.
Commissioner Houpt said she is not saying she doesn't support the idea of having a security fence. She thinks there are concerns our communities have voiced.
Chairman Martin –It is a fence out issue and he thinks that's where it is; if it is a safety issue it needs to be addressed in a different area. He thinks they have had enough discussion. Do we have a motion to close the public hearing?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – Aye
Chairman Martin – You can start with the recommendations; do you agree or disagree? If we have a disagreement then we need to have the findings on why we disagree.
Commissioner Samson - I would like to make a motion that we as a Board support the planning commission who voted 4 to 2 to approve the request for the text amendment to the title sections 3-301I and 7-825. Commissioner Houpt – Second.
Chairman Martin – All those in favor of approving what has been set down by the P & Z.
In Favor: Martin – aye Samson – aye Opposed: Houpt - aye
Chairman Martin – It still passes and we will make that change in the zone text. He asked if there was any other action needed for Rocky Mountain Hotshots at this time.
Cassie – I would request public action, the Board has previously authorized us to file a lawsuit against this. Because there will be a change to the text amendment, it's not a violation. I would request public direction not to go forward with any enforcement. Commissioner Houpt – So moved.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – Aye

- **Authorize the Chair to Sign the Resolution of Approval for Certain Text Amendments to the Unified Land Use Resolution of 2008, as Amended – Fred Jarman**

On February 24, 2010, the Garfield County Planning and Zoning Commission forwarded a recommendation of approval with changes by a vote of 8-0 to the BOCC. On March 1, 2010, the BOCC opened a public hearing upon the question of whether the text amendment should be approved, approved with changes, or denied at which hearing the public and interested person were given the opportunity to express their opinions regarding the issuance of said text amendment. There were 8 changes included in this text amendment included in Exhibit A: 1) Park and Ride Facilities, 2) Storage, 3) Industrial use or activity: 5) Access Routes, 6) Amended Plat; 7) Affected property owners/adjacent property owners; and 8) Combined preliminary plan/final plan submittal documents. This is a continued meeting.
Fred prepared a resolution for the Board and attached to the resolution you will notice what is termed Exhibit A, and that has the text you all had discussed this far. He is requesting the Board authorize the Chair to sign the resolution.
A great deal of discussion was held regarding terms such as adjacent property owners, affected property owners and contiguous property owners. The discussion was over semantics making certain that people were properly noticed.
Deb – In our Land Use Code we currently these terms.
Don read from Black's Law Dictionary for the legal definition: adjacent - lying near or close to, sometimes neighboring.
The Commissioners decided to have a workshop concerning this issue and agreed not to hold hostage the other text amendments.
Don –According to Mr. Black, if you use the term adjoin you would accomplish the goal you seek.
The debate continued.
Chairman Martin – Moved to close the public hearing? Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson – aye
Motion:
Commissioner Houpt – We have already requested a work session for the number of the setback issue that we are going to look at for the opportunity to notice. I make a motion that we adopt the resolution concerned with the approval of a text amendment to amend specific provisions within the unified land use resolution of 2008 as amended specifically regarding Exhibit A; is there a number to this resolution?

Commissioner Samson -I wish you would withdraw your motion and we have him rework this and bring it before us again so we can see it in black and white.
Commissioner Houpt – He took this to the planning commission.
Commissioner Samson – This portion needs to be reworked
Deb – When you define terms in a code, one way to assure consistency is once it is a defined term, like adjacent property owner is defined in our definition Section 16; it would be helpful to use that term with capital letters throughout the code so everybody knows it is a defined term and they can look at the definition and know what it means. That way you don't have to repeat the definition in the text of the code itself; you just say capital A - adjacent, capital P - property, capital O -owner and you look at the definitions and see what it means.
Additional discussion was held regarding the term notice within 200 feet versus adjacent property owners.
Commissioner Houpt – Why can't we just take adjacent out and say notice to property owner?
Deb – Because you need to know which property owners. If we have to go back through the code every time we use that term and make sure that it says within 200 feet.
Deb - If we make any change, what we do is have a defined term, use that term as a term of art throughout the code with capital letters then when you want to change it after your work session; all you do is change the definition. You would have to do a search of the entire text to get it right; but you will have to do that search this time through.
Commissioner Houpt – I will withdraw my motion.
Chair Martin –Do we have another motion to open the public hearing to continue?
Commissioner Houpt –I would like to make a motion to reopen the public hearing.
Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Opposed: Martin - aye
More discussion regarding newspaper notification posted on the property and certified mailings.
Chairman Martin – So all you have to do is insert the Black Laws definition of adjacent and let it go at that.
Deb agrees to include the definition of adjacent as Black's Law Dictionary defines it. We have a definition of adjacent that is wrong.
Chair Martin – do we have a motion to close the public hearing again?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Second Motion:
Commissioner Samson – I will move that we adopt the text amendments as presented with the changes and those changes reflect that adjacent property owners would be defined as such according to Black's Law Dictionary which say - Laying near or close to sometimes continuous, neighboring, adjacent applies that the two objects are not widely separated thought they may not actually touch. We also need to make sure that whenever adjacent is defined as otherwise it needs to be correct within our code so that we do not have contradictions.
Commissioner Houpt – Do you need the resolution in his motion?
Chairman Martin – No it creates a new resolution when they addition.
Deb – It adds to it; but I just want to clarify we are changing the definition of adjacent per say within our definitions as well. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – Aye
A work session was scheduled for June 8, 2010 for a discussion on "Notice Distance for 'Adjacent Property Owners.'"

- **RE-2 After School Program – Steve Kaufman**

Carolyn – Before you proceed she noticed this document says it contain confidential and proprietary information. What Steve is handing out and made a part of this record is not confidential and proprietary, as it becomes a public record.
Steve – It's okay to be public.

Chairman Martin –The business plan for the Access Roaring Fork was presented; however, clarification was made that the finance and contract administrator have not reviewed the plan.
Steve –Today, he planned to clarify some of the concerns raised by this Board. He read his handout into the record.
Commissioner Samson – You are asking us for $95,000.00. How are you going to fund this next year?
Steve - He is looking toward ongoing sustainability. The police chiefs in Glenwood and Carbondale are saying this is fundamentally a safety issue. If it is a safety issue to keep the kids off the street, then why don't you have an ongoing responsibility at least to ensure that we have a mechanism in place for After School Program.
Commissioner Houpt –This is an important program. However, we have many important non-profit programs in this county. We have a grant program in place that is funded by a portion of a tax that was passed by the community several years ago, and that helps support non-profits in this community. This is a struggle with defining the difference between this program and any of the non-profits in Garfield County. This came as a surprise to see $95,000.00 in the budget for this year. We adopted the budget with the $95,000.00 in there and she only remembers the Board approving the $32,000 to help you get through last year. What we are saying is that we haven't been convinced and that is why we were asking for a more comprehensive report. How you are different from other non-profits?
Steve – Does that translate that this Board is not convinced that this is fundamentally a safety issue?
Commissioner Houpt – Many programs we fund are fundamentally safety issues and advocate safe house is one. Steve argued there is nothing in place to address prevention for kids after the school day ends.
Commissioner Samson summarized the problem - it boils down to economics. The major concern is the program you have developed will not serve all school districts. There is a philosophical feeling out there that is two pronged. Number one, you are helping all these kids in Carbondale and Glenwood but none of the kids in Rifle, Silt, New Castle and Parachute. He does not see Steve's program expanding down there to next year because there are no funds. We must look at this issue both economically and realistically.
Commissioner Houpt committed to read the business plan carefully and suggested the Board honor their budget commitment this year, approved it and release funds to this program.
Chairman Martin stated his position regarding this program saying it is expanding government too far. Government is to take care of certain functions identified. Education of the students is not one of them and daycare is provided under the Human Services programs. It is not the appropriate role of county government to be in the care of kids after school. It is the school system and the parents that should be doing this. It's not the role of the police department to govern those kids.
Commissioner Samson – How much money do you need now to finish the school year?
Steve – About $32,000.00.
Commissioner Houpt – I make a motion we fund the program as it exists through the school year and if you want to approach RE2 and Parachute about a program and it looks like you will be coming back.
Steve – The installment you would be giving him now would be to cover January through June 10.
Commissioner Houpt – Additional clarification was noted for the 2009 - 2010 school year.
Carolyn – This would be on the standard form contract that we use; we call it the human services form even though this is not Human Services Commission money. It will be a straightforward purchase of service with a scope of services. The money comes out of general fund not out of the Human Services Commission actually it is under the BOCC funds.
Commissioner Houpt – To clarify the motion, it is to give Steve the $32,000 allocated in the budget, a partial allocation and added that the Chair is authorized to sign. Commissioner Samson – Second.
In favor: Houpt- aye Samson – aye Opposed: Martin - Aye

L. Capital Projects for Five-Year Plan – John Martin

Lisa provided an outline of the major capital projects that were discussed during the 2010 budget forecast presentation on March and she included the chart showing how this project will impact fund balance.
2010 Recommended projects:
Road and Bridge

- Infrastucture and major road overlays - $5M
- Heavy Equipment - $1.2 M
- Battlement Mesa Satellite Shop - $1M

Airport Fund

- Land Improvements, Machinery & Equipment, Building Improvements - $5M

Capital Expenditures Fund

- Sheriff Annex in Rifle - $2.2M
- VoIP - $400K
- DHS Annex in Rifle - $1.8M
- Relocate Communication Site - $540K

Landfill

- Land Improvements - $715K
- Machinery & Equipment - $300K

Motor Pool

- Replacement Vehicles - $300K

2010 Not Recommended
Capital Expenditures Fund
Elected Official Building - $2.1M ($500K spent to date)

2011 Recommended Projects\

- 4 Mile Road Resurfacing - $1M
- Canyon Creek Flash Flood Mitigation - $1M
- Parachute Interchange - $1M
- Vehicles, Heavy Equipment, Incidentials (servers, misc) $2M

2011 Not Recommended

- Pit liner cell $3M
- Elected Officials Admin Building - $14M

2012 Recommended Projects

- 4 Mile Road Resurfacing - $1M
- Parachute Interchange - $1.5M
- Vehicles, Heavy Equipment, Incidentials (servers, misc) - $2M

2013 Recommended Projects

- Vehicles, Heavy Equipment, Incententals (servers, misc) - $4M
- 4 Mile Road Resurfacing - $2M

Relocate Communication Site – 2010 project for $540,000

This is in regard to leased land by the County on BLM property for communications and we have structures in place for many years for everything from translators to radio traffic for Road and Bridge, Ambulance service, Police department, Fire departments, etc. There is a great deal of history behind these sites and the main issue is that BLM wants the County to relocate these sites to the top in order to have a better site distance mainly because of BLM's headquarters on top of the Roan Plateau, which has no service. It also enhances the sites so that other people can use it. We currently have contracts are in place and we receive revenue. We need to either honor them and do the upgrade or let them go and let someone else worry about communications. Dale Hancock has handled this in the past and has information in the files. A decision was made to have Ed Green communicate with BLM and bring this back to the Board.

Canyon Creek Flood Mitigation Site – a 2011 project for $1M

Commissioner Samson has gone up there and looked at the site and he doesn't think they need to spend $1 million for that; he doesn't think it is necessary.

Marvin – They are getting a lot of re-growth back on that and it has helped. Sometime in the future, if they want to go back they will have that work accomplished.

Kent stated he has had discussion with Roger O'Neil from High County Engineering. He is actually having a great deal of difficulty getting the homeowners to agree to remediation. Kent will have to bring the contract back to the Board on May 5 with a revised scope of work that will allow through the end of the year to try to find homeowners who too buy-into this improvement.

Chairman Martin –What we would do is also put that culvert underneath where you dug everything out, and then shoot it into the backyard of two or three people, which is about a 60 foot drop down to the drainage, so you are either going to have to fight that or you are going to have a huge flow. That is also, where the corrals and pens were flooded and all the rocks and debris that came through there in reference to the flash flood after the fire. It also affected all the way down to I-70 with all the properties there, which is the little red schoolhouse.

Marvin – Canyon Creek is not much different than our other roads that are all subject to flash floods.

Chairman Martin clarified that the items that we have for 2010 are committed and budgeted including the Elected Officials Building.

Elected Officials Building - $14M to $16M

Commissioner Houpt really has a problem pulling that because the Board has put a great deal of time into discussing this issue, they purchased land on 7th and Colorado, met with the City, the elected officials, the courts doesn't think it is appropriate to take it out. She stated they certainly aren't going to spend money until they know what they are doing or the timeframe. Things that are taken off this list will just kind of go into a black hole. That's a project that is already being worked on and discussed.

Ed – We have heard from the courts and have seen in the county's own budget the process that our employee levels are going to remain static for the foreseeable future. As a result, this is not a compelling need right now. It might make sense two or three years from now.

Chairman Martin – All of these projects are subject to the proper appropriation and each year it has to have a budget and each item would have to be discussed and placed into those items. We could choose if they were going to continue it in 2011/2012, or 2013 when those budget years come up. This needs to be looked at very closely to make sure these are priorities that they would like to see accomplished. Getting them accomplished may not be attainable.

Commissioner Houpt would like to hear from elected officials on that while we are still on 2010. It is just planning for an elected official admin building. We invested $500,000 on land for a parking structure if an when we build behind the Courthouse.

Chairman Martin – We have spent another $30,000 on renderings for the building.

Commissioner Houpt reiterated the security issue for the courts and how this is impacting the elected officials offices and the public.

John Gorman – Additional space is needed to operate, needs a meeting room, does not have an adequate break room, down 4 staff but managing. Reduced demand on some services. Okay for a couple of years. Speaking as a citizen he would like the county to do a couple of things, which includes planning and creating a downtown campus that included enough space both for all the county functions that need to be in the county seat as well as for parking for county employee and members of the public. He is convinced there is a way to eventually work with people, have public private partnerships to affect something very special. As a public official and as a citizen that anything we do needs to look at long term in utility and cost of any new structure. Research has convinced him that we would do very well to maximize energy efficiency and make use of some of the local talent as at Rocky Mountain Institute where they are designing buildings that are extremely energy efficient, modern, user friendly and they are doing it at or below conventional construction costs. Right now the business environment is such that building costs may be a bargain and putting individuals back to work building some good projects might be a boom to the local economy.

Georgia Chamberlain – Not enough adequate space for the present time but does have adequate staffing. Tremendous burden put on her office with the downturn in the economy, both in tax collection and the foreclosure process. New technology has placed our work area demands more space and she doesn't have that space, and the tax collection is not in and out. They have many things that require research and a lot of concentration; and her employees are on top of each other. If someone is on the phone it's hard to concentrate, or if a customer is talking it's hard to hear on the telephone. She has rearranged the office, which has been helpful. She was hoping that different desk/work area would help; but the reality is no it did not they really do need more space. She had budgeted for that in capital expenditures; but as a citizen, taxpayer, and as a prudent elected official, she doesn't want to spend money on expanding the space. If an architect came out and said, they needed to go out into the hallway and open it up, whatever. She doesn't know if that is a good use of the county's money if they will be totally remodeling the courthouse and staying in there, or moving to another building. She needs the space in Glenwood; she does not need the

space in Rifle. As far as trying to maintain the two offices in Rifle, one of the biggest problems she has encountered is that we have a very specialized software package for the tax collection, and also with the revenue receipting process that is the finances department's software. It is very hard to keep it up and running in both offices, and this is not because IT is not capable, and it is not that the IT department doesn't give them 150% of their time when they can. It is just the pipe is not adequate, and she needs the space and the workforce in Glenwood, and she can keep one person working at the Rifle office. She is looking for direction on how to move forward on providing quality customer service and efficient and accurate information coming out of her office. She feels it needs to be addressed.
Jean Alberico - Currently has adequate space for staff. Physically the office is not cramped; she agrees that the staffing will be pretty static for the next few years. No computer issues like Georgia does. The Department of Revenue computers are not on the county computers; we have separate dedicated lines the state put in. She still does have some issues just because of the communications abilities in the Town of Rifle. Sometimes the electricity goes out, sometimes the phone lines go out more so than they do in Glenwood. She agrees with John and Georgia that eventually we will need a new building. Agrees with John Gorman, put the time and energy into researching and developing a state of the art building that will be a zero energy building where the building itself creates as much energy as it uses.
Commissioner Houpt – We do have to address Georgia's issues. Have you given thought to what alternatives there might be in that building? You said maybe pushing that wall out. They are just looking for space.
Chairman Martin – Suggested a different location or another building. Example: The Citizens Bank building that is set up there is completely empty. The other one is the First National Bank building, which is completely empty. However, that causes hardship in reference to the communication with the Clerk and Recorder and the Assessor, etc. What it amounts to then, in this one is to reprogram the building, how are you going to handle that and who are you going to take out. We have done the same thing with the district attorney through their budget; taking them completely out of the building, put them in a different building, opening up an entire floor basically of the existing courthouse. At that point, the expansion and remodeling within that particular issue and have the DA within walking distance to the courthouse. We have done that in the past; that takes care of the expansion capabilities, storage etc. We have to make programs within the building if we keep everyone there within the county. And that is a State function; we are not required to give them housing.
Don – The District Attorney's office is provided in lieu of a funding issue that would arise because we are required to provide partial funding for the District Attorney's office. John is correct, which is not required if we provide an office, but through the funding requirement, this is in lieu of paying rent.
Chairman Martin can remember three different district attorneys that didn't use this facility across the street. Again, there are possibilities other than building a building. He still thinks the overall vision is to make sure that we choose a site, building and program properly as well as knowing what we are going to do with our existing building and how we are going to program it. That will take time and we need to do it right.
Commissioner Houpt – Absolutely, she agrees with everyone when they say they need to do it right.
Chairman Martin – To bring this to a conclusion; he thinks they need to look at the overall plan that was sent out to them. If there are really burning issues that they need to take off the 2010 or 2011 issues; identify them as Mike did. We go ahead and accept them as a guidance plan but not into absolute.
Road and Bridge
We may have to cut road and bridge equipment from $3 million to $2 million dollars a year and that is based on the economy. We do an inventory, we kind of step down in reference to transportation issues, vehicle issues, all the other things we have in place, live within our means. Stop spending as much money and do it wisely; we have fund balances to help us go down the path. Utilize those to the best; don't just allocate them as they are 100%. Do it step by step each year revising those priorities and we push the priorities back a year; we will have to do that through the budget process.
Ed – That is the whole point; that elected officials building is in 2010 and 2011 and its $16.1 million dollars. The question is; do you want to spend $16.1 million.
Commissioner Houpt doesn't think they should drop things off of the list; obviously we are not on track to build a building next year. This conversation would be a lot further along if we were.
Ed – That's the point; it is premature to put that building in 2011. It is in our five-year plan right now and that what we are suggesting is that it should not be there.
Chairman Martin agrees.
Commissioner Houpt – It shouldn't be dropped.
Ed stated the question he has is where do you want to put it?
Chairman Martin – At that point then you have to look at what your priorities will be and the answer is it is not going to happen in two years.
Commissioner Houpt would like to see us keep the planning for the building in 2010 and 2011.
Commissioner Houpt – We will have a much better idea of what is going on with our budget after the election season because of the initiatives. We will have a much better idea of what is going on with our tax revenue. She agrees with John; we just need to adjust as we move along and she knows that won't be easy in creating the budget.
Ed – The problem is what they showed the Board on the back page. You commissioned $10 plus million dollar projects; it's going to have serious fund balance degradation over the five year period.
Commissioner Houpt – We recognize that but we don't want to see these things that have been priority discussions in the community dropped into a black hole and go away. These are discussions that are important, There is going to be a need as they move forward and they need to get a handle on when the proper time for building.
Chairman Martin – And do as we have done; try to set money aside to allow that to happen.
John Gorman – In fact in this difficult time it may indeed give the county the kind of time it will actually take to do the wisest, most practical kind of planning for a modern structure. Indeed some of the technology available today maybe available tomorrow at less cost and there may also be some interesting technologies that we haven't heard about yet that could be incorporated into such a new building to make it more comfortable, more efficient and less costly. He does see Georgia's space issue as almost critical. He thinks they need to take a look at that building and see how, even on the same floor, if there isn't some storage space.

Commissioner Houpt – We need to look at all options; that is really a priority.
Chairman Martin – Agreed to push it back two years on the $16 million dollars. We will be doing the 2011 budget within about two months, so he thinks they should push it back to the 13. At least they can entertain it in 2012 and either move it forward or move it back.
Pit Liners in 2011 for $3M
The 2011 pit liner cell construction is out for sure.
South Bridge Project for 2013 for $4M
Chairman Martin – The feasibility of the South Bridge is still up in the air; you want to keep it in there for consideration.
Commissioner Houpt – They are dealing with EIS right now.
Chairman Martin understands that it's in county property, county jurisdiction for a city function, the City needs to either annex it and take on that project themselves. Do something with the airport; but that's another issue.
Commissioner Houpt – We talked about public private partnerships if there is more development that people want to do, so there is discussion there.
Transportation and Trails
Don – If you are moving out to 2013 there are some things missing in here. Notably anything for transportation, there's trail construction and you committed to the LoVA trail. He doesn't know what the Boards commitment is to the trail off of Battlement and Parachute known as the Library Trail.
Marvin stated there's enough money there to complete the project; you are talking $800,000.00 or more to complete that trail.
County Road 300 and Highway 6 & 24
Commissioner Houpt – What is the $2 million for County Road 300 and Highway 6 & 24; we had just talked about giving money for the study. She didn't think they had authorized $2 million dollars for that project.
Ed – That's the total cost of the project; we hope we have other participants.
Chairman Martin – You do with the railroad; there was one truck accident there and the railroad is now expanding and fixing their intersection since it wasn't operational. The one across the street; he believes they have a corporation that is committed to 50% or the north side of the intersection that needs to be paying because that is a special assessment that they took out. So you are looking at a cost to Garfield County, the George Strong portion, the RGZ gravel pit is ready to go; they are asking how much money do they need to put up and the total cost estimate is $2 million. What it amounts to is how much does the county contribute to the intersection; we don't know.
Don only raised these issues and he didn't even mention that intersection; but these are things that aren't in the recommended project list. He just wants to make sure the Board is aware of the fact that while you're taking out; there maybe things that you think are going to be included here and they don't seem to be listed.
Commissioner Houpt thinks it is difficult for her to read this if we have projects on here that we don't anticipate paying for. We will have to restructure that. It says under budget a certain amount is budgeted and we haven't budgeted $2 million for that project.
Access Road from Mamm Creek - $4M
Ed – That's part of the IGA the county has with Airport Land Partners. The commitment was to complete that after the runway project is complete. Remember we agreed in principle that we were going to improve all three facets of the road. The top, the west and the east and we are getting FAA funding for the west and the east is the only thing left after that. The FAA has made it very clear they will not fund that because it doesn't interfere with their runway.
Carolyn – The agreements that we have with ALP are all subject to budgeting and appropriation.
Chairman Martin – The fact is this is part of the planning process; if we can't afford it we can't do it. It's nice to have those in the long range plan and have them in cue. If we have the funds set aside to do such and the priority says that we are going to do them, then we place those items in the budget.
Marvin – They did upgrade a little bit on the east end; hopefully that will get them to whenever they have to rebuild it.
Don stated he only raised the issues he did on what might be omitted to make sure that the list that is submitted to the Board is complete in your mind?
Chairman Martin – The answer is it is never complete. Too many other projects out there that are important to individuals that haven't been placed on there; but he thinks that is still a group decision when it comes to budget time. That will be played out numerous times within the budgetary process.

HB 1238 – Letter of Support from Tresi Houpt

Chairman Martin – Tresi has a presented a letter with her support in reference to HB 1238, which is designated wildlife crossing zone and she would like Garfield's support. He noticed the list of supporters were from the State Patrol on down through the communities.
Commissioner Houpt asked if the other two commissioners would be willing to sign this letter.
Chairman Martin - It looks like it is going to pass anyway. The one downfall is going to be of course the slowing of traffic, which then leads to congestion. But it sure slows down when somebody hits an elk too. It is a doubling of fines like a construction zone or a work zone.
Chairman Martin – The zones would be established by the Division of Wildlife, CDOT and State Patrol through accidents and migration.
Commissioner Houpt – It is on the state highways system.
Commissioner Houpt – It has been a real problem on Hwy 82 and that's the focus.

Letter from the Silt Police Department

Commissioner Houpt – They are asking us to keep them in mind when we are retiring Sheriff's vehicles because they need them.
Chairman Martin – They are desperate and we have done that numerous times for other agencies.
Commissioner Samson – Silt's in dire straits, Parachute is in dire straits, and New Castle is getting there.
Ed – Do you want us to look at the deadline vehicles and see if there are candidates?
Commissioner Houpt – If we have some; she doesn't want to early retire any.

Pit Liners – Five-Year Plan

Discussion was held with respect to this being a dead issue except for the $25,000 previously spent. Staff at the landfill is looking for a solution and there is the possibility of some recycling opportunities that we could fall back on that at some point.

Ed – The question is can we move money from the general fund to the landfill fund to cover that cost?
Theresa – Their revenue reserve is extremely low.
Marvin – After May and June he can tell better; the way things are going now, they are going south fast.
Chairman Martin – Thinks the general fund is doing the same thing and so we have to be very careful. He thinks because they needed that study to make a determination with the Board; he thinks they need to pay for it.
Don – It has to be accomplished through a budget supplement.

- **Approval of Minutes**

Chairman Martin thinks they have what they should and they need to review.

Fair Grounds – General Admission

Commissioner Samson wanted some direction A discussion was held with respect to charging general admission fees or not.
Commissioner Samson and Commission Houpt have received calls from the public.
Consesus of the Board:
Participants: Kids, families and exhibitors do not pay to get in to the Fair.
Commissioner Samon will relay the message to the Fairboard to submit a proposal on charges for the Bull riding, Rodeo and Demolition Derby.

Meetings with Communities

Commissioner Samson – He will be having the mayors meeting and send out letters today. It will be in Silt, Monday the 26th. Is there anything that John and Tresi want him to bring up?
Chairman Martin would like to see some kind of a schedule from each one of the communities on their meetings and their times so that the commissioners could possibly visit those on a rotating basis, or each commissioner could choose and go once in a while to make sure they have good relationships on their meeting days, in the evenings. He thinks it is a good gesture; he has seen Rifle here more than anyone else.
Commissioner Houpt would really like to see meeting with the communities with the Commission; so, we have done it with Rifle, Glenwood and it's time to start traveling around the county again.
Commissioner Samson said he would tell them we would like a list of their schedule of their meetings; but also when they would prefer for us to come.
Commissioner Houpt – Those are two different things. She would like them to set up meetings with all the communities.

Representative Baumgardner

Commissioner Samson received a request from Representative Baumgardner to go and testify at the State legislative committee trying to get Naval Oil Shale Trust Funds. They think there is $48 million dollars there and as you know, 40% was to come to our county out of those funds. Ken Parsons who has been a Commissioner at Rio Blanco for many years gave a good history of that and so on, and Commissioner Samson testified and the committee vote was 8-0. They sent out a resolution to the United States Congress to try and put some pressure on our two US Senators to get a bill passed to get that money released directly to these counties and not go through the state. And that passed 8-0.
Chairman Martin – Because the appropriations acts said that it was exempt from the Federal Mineral Leasing and it was a direct deposit to each affected counties. Actually affected governments, and that was done, Mr. Udall and his staff was there when it was Senator Salazar. that actually attempted to do that. But then again they had another bill run so it would go straight to the Governor's office and they would put it in the Federal Leasing Act; so which one passed was not the one that they wanted to pass. But the other one did and they received that money and we are going to ask the State to pay us back that $48 million some time.
Commissioner Houpt – So it's already been distributed.
Commissioner Samson – No, he didn't think that was totally the way the resolution reads is that we are asking those two Senators to help us to short circuit that.
Commissioner Houpt – You might check and see if; she remembers this discussion last year and she is not clear on whether that money was already distributed to Colorado or not.
Chairman Martin – That's because $112.2 million dollars went for the sales of the leases for the Roan Plateau.
Commissioner Samson – But that's different.
Chairman Martin – Understand; but the original agreement that was to go into there because it happens to be royalties and sales and rentals, which are a lease go into that account. They short-circuited that and he thinks they took the rest of the money with them.
Commissioner Samson – We are talking about the original one.
Chairman Martin is talking about the same thing too. He is saying all of it was connected to the original appropriations act by Strong Thurman and the Transfer Act of the Naval Oil Shale Reserve money.
Commissioner Samson – Anyway, we have forwarded a resolution onto those two and hopefully they will pick up the ball and go with it. Now what he would say is; it would behoove all of three of us to encourage everybody as well as the three of us to call those two offices and say Dear Senator, would you please help us out here, we could use $15 million dollars over here.
Chairman Martin agrees; in his meeting with the Department of the Interior with the Secretary of the Interior, Mr. Salazar at that time, his chief staff, and his chief legislative person said that money has already been forward to the State of Colorado and it is gone. He thinks there is more to it than a simple resolution.
Commissioner Samson – It's a beginning.
Chairman Martin – It's a continuation is what it really is.

Continued Meeting

Wednesday – 10:00 a.m.
Topics:

- Code Enforcement
- Discussion and direction on the proposed amendment to Rule 905B of the Colorado Oil and Gas Conservation.
- Letter from Representative Baumgardner

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MAY 3, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. in Glenwood Springs on May 3, 2010 with Chairman John Martin and Commissioners Mike Samson and Commissioner 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

ADMISSION PROPOSALS – JIMMY SMITH

David Ebeler, Jimmy Smith and Linda Morcom passed out the Event and Gate Pricing for the Garfield County Fair August 4 – August 7, 2010. The Fairboard has been looking at the rates and he explained the two scenarios that we could charge for individuals versus the gate fee. Scenario A is the preferred and Scenario B is a gate fee. The Fairboard is favoring Scenario A and charge for the events. The prices for each event are listed on the handout. The risk by not charging a gate fee is covered in the charges for the event fees. The bottom line is that the County Fair needs to be an economic as possible and give back to the community for the past many years. Fairs are a business but keep in mind just what the county fair is about. There is an estimate of $128,000 income, not including beer garden sales, which we get 40% of those sales. It does not include vendor spots and that income is not included in the $128,000 or the sponsorships and we expect to get $40,000 to $50,000.

There is a gate fee of $5.00 for the rodeo and we have had this for 75 years. In order to offset the expense, then what we entertain doing is having this as a family day. By following the state fair for the rodeo, the bottom line dollar winds and makes about $12,000. Last year we charged $8.00 for the fair. We lost about $8 to $9,000 last year. We have secured hotels for the rodeo riders with an offset of sponsorships. Our anticipation is to triple the individuals who attend the rodeo and with the $5.00 admission fee, everything else is free for this family day. It is a proven fact that you need advertising. We have just now started that advertising and we are 3 months behind.

Commissioner Samson feels things are on track and is comfortable with Scenario A.

Elizabeth Chandler for 4H is behind the fair.

Lisa –The finance department takes care of the money. We do support not charging a gate fee and support Scenario A.

Commissioner Samson made a motion that we approve Scenario A which is the preferred for the Garfield County Fair events. Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye

NEW MEMBERS

Dawn Patten and Barb Ranke have asked to serve on the Fairboard due to two lost members. It has been hard to get individuals to advertise.

Letter are needed requesting these and put this on the agenda.

Ed – Previously we have advertised for the board.

Jimmy –We have members on the FairBoard from Glenwood to Rulison and they have a wide range of expertise; it would be nice to have someone on the Board from Carbondale, but it is a long drive and requires commitment.

Commissioner Houpt – Wants to make sure we are following protocol.

Commissioner Samson – Time is of the essence, we have advertised extensively. He favors leaving it with the FairBoard and when we need volunteers, he has no problem of having these individuals included on the Board.

Jimmy – We spend 20 – 40 hours per week working on the Fair. He will formally submit a letter to the board with the request to appoint these two volunteers.

Camping and a policy – Historically this has been allowed and adds benefits to participants and vendors. We have provided that opportunity to camp on the fairgrounds particularly for the livestock portion. The Fairboard does not want to be the decision maker and we do recommend camping applications be made.

Commissioner Houpt – This would be limited to vendors and those participating in the Fair.

Commissioner Samson asked if there was any preference for out of county folks.

David – Preference is with the vendors and the participants. Once we know how many camping spots.

Carolyn suggested we do have Camping Agreements and Use Agreements laying out liability.

David said in the past they have not but if the Board wishes we can do that.

Chairman Martin – A use agreement for someone to stay overnight would be overkill.

Carolyn was concerned if a child gets hurt.

Commissioner Houpt – Just a release that is not an overkill tool.

Carolyn – Use Agreements are short usually one or two pages and it lays out liability that is the major issue. It says if you are going to use our ground.

Commisioner Samson – Sees this as a good registration tool, who is located where and who is responsible and entitled to that space.

David – It has always been a problem in the past and this would help.

Jimmy – There is the potential for those types of issues but it has always worked well in the past.

David – We have four showers, two for women and two for men, and the bathrooms is plentiful. We do have adequate sanitary facilities. To register folks is a good idea.

DONATION OF SHERIFF'S VEHICLES TO TOWN OF SILT – LEVY BURRIS

Marvin Stephens was present. Betsy brought up this issue several months ago and the Board asked us to put this on the back burner until we knew what was available.

Commissioner Houpt things we talked about all the communities that have need.

Ed said Silt is the one most in need.

Marvin said we have been receiving calls from other places.

Matt said DeBeque is requesting one vehicle and Rio Grande County was begging for one.
Chairman Martin requested the number of vehicles available.
Matt said if we do a normal rotation out I will have 4 of 5. But only one is F150 and none of these have the police package still in them. The ones with the police package we are rotating out which is 4 of them, we need to give 3 of them to Building and Planning – they were promised to them last year because they need 4-wheel drive to get into some of these places they are building. This leaves us with the newer and we rotate those into the general pool.
Commissioner Houpt – The ones not spoken for…
Matt – Two Ford Tarsus, a blazer, and one F150 as of right now. The F150 has been stripped, no light bars etc.
Chairman Martin – Silt could use it to go ahead and put their equipment on.
Matt – We will have more equipment. We are rotating the Tarsus at 120,000 miles and then we generally keep them for another 30,000 miles in a department before we get rid of them. The F150 is a previous one that has been rotated out. We will take all that equipment out and then use if for another 30,000 miles and right now, it is at 124,000.
Commissioner Houpt asked if we could rotate the F150 into Building and Planning and give them one that has not been stripped. In addition, give Silt the one with all the police equipment. Silt will need the equipment. We have the equipment that we have taken out of these vehicles. We will use those for spare parts.
Commisioner Houpt – So if one of them is set aside and the ones that we have.
Marvin – We will strip three of them and put them in building and planning.
Chairman Martin – Then give the one to Silt.
Ed asked if the Board wants to give any of the other four to DeBeque or Rio Grande County. Two Tarsus and a blazer.
Commisisoner Samson – Before we do that we should notify or at least contact Parachute and see if they could use one and also New Castle, all municipalities but those in particular because I think Silt, New Castle and Parachute are in tough financial situations.
Marvin – If they do not need them, I would like to see DeBeque if there's one available. They are deputized and they do respond. We will check with the other municipalities. If they do not want any then we'll give one to DeBeque.
Commissioner Houpt agreed with Mike is right, there needs to be some need shown for using that because these other communities obviously can demonstrate need also.

GARFIELD HOUSING AUTHORITY NEW BOARD MEMBER – GENEVA POWELL

Ed presented for Geneva Powell submitted the name of Linda Hanson to replace Joan Baldwin who resigned. Geneva requested that Linda Hanson be appointed a 5-year term on the Garfield County Housing authority Board.
Commissioner Houpt made a motion to appoint Linda Hanson for a 5-year term to the Garfield Housing Authority Board. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye

BOND RELEASE, OPTIMIZED PROCESS DESIGNS, INC. – MARVIN STEPHENS

Marvin Stephens submitted the satisfaction of permit and release of security for the bond number 105252313 for the Optimized Process Designs, Inc and requested the Board approve the bond release.
Commissioner Houpt made a motion to approve the release the bond number 105252313 for the Optimized Process Designs. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

SPECIAL EVENT: THE LEG BREAKER TIME TRIAL – MARVIN STEPHENS

Marvin Stephens submitted the location for the event; the road affected for the cycling is CR 109 leaving near the Thomson Creek Bridge and heading north approximately 5 miles to a turnaround point near the Iron Bridge turnoff. There is an anticipated 100 to 150 participants for an event dated May 11, 2010. The applicant seeking the Mitch Hyra. There will be a registration/start area about ¼ mile north of the bridge near CRMS. Marvin wanted the Board to be aware however, he has approved these through his department.

SPECIAL EVENT: COLORADO JUNIOR STAGE RACE – MARVIN STEPHENS

Marvin Stephens submitted the road permit application for the Colorado Junior Stage Race to be held on Sunday, July 18 with roads affected, Silt Mesa, Peterson Lane, Mile Pond Road, Green Lane, 1st and 7th Street in Silt. A-1 Traffic control, Mr. Sommers, will provide safety for the riders. This was just for information to the Board.

STAFF RECOMMENDATION TO APPROVE ONE YEAR LEASES WITH ZIPPYTECH, INCORPORATED, D/B/A CEDAR NETWORKS FOR PRI LINES FOR THE HUMAN SERVICES, JUSTICE CENTER, AND REGIONAL AIRPORT – KENT LONG

Kent Long, Matt Davis from IT and Richard Alary submitted the ZippyTech dba Cedar Networks, a telecommunication service provider in the Rifle area. Board action was requested to approve or disapprove the final negotiations of the Terms of Service and clarify if this was exempt from the competitive solicitation for bids under the Rule 5.9.1, GCPC.
Don – This also has a funding issue due to the fiscal year. This was not budgeted in 2010. The issues are not that unusual. These are similar to other software that the Board has approved.
Commissioner Houpt made a motion to approve the lease agreements with ZippyTech dba Cedar Networks for PRI lines for 2010 and 2011 and encumber full amount of lease in 2010 for the Human Services, Justice Center and Regional airport in the not to exceed amount of $5040.00 for each location as presented by staff. Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

STAFF RECOMMENDATION TO APPROVE A RENEWED CONTRACT WITH HIGH COUNTRY ENGINEERING TO: FINISH THE ENGINEERING DESIGN FOR FIRE DAMAGE REMEDIATION PROJECTS ON COUNTY ROAD 137 (CANYON CREEK ROAD); TO CONTINUE TO CONTACT HOMEOWNERS LIVING ADJACENT TO COUNTY ROAD 137 TO DETERMINE THE INTEREST FOR FIRE REMEDIATION PROJECTS ON THEIR PROPERTY; AND, AUTHORIZE THE CHAIR TO SIGN THAT CONTRACT IF APPROVED – KENT LONG

Kent requested to withdrawn this from the agenda.

STAFF RECOMMENDATION TO AUTHORIZE THE CHAIR TO SIGN A FIRM, FIXED PRICE CONTRACT IN AN AMOUNT NOT TO EXCEED $1,179,936.45 WITH UNITED COMPANIES

OF MESA COUNTY FOR CHIP SEALING VARIOUS GARFIELD COUNTY ROADS – JAMAICA WATTS

Marvin Stephens, Kent Long and Jamaica Watts submitted the summary of solicitation of bids for the chip seal of various Garfield County roads to United Companies of Mesa County in the amount of $1,179,936.45. Jamaica handed out a visual map.

Marvin stated he worked with Steve Rippy and Battlement Mesa selected the roads they would like to have chip sealed.

Commissioner Samson moved that we approve the contract with United Companies in an amount not to exceed $1,179,936.45 for chip sealing various Garfield County roads as presented.

Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye

STAFF RECOMMENDATION WAIVER FOR FORMAL SOLICITATION PROCESS AND RATIFICATION OF CONTRACT TO MARTIN APPARATUS, INC. FOR THE RE-CONDITIONING OF THE FIRE TRUCK IN SUPPORT OF THE GARFIELD COUNTY REGIONAL AIRPORT – MATT ANDERSON

Brian Condie, Kent Long and Matt Anderson submitted the summary of contract award for the ratification of services to Martin Apparatus Inc for the reconditioning of the fire truck in support of the Garfield County Regional Airport in an amount of $77,834.54. It is anticipated that these repairs are to be made during the time of the closure of the airport.

Brian stated they did have quotes for the refurbishing. He decided not to go out for an RFP, as there are only three companies that do this type of work. A fire truck cost $250,000 to $500,000 for a new one.

Commissioner Samson made a motion to approve the contract to Martin Apparatus Inc for the reconditioning of the fire truck in support of the Garfield County Regional Airport in an amount of $77,834.54. Commissioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye

ED'S EXECUTIVE SESSION - COLORADO WEST – EX SESSION

COUNTY ATTORNEY UPDATE: DON DEFORD

DISCUSSION/DIRECTION TO STAFF RE: HEARING OFFICERS FOR BOARD OF EQUALIZATION

Don DeFord stated he was at a point to advertise for BOE officers.

Commissioner Houpt – We need to hear from the Assessor's office as to what they anticipate.

Don will set this for further discussion and invite John Gorman.

This was postponed until May 10 at 10:15 a.m.

CLARIFICATION OF DELEGATION OF AUTHORITY AND WAIVER OF FEES – AIRPORT INDUSTRIAL PARK PUD AMENDMENT – CAROLYN DAHLGREN

Carolyn Dahlgren – For your entertainment I put in an email from Marian to me dated October 7, 2009 because when I asked the Board for a motion what I asked you for made no absolute sense whatever. So, once we got this application in front of the building and planning department, I thought I'd better come back and ask you to redo this motion. What Brain and I should have been asking is authority for Brian as the Airport director to act on your behalf as the owner/representative, the owner being the Airport Land Partners to process a series of applications that we needed in order to be able to use construction materials from ALP owned property at the Airport. The first one is to process a land use code text amendment to add uses to the ALP, the second is to correct a plan map that would include two zone districts left off the map in 2001 when you process an application to add the public administration property, the boot property is what we call uses in the boot property and also to authorize Brian and Mark Messa to act as representatives of the owner and as your representatives to process the safety RMS provision reclamation of mine safety and a county land use code permit to move construction materials from the private property to the public property. That last piece we never publically asked you to authorize Brian and Mark to act, but because we are moving dirt and gravel from private to public land you have to get a state permit as well as a county permit. Then also, I am asking you to reaffirm that September 21, 2009 motion when it hit building and planning they said, huh, what you were saying. You did publically authorize a waiver of both the application and review fees but it did not come out very clear in the minutes. So, I am asking you to authorize Brian and Mark to do those three things and then to ratify your prior motion waiving application and review fees. Commissioner Houpt so moved. Commisioner Samson second.

Commissioner Houpt – So you have everything now that you need.

Carolyn – I hope so. It will be embarrassing if we have to come back and ask for something else.

Brian – But if we do, we will. In favor: Samson – aye Martin – aye Houpt – aye

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – VERY BRIEF UPDATE ON THE VALDELAY LITIGATION, DISCUSS WITH THE BOARD THE STATUS OF CONTRACT NEGOTIATIONS FOR RIGHT OF WAY ACQUISITION OF COVEY ON CR 306 – RELATED TO BOTH THE DIXON/DUTTON PROPERTY AND THE BOSELY PROPERTY, ED'S ITEM ON COLOADO WEST FOR CONTRACT NEGOTIATIONS AND PROVIDE WITH VERY BRIEF LEGAL ADVICE CONCERNING THE SENIOR BENEFIT PROGRAM SET AT 10:15 TODAY.

Commisioner Samson made a motion to go into Executive Session. Commisioner Houpt second.

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

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

Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

Action Taken:

None

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers – COPS Debt Service for June 1, 2010
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Liquor License Renewal for Ken Seidel Enterprises, LLC dba The Arroyo Saloon in Battlement Mesa – Jean Alberico
f. Authorize the Chairman to sign a resolution of approval for a Water Impoundment on a 2,130-acre parcel located southwest of the Town of New Castle and owned by the Richard and Mary Jolley Family LLLP – Kathy Eastley

g. Authorize the Chairman to sign a resolution of approval for a Pipeline/Pump Station on a 7-acre parcel located southwest of the Town of New Castle and owned by JACE, LLC – Kathy Eastley

Commissioner Samson made a motion to approve the Consent Agenda items a – h.
Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye

ASSESSOR'S OFFICE

RED CANYON PLAZA, LLC – ABATEMENT NO. 10-114 – SCHEDULE NO. R060049

Lisa Warder presented the abatement saying the taxes assessed against this property for tax year 2009 are incorrect due to the petitioner providing information to the commercial appraiser that indicated the overvaluation. The amount of the abatement is $11,878.56.

DON KRIZ YOUTH FARM, INC. – ABATEMENT NO. 10-103 – SCHEDULE NO. R210604

Lisa Warder presented the abatement saying the petition states that the taxes assessed against the property for tax year 2009 are incorrect due to this property was determined to be partially exempt as of 4.23.09 by the DPT, File #23-01181-01 as 12.63 acres contained a deed restricted wetlands preserve. The abatement is for $1,321,24. Ken Kriz agrees with the findings.

HEAVY CONSTRUCTION SERVICES – ABATEMENT NO. 10-053, SCHEDULE NO. R042734

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,195.20.

ABATEMENT NO. 10-054, SCHEDULE NO. R042736;

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,604.12.

ABATEMENT NO. 10-055, SCHEDULE NO. R042737;

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,330.72.

ABATEMENT NO. 10-057, SCHEDULE NO. R042739;

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,057.36.

ABATEMENT NO. 10-058, SCHEDULE NO. R042740;

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,996.96.

ABATEMENT NO. 10-059, SCHEDULE NO. R042741;

Lisa Warder submitted the abatement stating that this was a clerical error; the value was adjusted during the protest period but was not input into the computer. The abatement amount is for $1,445.04**.**

TRAILS & RAILS WEST, LLC – ABATEMEMT 10-111 – SCHEDULE NO. P004774

Lisa Warder submitted the abatement stating that this was an owner clerical error in the reporting of the cost of real property with personal property. The abatement is for $2,064.64.

GLENWOOD SPRINGS MALL, LLLP – ABATEMENT NO. 10-092 – SCHEDULE NO. R020439

Lisa Warder submitted the abatement stating this was due to clerical error; the Assessor's office was notified of 2 units in the Glenwood Mall that were leased by the State of Colorado, rendering them both tax exempt. The Assessor only had one of the units on their records. The abatement is for $1,377.84.

KUM & GO L.C. #4951 – ABATEMENT NO. 10-075 – SCHEDULE NO. P310872

Lisa Warder submitted the abatement saying this was due to clerical error; the original cost was put into the system incorrectly. The abatement is for $109,747.15.

CAROL FULLER – ABATEMENT NO. 10-093 – SCHEDULE NO. R020385

Lisa Warder submitted the abatement saying this was due to clerical error; the office was notified that two units on this property were leased by the State of Colorado rendering both units tax-exempt statutes. The office only had one unit on their records. The abatement is for $6,458.64.

VILLAS DE DANTA LUCIA, INC. – ABATEMENT NO. 10-101 – SCHEDULE NO. R045834

Lisa Warder submitted the abatement saying this property was determined to be exempt as of 4.30.09 by the DPPT, File #23-01181-01 thereby the property was prorated from 1-1-09 through 4-29-09 for $21,040.52.

E. SLOAN & ELIZABETH EVANS SHOEMAKER – ABATEMENT NO. 10-104 – SCHEDULE NO. R111971

Lisa Warder submitted the abatements for taxes assessed against the above property for tax years 2008 and 2009. As of January 1, 2008, improvements were 25% completed and as of January 1, 2009, they were 100% complete. For tax year, 2008 the abatement is for $2,659.64 and for 2009 the abatement is for $1,227.16.

Commissioner Houpt moved to close the public hearing. Commissioner Samson second. Motion carried.

MOTIONS:

Commissioner Houpt made a motion Red Canyon Plaza, LLC – Abatement No. 10-114 – Schedule No. R060049 in the amount of the abatement is $11,878.56.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to approve the Don Kriz Youth Farm, Inc. Abatement No. 10-103 – Schedule No. R210604 for $1,321,24.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-053, Schedule No. R042734 be approved in the amount of $1,195.20.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-054, Schedule No. R042736 be approved in the amount of $1,604.12.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-055, Schedule No. R042737 be approved in the amount of $1,330.72.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-057, Schedule No. R042739 be approved in the amount of $1,057.36.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-058, Schedule No. R042740 be approved in the amount of $1,996.96. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye

Commissioner Houpt made a motion Heavy Construction Services – Abatement No. 10-059, Schedule No. R042741 be approved in the amount of $1,445.04. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to approve the Trails & Rails West, LLC – Abatement 10-111 – Schedule No. P004774 for $2,064.64. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to approve the Glenwood Springs Mall, LLLP – abatement No. 10-092 – Schedule No. R020439 in the amount of $1,377.84**.** Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Kum & Go L.C. #4951 – Abatement No. 10-075 – Schedule No. P310872 for $109,747.16. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion Carol Fuller – Abatement No. 10-093 – Schedule No. R020385 for $6,458.64. Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion **V**illas De Danta Lucia, Inc. – Abatement No. 10-101 – Schedule No. R045834 for $21,040.52. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion E. Sloan & Elizabeth Evans Shoemaker – Abatement No. 10-104 – Schedule No. R111971 for 2008 the abatement is for $2,659.64 and for 2009 the abatement is for $1,227.16 Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

APPLICATION FOR NEW LIQUOR LICENSE: 35TH AVENUE CAFÉ BAR ON BATTLEMENT MESA. APPLICANT IS FRANCISCO ESPINOZA – JEAN ALBERICO

Jean Alberico, Francisco and Claudia Espinoza were present.
Jean submitted the Retail Liquor License for a new application for a hotel and restaurant license. All the fees and paperwork have been submitted. He is wanting to open a restaurant where White Buffalo West closed. What he needs for the Commissioners today is first of all determine the neighborhood so we can prepare petitions for him to circulate and also to set a hearing date and we are asking that be set for June 7, 2010.
Don stated this is a new business and this is an application for a new license. We need to have a neighborhood established since this is a new liquor license.
Chairman Martin – The neighborhood had been established when White Buffalo West had the liquor license. Let's go forward and establish a neighborhood. It is within the commercial Battlement Mesa area, which is next to Clark's market, Alpine Bank and a few other establishments.
More discussion took place regarding the neighborhood.
Don – What you are looking at is what area could be impacted by the establishment of new license. This is a case-by-case call that usually includes a residential area of vicinity, other facilities, other commercial areas that might have this type of facility, schools, public facilities and then include those in the area so any of these entities can comment if they wish. You as the Board are restricted to looking at the needs of the neighborhood you define.
Commissioner Samson – Research the White Buffalo and make that the same perimeters and he made a motion define the boundaries for the petition for the liquor license for 35th Avenue Café Bar, Inc. in Battlement Mesa be the same as previously for the White Buffalo establishment. Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Samson moved that we set June 7, 2010, an item agenda for the public hearing for the application of the liquor license for 35th Avenue Café liquor license in Battlement Mesa at 10:15 a.m. Commissioner Houpt seconded. In favor: Samson – aye Martin – aye Houpt – aye
Jean is responsible for the public notice and will provide the applicants with the petitions and the neighborhood and a sign for Mr. Espinosa to post indicating that they have applied.

SENIOR BENEFIT – LISA DAWSON, GEORGIA CHAMBERLAIN, JOHN GORMAN

Lisa Dawson, Lisa Warder and Georgia Chamberlain as well as the senior group with Mildred as the spokesperson.
The finance, treasurer, assessor and legal departments have been meeting about the senior benefit and it has been our goal to propose a solution for distributing this that is legal, timely and meets your criteria. It is our interpretation of state law that it is not legal to use the state tax deduction list and so therefore under that premise, we had to come up with a method that we could propose to you that wouldn't use that list and we also were trying to get the process done as soon as possible so that we could issue these checks. So, after researching a number of different options, we agreed on one doable approach and that would be to develop a list based on active voter registration. We could, Jean has the ability to create a list based on a number of different criteria and in the packet I gave you, we propose one scenario where we would base it on the number of years that voters were active. That would give us some numbers to start this discussion with and for example and it is our recommendation that if we use a criteria of active registrations who've been active for the last 10-years, that would hopefully align as closely as possible with the folks who are also getting the state tax exemption. I recall that when we were discussing it with the Assessor's, the state tax exemption was approximately 1200 or 1400 folks so the list of active voters over 65 and who have been active for the last 10-years is 2,456 so a slightly bigger number hopefully it encompasses most of those folks there and if we take that number and divide by $400,000, we would be able to give each person a senior benefit of $162.87, that would be a one-time benefit that we would do. If you agree to that criteria, my staff could have the checks ready to be mailed by June 30. That is our proposal. Another option that we had talked about was that you could give the $400,000 to a senior community organization and allow them to distribute it. Those are our two proposals.
Discussion and direction:
Commissoner Samson – I like your proposal the best and probably where we should go and our finance chief will take care of it, the only thing I want to make sure that we have set up somewhere in the criteria that if someone is overlooked, they have a right to appeal to whoever it is to say, I do meet the criteria, etc.
Chairman Martin – That is a percentage of the overall amount that needs to be set aside if we don't distribute 100%. The other one is it covers more folks however if there is a married couple they will get two checks instead of one check. I understand that. the other one that we need is to make sure that when we do the step by step process that the postcards that are send out and all expenses come to the board, that we have a signature line to make sure that those folks have received it and it is double sided, they can send it

on back that they way Jean can also verity in reference to active voters. This might help clean up your records.
Jean – If you do a mailing, it will help, there is a percentage any time you do a mailing to a list of active voters, you are going to get a percentage of those back. So my suggestion was before you mail out checks that you want to do a postcard.
Chairman Martin – A double-sided postcard that comes back to us with the new or verified address, etc. If we get some of those back maybe we need to do a little more research on those seniors if the address has changed and if they are still eligible and that will help you update your rolls. Also, I understand you are volunteering some of your staff to help work with this particular program.
Jean – I've told Lisa if they need help stuffing envelopes, preparing things, I do have people that would be available.
Commisioner Houpt – So the criteria you are suggesting is that they then be on the voter rolls for 10-years and they are over 65.
Chairman Martin – Okay, any questions of these three? Mildred had some information and she submitted a letter from the council.
Mildred – Primarily, with the Senior Advisory Board, and what we came up with before was just coming to Jean on the property. We have a lot of seniors in this community that are 65 and older that are hurting just as bad so I think this proposal gets to more of the seniors and will help more of them. The main thing is that it is 65 and older. I like the 10-years too and the one thing it might do to is it may help Jean with getting some of the addresses straightened out before she has to send you Primary Ballots. We could do a double thing here and help out several. Otherwise, the Senior Advisory Board was all for going ahead and getting something out there to the senior.
Commissioner Houpt – Thank you so much for looking at that and really appreciate hearing from the advisory board.
Chairman Martin – Dave Sturgis who is also on the advisory board came by and asked his apologies that he could not be here today. Mildred recognized all the members.
Mildred Alsdorf, Mary Jane Hangs, Hilda, Sonny, Joanne and Nancy are also on the advisory board.
Chairman Martin – Is there any objections to what Mildred has proposed that she supports that particular option.
Georgia – Lisa and I are working on the mechanics of actually issuing checks and making sure the money is there but it is more a system thing on appearing on the budget and making sure we meet all the requirements of the auditors.
Chairman Martin – the other item we may have if we do approve this, I would also like to it posted on our website and also a newsletter, Judy that goes out to the seniors and the different programs that are there and get the advertisement out as much as we can.
Commissioner Samson – Would like it in the newspaper as well.
Chairman Martin – To look for their postcards and make sure they are returned.
Lisa – Can I ask that you differentiate between the senior benefit and the senior exemption because the senior exemption is very different, the rules are very different and we want to make sure that seniors keep applying at the Assessor's office for the senior exemption that carries on throughout the year.
Chairman Martin – We will discuss that particular wording to make sure there is a difference and it does not get confused.
Mildred – At the senior meals and everything we can bring it up which will help.
Chairman Martin – If there is a decision, I would like a motion so we can adopt this particular process so that we can put it into motion.
Don – Let me suggest before you make a motion that the motion authorize the Chair to sign a Resolution that would establish a senior benefit program for 2010 and then in the motion include the criteria that you wish the staff to follow.
Commissioner Houpt – I will make a motion authorizing the Chair to sign a Resolution for the senior benefit for 2010 using the criteria brought forward by staff following the voter registration with 10-years active voter, 10-years of residence and a benefit provision for seniors 65 and over with a cost to the county in an amount not to exceed $400,009. Commissioner Samson, I will second the
Chairman Martin – Now we need authorization also for the expenditure for mailings which will come out of the operational budget, so that would also have to included.
Lisa Dawson – I have a comment about that. In Tresi's proposal, you mentioned residency and that was not one of our criteria, what the criteria was …
Commisioner Houpt – The criteria is being on the active voter registration roles for 10-years and I will …
Don – This carries with it the implication of both residence and legal status.
Commissioner Houpt – I will amend my motion eliminating the residency status.
Commissioner Samson amended his second.
In favor: Samson – aye Martin – aye Houpt – aye

CONSIDER A REQUEST TO VACATE AND RELOCATE A PORTION OF CR 121 (COULTER CREEK ROAD) RIGHT-OF-WAY. APPLICANTS ARE JAMES AND HENSLEY PETERSON. THE PUBLIC HEARING FOR THIS APPLICATION WAS CONTINUED FROM THE APRIL 12, 2010 MEETING – KATHY EASTLEY

Kathy Eastley, Deb Quinn, Tin Thulson and James Peterson were present.
Kathy requested a continuance until May 17, 2010.
Commissioner Samson so moved to continue this until May 17, 2010.
Commissioner Houpt – second. In favor: Houpt – aye Samson – aye Martin - aye

CONSIDER AMENDMENTS TO THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED REGARDING CLARIFICATIONS TO ARTICLE 7: ADEQUATE WATER SUPPLY AND WHEN LEGAL DESCRIPTIONS ARE REQUIRED PER SECTIONS 4-502(C)(2 AND 3) AND SECTION 5-502(C)(2 AND 7) - FRED JARMAN

Deb Quinn reviewed the notification requirements for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing. All three of the public hearings were noticed in the Citizen Telegram.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits into the record: 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 –Staff Memorandum dated 5-3-10; Exhibit E – Proposed Language for "Adequate Water Supply;" Exhibit F – Power Point Presentation regarding Legal Descriptions on Site Plans

Change of legal descriptions – February 16 and a provision in our land use code, legal descriptions. In some cases, this property can be related to 55,900 to 65,000 acres of land but the actual disturbance is only 2 acres.

Fred Jarman submitted the Background and Purpose saying as expected and anticipated, as Staff has been administering the new Unified Land Use Resolution of 2008 (the Code), we have identified substantive conflicts, mis-references, typographical errors, unintended timelines, and unanticipated omissions of language and regulatory provisions. In order to resolve these issues, this memorandum contains proposed amendments to the Code to address these identified issues to make the Code more easily understood and user-friendly to the general public.

As you recall, the BOCC held a work session regarding how legal descriptions were to be practically applied in the Code. Additionally, Staff suggested specific language changes to the BOCC, which the BOCC forwarded to the Planning Commission for their review. On March 24, 2010, the Planning Commission reviewed and discussed the proposed amendments and unanimously recommended the BOCC approve the changed that were sent to them by the BOCC.

Additionally, Staff has identified several mis-references and needed clarifications to Article 7 that deals with "Adequate Water Supply" so that the section is more easily understood by the public and Staff.

The Planning Commission also suggests that the following language be added to Section 5-502(C)(7)(e) as follows:

<u>If an exemption is sought on a property where a single-family dwelling exists which is presently served by water, wastewater, and access, the required legal description as described in 5-502(C)(7)(e) may only apply to the new lots created by the Exemption process.</u>

The permits run with the land and by doing this amendment is assists staff to denote the permit and the acreage the permit covers.

I. Adequate Water Supply – Exhibit E has the proposed changes.

Staff analysis: A metes and bounds legal description of a subject parcel is not necessary for all permit applications. Large parcels may be more appropriate for the site plan requirement to apply only to the specific area of review involving the land use activity on a larger parcel and to develop a metes and bounds legal description for this specific area to locate it within a larger tract.

Subdivision Exemptions: The property boundary requirements appropriately apply to the subdivision exemptions; however, applying these requirements to the exemption review may require additional discussion by the BOCC, given that it would necessitate a survey of all parcels created by exemption, including the "remainder" parcel.

Staff Recommendation:

1) Site Plan: Staff is requesting immediate direction to clarify the vicinity map and site plan requirements as follows: Section 4-502 Description of submittal requirements, Maps and Plan regarding vicinity 2.0 map and 3.0 site plan.
2) Subdivision Exemptions: A request to allow to continue to process applications under this proposed language so not to hold up applications due to the impractical application of the current regulations. This will also allow staff to be consistent with the way the BOCC has applied the land use code in the past.

In response to a question from Commissioner Houpt, Fred stated this is what you said in your Code that you believe is important for an applicant to show in a land suitable analysis as the first review point to what they were able to do with their land.

Deb said before we made the changes it talked about a water supply plan pursuant to 7-104; there is no requirement for a water supply so we added 7-105. If we said and a water supply plan pursuant to 7-104 or 7-105 it might still lead people to think that a plan is required under 7-104. So rather than cause that confusion we just talked about an adequate water supply which is required under both of those sections. This list of requirements for land suitability analysis applies across the board to any kind of application, it can apply to those who require an adequate water supply under 7-104 in which no plan is specified and it would also apply to those under 7-105 which does have a plan. It think by deleted the word you avoid confusion about which of those two sections requires a plan.

Chairman Martin – On the following page there is an expectation of the different sections 7-104 which is a significant legal and physical water source and on the next page it defines what adequate water supply in 7-105 is, so they are getting two sections in on one sentence. One is just adequate water supply and the other is what is your plan if you need to have one.

Commissioner Houpt – I will move forward but I don't agree with that seclusion. I don't think that makes sense.

Loren Prescott with Olson Associates and I am here on behalf of a variety of natural gas industry corporations; I've been working with a staff throughout the process of the Code amendments and this is an often an effective process. This particular change was discussed at the Planning Commission meeting and I have notes specific concerns related to the changes to this but I do want to identify that this particular topic relates to the various areas of the Code that are a bit ambiguous or inconsistent. Some additional discussion needs to take place perhaps in the form of a work session with staff and any other parties that might be appropriate. One of the best examples I can offer you is that in permitting particularly water supply is represented by either a vault and haul system or a well and in my recent experience staff would impose the requirement of a well on a facility that is permanent. Unfortunately, there is nothing in the Code at this time that defines what a permanent facility is within the context of a timeframe. I would like to pursue that with staff. Additionally, I believe within the context of my recent experience that at times it is not always appropriate to impose the requirement for a well on a permanent facility simply because there may not be water available. Again, this would represent the exception to the rule but there are a number of exceptions upper in the higher elevations where good quality water is not available or drilling a well is impracticable and simply will not result in a deliverable water supply. Those are the points I would like to bring up at an appropriate opportunity and lastly what I would say, there is an additional complexity and ambiguity embedded within the section of the Code that addresses the water supply requirements for major temporary housing facilities and I think it would be healthy to have a discussion regarding that as well and its relationship to the adequate water supply.

Tim Thulson – When you are talking about a site plan, when you are going back to the subject site as opposed to subject property will that govern cover public notice also?
Fred – It is not set up that way right now but it is something we are discussing this internally as to whether that makes sense and I think that also needs to come back to the Board probably in a work session. We will bring public notice in another format and maybe we can include that issue. Right now, it is really more for the application submittal component but when you actually then go to notice for your public hearing, you still are looking ….
Commissioner Houpt – We had that discussion when we sent this back to the Planning Commission and we didn't include that – we talked about it but didn't include it.
Tim Thulson – As far as the development site that really would be helpful on the public noticing. We just did a preliminary search for Antero for instance and we're probably under any reasonable interpretation of redraft of the Code are going to have to give a lot of public notices. Right, we're over 1700 people that need to be noticed. This is an unusual situation but even under the big ones, it can be expensive.
Commissioner Houpt – It is really difficult considering doing that just across the board because there are impacts who would hit people who would never receive that notice. I wanted to clarify if that is what was occurring here.
Commissioner Houpt – No but we will be having a work session on that.
Fred – That is going to be in June 8.
Tim Thulson – When you are talking about for instance a major impact review as a form of zoning will that zoning only pertain to the subject site or will that again go back to the subject lot where it does the entire thing.
Deb – The approval that you get on a major impact review or a minor impact review allows a specific use within the subject site.
Tim – Subject site only?
Deb – Right because that is what you're legally describing and that is where you are asking to be permitted to do a certain thing.
Tim – That is a very good idea because then you do not get title commitments and have things unrelated to it.
Fred – It helps when other properties come in that are huge, it helps someone understand that the approved permitted use is really for this 2-acres and not provided to the rest of the property. They know what they have.
Tim – Then when they sell something unrelated over here, they don't have the say what is this water treatment use that is in the title commitment.
Commissioner Houpt – There is a specific recommendation from the Planning Commission and I would hate to dismantle that work and start over again, but I think there is a way you could meet with them.
Fred – These are separate issues and not what is before you today. My advice is to move forward with what you have today so you are not hanging up applicants who are waiting for this provision to go forward. There are a number of individuals who could not make it today from the oil and gas industry who are tracking this pretty closely. The water stuff is just clarifications, I think the two issues that Tim had raised and that Loren raised on the temporary housing they are substantially different issues before you. I am hearing that a work session with you as the Board is being requested on these items so that you can forward through a text amendment or they can propose a text amendment.
Chairman Martin – Clarification of adequate water supply, this is what is being purposed, it has gone through the process. Water supply entity means a municipality, county, special district, water conservancy district, water authority and public or private water supply companies that supply, distribute and otherwise water at retail as provide in Section 29-20-302(2) Colorado Revised Statutes as amended. That is what you are proposing under this public hearing Section 1.
Fred – In addition to the pages that follow, yes.
Chairman Martin – Which are the changes that were in the text amendments.
Fred – So that plus the legal descriptions is what is in front of you today that has been noticed.
Chairman Martin – Under the plan that includes two items, the one we discussed on the first page taking plan out under the 104 and then 105 which requires the plan as well as 13adequate water supply, where water demand is eight single family equivalents or less, the standard of Section 7-104 shall be met which happens to be adequate water supply and not a plan. And the same language under 104 which has been changed and 105 it says amended changing typographical 103 to 301 under the state statutes under authority A, page 7-3. 104 and 105b versus c, that is the different there, the same in one or two of the others showing that there needs to be a plan or there doesn't need a plan on 8 houses or less.
Fred – Yes.
Commissioner Houpt made a motion to close this public hearing. Commisioner Samson second.
In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to approve the text amendments brought forward for clarification requirements for Adequate Water Supplies and clarification for legal descriptions as they relate to site plans for limited and major impact reviews and exemptions as presented by staff and recommended by Planning Commission. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Fred was instructed to add the topics discussed for the work session to be held on June 8, 2010 and we will need to notify everyone that this work session will include that particular subject.

COUNTY ATTORNEY UPDATE – LAND USE ISSUES: DON DEFORD

Cassie requested Executive Session litigation on two items – the Cozza matter and Rudd case.
Commissioner Samson made a motion to go into an Executive Session for the purpose of talking with counsel concerning two litigation sessions matters, one is Cozza vs Board of County Commissioners and the other Wayne Rudd vs the Board of Adjustment and the Board of County Commissioners.
Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Samson made a motion to come out of Executive Session.
Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye

Action Taken:

Deb Quinn requested a motion that the County Attorney's office be authorized to represent both the Board of Adjustment and the Board of County Commissioners in the litigation initiated by Wayne Rudd against both of those entities.
Commissioner Houpt so moved. Commissioner Samson second.

Chairman Martin – The only conflict is if we disagree with the finding of BOA so we do it is not to express your opinion or otherwise we need outside counsel.
In favor: Houpt – aye Samson – aye Martin – aye
Chairman Martin - No information on the Cozza case, only information and update.

CONSIDER AMENDMENTS TO THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED REGARDING THE PROCESS TO AMEND APPROVED LAND USE CHANGE PERMITS - FRED JARMAN

Fred Jarman and Deb Quinn were present.
Chairman Martin noted this was the same notification that we had prior to this hearing.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits into the record: 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 –Staff Memorandum dated 2-24-10; Exhibit E – Staff Presentation; and Exhibit F – Proposed language changes to the Unified Land Use Resolution of 2008, as amended.
Fred presented the Purpose / Background stating as Staff and the public have been using the various amendment sections found within the Unified Land Use Resolution of 2008, as amended (the Code), it has become apparent that there are inconsistencies and unintended consequences in the various sections that allow for amendments to approved land use change permits sought through a variety of the County's review processes such as the Administrative Process, Limited Impact Review, Major Impact Review, Minor / Major Temporary Employee Housing, Development in the 100-year Floodplain, and Pipeline Developments. [Note, amendments to Divisions of Lands, which include Exemptions & Subdivisions and Rezonings (PUDs) will continue to have their own specific amendment processes provided in Article V and VI.]
Staff brought these concerns to the BOCC in a worksession in February 2010, presented, and discussed the efficiency of having one amendment process in the Code. The BOCC believed this was a good concept and urged it be sent to the Planning Commission and then back to the BOCC as a Text Amendment.
As a result, on February 24, 2010, the Planning Commission reviewed and discussed the proposed text amendment and forwarded a unanimous recommendation of approval to the Board of County Commissioners to amend the Code to include the proposed language in Exhibit F (attached) and provide a process as outlined in the attached PowerPoint presentation as Exhibit E.
General Proposal
The Planning Commission recommended the following concepts, which directly correlate to suggested code language in Exhibit F.

A. Add a new Section into Article IV "Application & Review Procedures" which would be known as "Amendments to Approved Land Use Change Permits." This would include removing the individual amendment sections that currently exist in other Articles of the Code so that Amendments are discussed in one place in the Code. This new section would provide specific direction regarding the Director's ability to approve (or not) "Non-Substantial Modifications / Changes" to Approved Land Use Change Permits.
B. "Non-Substantial Change" as determined by Director:
    a. Requires public notice of Director's decision to Adjacent Property Owners within 200 feet, the BOCC, and the Applicant;
    b. All requests for non-substantial changes are required to continue to meet all applicable standards in the Code;
    c. Appeals (or call-ups) of Director's decisions should be allowed from the BOCC, the Applicant, or Adjacent Property Owners within 200 feet.
C. Non-substantial Changes shall not be allowed to change specific Conditions of Approval required by the BOCC in a public hearing. Any requested changes to those conditions shall automatically require a public hearing before the BOCC on that specific condition which requires full notice;
D. Revise the definitions of "Substantial Modification / Change" & "Non-Substantial Modification / Change" (which may also allow for scriveners / surveyors errors as a routine non-substantial change).
E. BOCC "call-up": Any one Commissioner can call up the decision by the Director and require that the full BOCC discuss and vote on whether the decision should be heard in a noticed public hearing or not.

Fred illustrated in a diagram fully explaining the process.
Commissioner Samson made a motion to close the public hearing.
Commisioner Houpt second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion that we approve the text amendment as presented by the staff and recommended by the Planning Commission for amendment to approved land use change permits.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

CONSIDER AMENDMENTS TO THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED REGARDING SECTION 12-103(B) AND 12-107(1) SPECIFICALLY RELATED TO ELIMINATING THE TAKINGS LANGUAGE WITHIN ARTICLE 12: CODE ENFORCEMENT - FRED JARMAN

Deb Quinn and Fred Jarman were present.
Chairman Martin stated this hearing is also under the same notice and we will accept that notice.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits into the record: 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 –Staff Memorandum dated 5-3-10; Exhibit E – Staff Presentation; Exhibit F – Proposed language changes to Article 12; and Exhibit G – Minutes from the BOCC Work Session held on 10-13-2009.
Chairman Martin entered Exhibits A – G into the record.
On October 13, 2009, the Board of County Commissioners held a public work session with Staff to discuss certain components of Article 12: Code Enforcement that focused specifically on the following challenges:

A. Initial 3-day time line for a potential violator to respond is ineffective;

B. Initial Takings Process (as applied to Code Enforcement) is also mis-intended;

C. Does tendering a Land Use Application really cure anything?

D. BOCC's Involvement in Code Enforcement actions; and

E. % of actual violators which require BOCC attention

Fred illustrated in a diagram fully explaining the process.
12-103B – Notice of Violation
After certain discussion, the Board directed Staff to process the following amendments, which Staff presented to the Planning Commission on February 24, 2010, which unanimously forwarded a recommendation of Approval for the following actions consistent with the initial BOCC direction:

1) ***Strike the "Takings" process from the Code Enforcement Section 12-103(B); and***
2) ***Amend the "Takings Determination" language in Section 12-107(1) to eliminate the notice of potential violation language.***

Attached, you will find the Staff Presentation (Exhibit F), Minutes from the BOCC work session held on 10/13/09 (Exhibit G), and proposed language changes to Article 12 (Exhibit H).

The Board had directed staff at the end of the work session held at the end of last year and then recently within 2 to 3 weeks ago in a work session format. You directed staff from the last work session we did at the end of 2009 to take this through a text amendment process, which we have done through the Planning Commission. They have recently heard this and have recommended to you unanimously to approve the language that you are about to see which is identical to the language that you reviewed in your work session last year. This walked through the current challenges, as you remember the current code is set up so there is this initial 3-day timeline for a potential violator to react, respond to a letter that is sent by the County for an alleged violation. This then begins what is called the initial takings process as it is applied to code enforcement and it is important to make that distinction because you can still have a takings process but our point is that it doesn't make sense to have it injected in its current location within code enforcement as it is written. The other question we talked about with you as the Board does tendering a land use application really cure anything as you know in some cases a letter goes out to a potential violator and then say, okay, thanks for the letter, great, what can I do. Well you can stop the potentially illegal use, you can ultimately tender a land use application if it is a use you really want to have on your property and send that through the process that you have. In some cases that works well but in some cases it is very difficult because there is very little pushing that applicant to keep moving through the process so in some cases we wait years to have that process take place. Therefore, it is really effective. Then you have the Board's involvement in code enforcement actions. We talked some about the percentage of actual violators that really receives BOCC attention. The current code path was illustrated visually. The suggestion was and we took that to the Planning Commission, to drop out that initial notice of anticipated enforcement and then let's drop out the takings provision as it current appears and then in its place of that NAOE, that should be an appropriate place to provide more time between staff and the alleged violator to see if there is ground to either to make the issue either go away or find some kind of resolve. Or, it provides enough time that if it really does make its way to the County Attorney's office where they do become involved, we have collected a lot of good evidence so that when we do pull that department in you have a more robust case to go on. That was the direction we heard from this Board – we need to spend more time between staff and whoever that person is before it ends up coming into a more formal process. Then we ultimately decided they will submit a land use application or not so, to have it here it should not sit as an automatic cure.
Cassie interjected that is having the NOV process, reading the statute I do not think staff has the authority under the code that if you process a land use, change permit, text amendment, whatever it is, that you are not in violation. That still is under this Board's decision, you can say go through your administrative remedies – it is just removed from this list under the 10-day timeframe because staff statutorily or under the code has the authority to give that option to applicants to cure their violation. I think that is only with the Board.
Fred – 30% of the potential violators end up in a discussion between staff and the potential violator and the issue is resolved. The next 60% gets into a letter formally sent out and they end up in some kind of process either they fix it or they say, okay we'll take our changes and go to the Board of Adjustment or the Board of Review. In some cases, it is a letter that comes from the County Attorney's office but it is not until the last 10% does the Board really see what is happening here and it may be less than that number. The latest number has it below 5% and of that, 3% ends up in court. What is in your packet show you the exact language that is being proposed and this is the Section 12-103B and nothing is added. There are three or four sections that strike out the actual language. Fred submitted the draft of Article 12, Exhibit F that shows you at the end of the day what you Article 12 would look like. The section being stricken is "shall give written notice of anticipated enforcement to the purported violator that unless the purported violator files notice of a taking of private property to the Board of County Commissioners within 3-days a receipt of such notice such person shall give" so it is pulling out the takings language is what this does. "If the purported violator requests a takings determination under Section 12-107A of the Land Use Code, no notice of violation shall be issued until a final decision on that request has been rendered by the Board." It is saying chase out that whole takings process before you keep moving through. 12-107 that just referred to is this "again it is the recipient of notice of potential violation determination by an enforcement official" be pulled out and finally "except for a notice of anticipated enforcement which must be submitted within 3 working days of the receipt of that notice" is pulled out. Finally, the Planning Commission had unanimously recommended the Board approve the text amendment as it is being suggested to you in the same language.
Commissioner Houpt made a motion to close the public hearing.
Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
Commissioner Houpt made a motion to approve the proposed text amendment for Article 12, which is code enforcement as presented by staff, and recommended by the Planning Commission.

Commisioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

COMMISSIONER REPORTS

Chairman Martin – My request is that Commissioner Samson and I had different requests and it deals with the Land Use Code; one that Mr. Samson had was in reference to revisions of the sign code and reference to the size and also we found there was an issue with a sign mounted on a fence, there is no provision to allow that to happen under the code so therefore we feel that the workshop needs to be done so we can fine tune those particular items and make sure that we understand that a sign mounted on a fence is either a fixed sign or come up with a definition of what is allowed. The other one is with the actual size of the signs which is allowed in commercial, general commercial limited and commercial business and at that point there are some issues instead of 60 foot which is odd number, a 64 foot would work better for the sign makers according to them. The other one which is then played in many folks and we have seen a lot of that in our request for continuances on PUD, subdivisions, preliminary plans, etc. Under the economic hard times I think that we have seen trouble in the development business as well as lawsuits, water cases, partner disputes, bankruptcies and our Code only allows one continuance period and about 70% of all the costs of an application and a land use is in the first step and when we have one continuance based on all this other criteria I just mentioned, you have to start over if you can't get it done within the year. I think that we should have flexilbity built into allowing us to have criteria such as bankruptcy, pending litigation – partner uses, water court and economic hard times that come to us that allows us to do a continuance other than the single one we have giving us flexibility. It still does not give a guarantee that it can be done but at least we have that information on the record and the Board makes the decision. I would like to go ahead and work on that particular issue.

Deb – You mentioned continuance.

Chairman Martin – I meant extension of approval.

Deb – Section 4-103.

Fred – I think that is for preliminary plans, so you have the ability to come before this Board and ask for your one-time extension for a year and then beyond that the Code says that is all you get. What I am hearing you say is perhaps we should look at that to see if there is another way in front of this Board instead of having a line in the sand.

Chairman Martin – I think we can go ahead and determine that if is such as if you look at Ironbridge, they lost their overall plan based upon the timeframe and the world's largest bankruptcy issue where we had our hands tied and gave it the one extension and then it has to go away. If that happens to another folk and bring up Mr. Cooke in reference to his issue out there on Miller Lane based upon financial guarantee from the bank. We had that flexibility but we do not anymore. I think we need to continue to have that in our plan.

Commissioner Houpt – So you want that to be in a future work session as soon as possible.

Chairman Martin – We are in hard times hitting us everywhere. I think to keep Fred in business we need to do that.

Fred – One way to look at this, if you as a Board think it is a policy matter and something more urgent you can simply suggest this be a text amendment. You do not have to take it through a work session and then start up things as a text amendment. Right now, you are pushing this way out. You can start that today.

Chairman Martin – This is what I was proposing. If I have to write it or ask you. We have had multiple requests.

Commissioner Houpt – I would never suggest that if one Commissioner was interested in having that discussion we should not do it. I cannot tell you whether I agree today with that or not, we have had this discussion on several occasions but certainly, it would be important to look at as a potential text amendment.

Fred – That is right, it takes obviously two Commissioners and hopeful the three of you would set a policy direction. You can do that by in a work session format or if you want to do it today as a matter of efficiency or a policy issue that would be my suggestions. You are still going hear it and debate the issues as a public body no differently than in a work session.

Chairman Martin – At least we would have it going.

Commissioner Houpt – We need to be very careful about what we move into a work session as we are moving a lot of things in that direction which we have typically have just brought to this venue.

Fred – You will also have the benefit of your planning commission as well.

Chairman Martin – I think we need to get this going as soon as possible. I would like to make a motion that we go ahead and work request Fred to work on the text amendment and move it through the process so we can have it in a public hearing as soon as possible and making it a priority. My examples with the bankruptcy, the water court cases that take years and we need to give the flexibility to this board to evaluate it and have a criteria and to either grant it or say you get one and that's all.

Commisioner Houpt – That flexibility is important and it is really important to recognize that there have been times when things have just dragged on too long and they are no longer appropriate. When we move something forward like this, we are not committing even though it as the Board's text amendment we are not committing to that text amendment.

Chairman Martin – It moves it forward so you can have a public hearing so you can take the input and either vote it up or down.

Fred- That is correct.

Eric McCafferty – Mr. Chariman I applaud you for trying to take it in this direction and try to set up a potential amendment to the Land Use Regulations. As you stated, a huge amount of the cost of doing any kind of subdivision development is getting through the preliminary plans stage and final plat is an administrative thing. In better economic times, it generally does not take very long to get the entire thing accomplished but these are not normal times. One thing I have seen recently and something that Fred and I spoke about last week and a specific example is of a lender made loan on a property that went through the preliminary plan process, received approval, need to get a final plat in by the end of one year or request an extension. Well, that lender ended up foreclosing on property, got the property back, and they called me and said, we're lenders, we are not developers and we do not have the expertise to go through this. We would like to receive an additional extension just because we think it creates value for the property but if it goes away everything is gone and there are numerous examples out there in land use and our economy. So allowing flexibility into some point in the future creates potentially shovel ready projects when we come out of this that maybe it will help the economy, help developers, workers etc find jobs quicker. Just in a

very general notice of planning and comprehensive planning, I certainly understand and see the need to have sunset provision on preliminary plans that have been out there for years or decades because overtime they certainly are not in compliance with the comprehensive plan. With that said though, if the comprehensive plan for a specific area, then there is really no reason why that preliminary needs to sunset because it would still be in general conformance with the comprehensive plan which is one of your review criteria. So in one year's time comprehensive plan in almost all cases will not change for a specific area. As you go through and do additional comprehensive planning sure it may change and then the development intent of whatever subdivision that is hanging out there.
Chairman Martin – That could be part of the criteria in reference to more than one extension.
Eric – Yes and part of the review criteria that an applicant that wants to come in, say, hey here is what the comp plan said before when you approved it initially, it says the same thing now so I think they would be still be in general conformity.
Commisisoner Houpt – This could be one of the things that we look at – I don't think anyone would disagree that flexibility is important.
Eric – One other matter, if the Board chooses to do this, there are probably going to be more than one or two applicants who are in need of an additional extension that would either have to apply for the text amendment themselves or wait for this process to work its way through, come back to the Board to make a decision. Is there some way to allow an automatic extension to a preliminary plan?
Chairman Martin – Or a stay on the decision for the cancellation or the extension if it runs out until a decision is made is what you are looking at.
Eric – That is exactly what I had in mind.
Chairman Martin – And if it goes to the text amendment and it is voted down, it is automatically understood that it is not extended beyond that particular time or if it is then they can ask for an extension under certain criteria.
Commissioner Houpt – We have done that before with other regulations in the past but clearly not viewing it as formal extension.
Eric – Maybe this would stop the clock on having to come in and having to request one.
Chairman Martin – As long as that is in the process I think we did that also when we adopted the Land Use Code as well. That should be applied to this if we are going to address that. We still need a second on that motion.
Chairman Martin restated the motion – I moved that we instruct staff to go ahead and work on a text amendment in reference to an extension with the criteria as we have discussed from bankruptcy to again comprehensive review if it is still applicable or not, partner disputes in court, water law issues, and one or two others that I spoke of that we build that into a criteria for extensions giving the flexibility to this Board and if it meets the criteria and the acceptance as it is forwarded, they can grant more than one so called extension. Commissioner Samson - Second.
Commissioner Houpt – I think the ultimate goal is to create some flexibility and I do not want to be boxed in by certain criteria that may be relevant or not to the project.
Chairman Martin – It would be criteria that we would agree upon as a Board that we would do the final adoption if we accepted that text amendment.
In favor: Houpt – aye Samson – aye Martin - aye
Chairman Martin – We found some deficiencies in the sign code and that is under Definitions.
Commissioner Houpt – Before we leave the discussion to go to the sign code, do we want to build in a motion that would allow some time for people who would like to come forward during an additional extension in relation to this proposed text amendment. We did not include that in motion.
Fred – I was wondering about that – it is a good point because I think frankly I need to look at my calendar to see how I can set that. What you would want to have is the end date that the Board is going to make that decision. You will not know that until we can set a date. My reading of what Chairman was saying is it was general enough to say between today if there are pending preliminary plans that are asking for extensions then the decision on whether they get one or not is basically held until the Board in good faith are working toward your decision.
Commissioner Houpt – I did not hear that in his motion, was that part of the motion?
Fred – It was not in the motion, it was in the discussion.
Commissioner Houpt – What I am saying if we want to formalize, I think we should formalize that and bring it to us.
Chairman Martin – Good point. If it wasn't included in the motion then we can go ahead and take that as a second motion to allow that to happen.
Commissioner Houpt – So it would allow the extension of time.
Fred – It would stay a decision on a request for extensions between today May 3 and the day that this Board ultimately make your decision on the text amendment itself.
Eric asked for a point of clarification – this is just for the first extension or an additional.
Chairman Martin – The stay would be to the end of the first extension.
Commissioner Houpt – They stay would be for the additional extension because right now people get an extension so you would not need it for that, it would be for additional extensions.
Commissioner Houpt – So moved. Commissioner Samson – Second.
Chairman Martin – That would be in Fred's office and would bring that to our attention.
In favor: Houpt – aye Martin – aye Samson – aye
Sign Code Section 11 -302 Sign Table which identified the different zone districts and we went through the different definitions, free standing, wall, temporary, suspended, roof and all the other issues and there is still no definition of a fence, sign on a fence.
Commissioner Samson said he did this quite a bit 1 ½ years ago.
Chairman Martin – The other one was the actual square foot on what we have under. The sign makers make 4 x 8 sheets, they make signs, and if you take two, one on each side of the business it happens to be 64 square feet instead 60 square feet. Under the Code, it says 60 square feet so somebody will get 2 feet cut off their sign and it actually cost more for a sign that is 2 foot shorter than the other one. Trying to help our businesses and the sign makers as well as Fred put out another one which is interesting – the free standing, you can have 150 square feet on the same businesses but you are limited to 60 if they are fixed or on a couple of poles. If it were freestanding in would be 150 up in the air. That makes an interesting issue. We need a workshop on that particular sign code issue.

Fred – Would suggest a work session also.
Commissioner Samson – Wants this to be well published and I think we will have a lot of input from many people.
Date for the Sign code – June 8, 2010. Public Notice is already on the agenda.
Fred – That is where you wanted to get into discussion on your distances etc.
Chairman Martin – Adjacent, affected, 200 feet versus 500 feet.
Work session - July 7 - Loren Prescott request – Temporary Housing, Water Supplies as when you need a permit versus a permanent versus a non-permanent supply.

COMMISSIONER CALENDARS

Commissioner Samson – I had a request form Little Britches Rodeo from what I can ascertain in the past we as a Commission have put forth some money for this event and it says the sponsorship fee for one of these beautiful custom saddles is $1,000 for a full saddle. I would like to see us as a Board of County Commissioners to enhance this, donate out of our Commissioner Fund $1,000 for the Little Britches Rodeo that full saddle and would so move. Commissioner Houpt – second.
Chairman Martin – We have assisted them in waiving fees and assisted them on different prices so this is very appropriate. In favor- Houpt – aye Martin – aye Samson - aye
Commissioner Samson received from the Federal Government informing me that I have been placed on the Resource Advisory Committee (RAC). The Federal Government moves slowly but it moves. Here is the problem, it says the initial meeting for the RAC has been tentatively been set for June 2, 2010 and we have CCI in Vail June 1, 2 and 3 and I would rather not miss that because we are going to be talking about other things, the three proposed initiatives, amendments etc. So I called on Friday and left a message with the lady in charge of this and said, since this is only tentatively planned, could you move it because Mr. Oland Lund, the Delta County Commissioner and myself are the only elected officials that are on this committee and assume he would be at CCI and miss it also. An update will be provided.
Commissioner Samson – A reminder tomorrow night is the Energy Expo in Rifle from 6:00 – 8:00 at the Fairgrounds.
Commissioner Samson – We had our Mayor's meeting last Monday in Silt, I have some information to share with out I will give you a typed copy. I had them give us the regular meeting dates that they have and the dates that they would like for us to come and basically everyone said, come anytime.
Commissioner Houpt – Did you see the invitation for us to meet in Carbondale in June for a combined meeting.
Commissioner Samson said all the Mayors were there except the new Mayor from Carbondale, Ms. Bernot and she emailed me that there was a conflict with another meeting she had in Grand Junction. I told the Mayors that hopefully within the next year 1, 2, or 3 one of us might pop in to their meetings and they were elated to hear that news.
Commissioner Samson – The other thing of interest was an issue Bruce Christensen brought up regarding the water and how we need to be thinking about Shoshone, what we can do etc. We are working on it and all mayors excited, especially Glenwood Springs, Silt, Rifle and Parachute.
Commissioner Houpt – It started in Aspen started talking about that as well. Tomorrow night I have a Ruedi Water and Power Authority meeting with the Army Corp of Engineers, the discussion about Shoshone has been going on with the Ruedi folks and Aspen has been real interested and she wants to make sure we have joint discussions.
Commissioner Samson told them Garfield County wants to be part of this as well as all the municipalities.
Commissioner Houpt – What was the discussion about in terms of direction?
Commissioner Samson – It appears that they would like to purchase Shoshone if possible for Xcel.
Commissioner Houpt – It is actually a great idea but Denver may not go along with that proposal.
Commissioner Samson –According to Bruce, the Denver Water Board has no problems with that.
Chairman Martin - It deals with the franchise charge which would be with Xcel probably close to $100,000,000 a year in reference to franchise proceeds from the City of Denver.
Commissioner Samson – It is out there and on the table.
Commissioner Houpt – Western Interstate Conference is May 26, 27 and 28 and that same week I will be going to the Climate Community in Washington, DC. There will be talking about a lot of funding that is going to various programs – The Tiger 2 Funding for Transportation, the Green Jobs Innovation Fund and The Sustainable Community's Initiatives. The list of people going is mostly from urban counties and I thought it was important to be present.
Chairman Martin – We are classified as urban now with over 52,000; we are now an urban county.
Commissioner Houpt – While you are talking about PILT and other important issues I think those transportation and the jobs dollars are important. Last week I want to say that the Attorney General's office is planning to bring their opinion back to us on pitliners at our next meeting June 7.
Chairman Martin – That was the hang up in reference to the meeting I attended on the telephone, Oil and Gas and the discussion on pitliners pro and con, everything hinges upon the Attorney General's opinion. So there was no action that could be taken from the meeting and the representative for the Attorney General was there as well and would not give an opinion.
Commissioner Houpt – He needs to bring it to the Commission first and then move on from there but I understand there are many different opinions either for or against.
Commissioner Samson – There is a lot of gray area in there.
Chairman Martin – Tomorrow at 12:30 p.m. I have Cooperative Agency Status meeting in Silt with BLM in reference to the two projects that are going one in reference to the pipeline issue actually it is just barely touching Garfield County out by Utah the one that wraps around and goes into Oklahoma which would be a natural gas line, etc. That would supply the eastern seaboard instead of sending everything to California and it would free up the Piceance Basin gas. The other one was the Wild and Scenic Issues in reference to the waters in Garfield, Mesa and Rio Blanco, Delta and San Miguel Counties – lower basin. And the Energy Expo in Rifle as Commissioner Samson mentioned.
Deb Quinn stated she had a notice from the Board of Appeals indicating that oral argument has been scheduled for the Grand Valley Citizens Alliance case for June 7, 2010 at 2:30 p.m. As you recall we entered an amicus brief in that case and we do not have the ability to participate in any oral argument that they sent us a notice to attend. The decision will come sometime after that.
Commissioner Houpt – I have an I-70 board meeting on Wednesday morning, we are slowly moving forward with CDOT looking for money.

Chairman Martin - $21 billion dollars is what I hear.
Commissioner Houpt – That is for I-25 too.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

MAY 10, 2010
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 10, 2008 with Chairman John Martin and Commissioner Tresi Houpt being 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 CITIZENS NOT ON THE AGENDA

Mr. Diaz – Update; we are approaching the end of the legislative session at the State. In his opinion, it has been one of the nastiest sessions he has seen in a long time. He thinks there are a few political reasons for that; having a governor who is not running again and just general, no lack of leadership but no one is operating the helm. There is a lot going around on both sides trying to position one up on the other. The main focus they are watching are changes to the Enterprise Zone Program and he explained that is it basically transforms the program from being one of reward for doing business and rewarded for activities that you take up that are beneficial to the State. HB 1200 puts a cap on tax credits for three years starting next year until 2014. Another energy note, there is a resolution introduced by Representative Baumgardner to have a fair accounting of the Naval Oil Shale Reserve Funds and to press our Congressional Delegation to try to get those funds back to them. Commissioner Houpt thought she heard it had already been spent.
Mr. Diaz – There is some confusion. When the Transfer Act was passed in 1997, it said they would grow this fund in trust.
Commissioner Houpt knows the history of it; a few years ago, she thought it went to the State.
Mr. Diaz – No, that's the confusion. There is a pot of money there in the middle that hasn't been accounted for and that's what they are trying to figure out.
Chairman Martin – And that was accepted from the Federal mineral leasing distribution formula etc.
Mr. Diaz – The Department of Interior never certified the closure for the clean up. Two bills just passed that has to do with the doctor patient relationship and what you have to do as a patient to be a bona fide patient to some doctor so they can give you a medical marijuana recommendation. The other bill; HB1284, has been heavily amended but he thinks still has the pieces in there that will say that local governments can still have their own regulations and licensing requirements on top of what the State does. Even if the State passes something, or says that someone can have a license, they will still have to come to the county or the City to get a license to operate. In talking to some of the dispensary owners one of the things they were hoping for, it may happen next year, they are looking for stricter guidelines on growers. They want to make sure whatever they are getting is of a decent quality and not tainted.
Chairman Martin – The session is this week.
Mr. Diaz – Wednesday.
Ed – What happened to the Rainy Day Fund, the $25 million dollar fund?
Mr. Diaz –There were many problems. It died in house appropriations a couple of weeks later.
Ed – What about the Statewide LID on energy?
Commissioner Houpt – That was signed last week.

COUNTY MANAGER UPDATE – ED GREEN

- **A. Presentation on Proposed Ban on Free Plastic Bags – Girl Scout Troop 275**

Alicia, Mary Jane, Jasmine, Erica and MaryAnn were all present.
This troop has been working on this project for two years and would like Garfield County to consider a ban on plastic and paper bags in all retail stores. The troop stressed the importance of using cloth bags versus plastic bags and made over 350 cloth bags to donate to local businesses. They discovered that paper bags are no better for the environment than plastic. The troop presented some statistical facts on how many plastic bags are used daily at check-out counters; how many trees cut to produce bags; pollution with bags; buried bags; 380 billion plastic gags used in the US every year and gave a transcript of their presentation to the Clerk as well as the surveys.
Commissioner Houpt was impressed not only for Garfield County by globally. If we initiated a campaign, would you be out there to help us with it?
The troop all said yes.
Chairman Martin – It's a lifelong commitment; it doesn't end in one week or one year.
Commissioner Houpt - As a county she would like to have a resolution suggested the county take a stand. She will let the troop know when it is on an agenda so they can be present.
The girls all came forward to have their pictures taken with the Commissioners.

- **B. Garfield County EMTAC Update – Doug Gerrald**

A list of agency representatives and officers are available at the Clerk and Recorders office. RETAC is recommending that Bob Furgeson replace Matt Olive who left office, Tim Hohon, and Nancy Frizell as primary members; Doug Gerrald, Cleo Castle, and Stacey Pemberton as secondary members.
Captain Gerrald with Glenwood Springs Fire Department is the new Chair of Garfield County Emergency Medical Trauma Advisory Council and Chief Rob Furgeson of Grand Valley is now the vice chair. They gave an update on agency representative changes, or changes to the officers of the Garfield County EMTAC. Dustin Dawson will be replacing Tim Hohon from Grand River Hospital. Rob Furgeson is now the EMTAC representative to the RETAC and Stacey Pemberton is a new secondary member from Grand Valley.
Carolyn – EMTAC and RETAC are setup with resolutions; it would make life easier if we had two motions.

Commissioner Houpt – I make a motion we accept the recommendations for agency representatives for the EMTAC and officers of the EMTAC as presented. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make motion that we accept the RETAC recommendations as presented.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **C. Public Service Gas Pipeline Request – Jake Mall**

Jake Mall, Marvin Stephens and Dan Techovic were present.
Public Service Company (Xcel Energy) has requested permission to install a 4-inch welded steel natural gas line within the County right of way on County Road 335. This is to upgrade service to the Towns of Silt and New Castle. Marvin gave the details including special provisions, time frames for the work and Jake gave the particulars regarding the pipeline construction. A letter from Public Service Company (Xcel Energy) describing the pipeline project is on file at the Clerk and Recorders office.
Jake explained they are here today to present a pipeline that Public Service needs to run between Silt and Dan Techovic explained the system, the capacity, budgeting and planning for the last two and have needed to expand the service to New Castle. This will take care of things well into the next 10-20 years or hopefully better. We plan to put up signage at least 10 –14 days ahead of time. As we progress down the County Road, we will be contacting landowners to coordinate especially if they are affecting a driveway in and out. This will be a transmission line and they will provide a meter station on the south side of the New Castle Industrial area.
Jake assured the Board that everything at that time will be followed by the guidelines, all the re-veg and bonds are all in place and permit's are ready to be issued. The Sheriff has also been notified.
Commissioner Houpt – I make a motion we approve the public service gas pipeline with Qwest by Xcel Energy as presented along with all of the conditions that have been set forth today.
Commissioner Samson – Second.
Chairman Martin would like to get a report back and if it is successful and ahead of time, we would like a report on that as well and let the public know. In favor: Houpt – aye Martin – aye Samson – aye

- **D. Staff Recommendation to Award a Contract in an Amount not-to-exceed $52,508.00 to Northwest Colorado Consultants, Inc. for 2010 Engineering and Environmental Services at the West Garfield County Landfill – Kent Long**

A request for proposals was posted to the Rocky Mountain E-Purchasing System on March 29, 2010 and advertised in the Post Independent on March 26, 2010 and April 5, 2010, and in the Citizen Telegram on April 1, 2010 and April 8, 2010. Six proposals were submitted and evaluated by a committee. The committee concluded the proposal of Northwest Colorado Consultants, Inc. presents the best value for Garfield County. Staff is recommending the Board approve the award in an amount not-to-exceed $52,508.00 to Northwest Colorado Consultants, Inc. and authorize the Chair to sign the contract.
Kent explained as above.
Commissioner Houpt asked for clarification on the range from $54,000.00 to $131,000.00.
Kent – Northwest is out of Steamboat and three of the companies have corporate headquarters somewhere else. This is a not to exceed figure and there is a line item for "as needed services."
Commissioner Samson – I move we approve the award of the contract in amount not-to-exceed $52,508.00 to Northwest Colorado Consultants Inc. and authorize the Chair to sign. Commissioner Houpt – Second.
Chairman Martin confirmed this was in the budget for 2010.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Staff Recommendation to Approve a First Amendment to Contract with Sandy's Office Supply for the Purchase of Additional Furniture for the Rifle Sheriff's Annex in the Amount of $55,900.00 – Kent Long**

The parties have agreed to adjustments and the proposed amendment modifies the original contract, which was $305,000.00 to $360,900.00. The Sheriff's office has sufficient funds currently available uncommitted and unencumbered funds to pay for this modification to the original contract amount.
Commissioner Houpt – What was the $55,900.00?
Lou explained and went into detail saying it was a variety of things and when you do a projection sometimes, important things are missed. He contacted finance and the county manager and Lou has money in his budget to cover the additional costs. Some of this was due to OSHA standards.
Commissioner Samson – I would move that we approve the first amendment to contract to increase the original amount from $305,000.00 to $360,900.00 and authorize the Chair to sign.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **F. Staff Recommendation to Approve a Contract Renewal Letter in an Amount not-to-exceed $91,000.00 with Rocky Mountain enterprises for Paint Striping of Various Garfield County Roads – Jamaica Watts**

Rocky Mountain Enterprises has agreed to the same prices as bid last year; however, the total price has increased $8,000.00 due to the number of roads that will be striped in 2010. Staff is recommending the Board approve contract renewal letter #1 to rocky Mountain enterprises for paint striping various Garfield County roads in fiscal year 2010.
Chairman Martin – Now that we have the model traffic code; have we had any consultation with the Sheriff's office in reference to any kind of passing lanes or anything like that?
Marvin – There are some speed issues they are working on, especially on 107 road, however with speed limits we would probably have it under control.
Chairman Martin – With the passing of the model traffic code the Sheriff can also assist in those issues.
Commissioner Houpt – I make a motion we approve the award of contract renewal letter number one to Rocky Mountain Enterprises in a not-to-exceed amount of $91,000.00 for paint striping various county roads for 2010. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

CONSENT AGENDA

aa. Approve Bills
bb. Wire Transfers
cc. Inter-Fund Transfers
dd. Changes to Prior Warrant Lists
ee. Authorize the Chair to sign the Resolution concerned with the approval of a Text Amendment to eliminate the takings process from Section 12-103(b) and 12-107(1) Code Enforcement within the Unified Land Use Resolution of 2009, as amended – Fred Jarman

ff. Authorize the Chair to sign the Resolution concerned with the approval of a Text Amendment to add a new Section 4-107 "Amendments to Approved Land Use Change Permits" into Article IV and removing the individual amendment sections that currently exist in other Articles with the exception of Articles V and VI and revise the definitions of "Substantial Modification/Change" and "Non-substantial Modification/Change" within the Unified Land Use Resolution of 2008, as amended – Fred Jarman

gg. Authorize the Chair to sign the Resolution concerned with the approval of a Text Amendment to clarify the requirements for an Adequate Water Supply and clarify the requirements for Legal Descriptions as they relate to site plans for Limited/Major Impact Reviews and Exemptions within the Unified Land Use Resolution of 2008, as amended – Fred Jarman

hh. Authorize the Chair to Sign the Land Use Change Permit for Richard L. Prather, Lyle Prather, Ned Prather, Donna J. Koehler, Sue Stuart Mortimer Erupt Vanda Bovenkamp, and Daniel W. Stroock (LIPA 6185), Storage: Supplies, Machinery, Equipment and Products – Molly Orkild-Larson

ii. Liquor License Renewal: Catherine Store Wine & Liquor, Inc. – Jean Alberico

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

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE - STRONG subdivision; intersection County Road 300; possibility of expanding a public improvement district.

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 Samson to come out of Executive Session; motion carried. No Action taken as it was all legal advice.

REGULAR AGENDA: Public Meetings

- **A. NECI Local Improvement District.**

Chairman Martin – We are going to talk about the formation of a resolution but no final decisions.

Alice – Carolyn outlined these different items on the agenda and at the work session last Tuesday we talked through this whole concept and presented some options for how to approach it, and then the BOCC suggested it was set on an official meeting agenda to talk through the items that would be included in the resolution. After talking through the concept, the Board would be scheduling a formal public hearing for discussion.

Carolyn walked through the name change to the CLEEN Energy Finance District and the redlined version. A great deal of discussion occurred with the statutory language, how it affects only those properties that opt in and in the resolution, it is a matter of education of the public. Georgia Chamberlain and John Gorman had specific questions there were explained. John Gorman wondered whether or not it is legal, or even whether we even investigated whether it's legal, should the county use county funds to do loans for this program. Could those loans then be sold?

Chairman Martin – The security is the property itself; you would still be the first lien holder if it went up for foreclosure; then you would sell the property off and collect your fund.

Ed – It maybe a mood point if the State is bonding for the entire state.

Chairman Martin - The County itself is not doing the improvement; it is the individual property owner. That individual property has to come through the clearinghouse to get a loan. Then you attach that property to assessment rule and the taxation. Again, it is a grant but to the county or to the overall partners it is still a loan to the individual.

Carolyn – That is what the BOCC has said so far that the pool, if you will, will be made up of grant monies from Federal, State, Local or private funding sources.

Chairman Martin – At that point then you have a tabor issue and a ballot question, can we go ahead and do that or not.

Commissioner Houpt thinks it would be good to talk to NECI and see if that would be something they would bring forward as a recommendation.

Chairman Martin - Who is doing that review and making that recommendation; is it going to be Heather and Alice, is it going to be the New Energy Commission, is it going to be a new advisory folks that have certain responsibilities. Are they paid are they volunteer and how do they keep their records and how do they report to not only these two but also this Board and the NECI as well as the contractors.

Jim Rada – The resolution states the NECI Advisory Board would make the determination.

Carolyn – All this does is create the district so that you can have a hearing on the creation of the district. It does not deal with all of those details.

Commissioner Samson – People feel that it is a tax on their property that is going to benefit others. The other things they need to understand is what is the source of funds? People do not particularly want general fund dollars to go for this.

Carolyn – You discussed last time but there was no formal motion. Ms. Houpt would be the person to serve with the DOE grant committee and with Boulder and Denver. We never passed a resolution only as agreement. The State wide residential LID passed; but they took it off the agenda because the Governor had not signed it so that will need to be re-agended.

Next Meeting – June 21, 2010.

- **B. Department of Energy – Energy Efficiency and Conservation Block Grant – Jim Rada**

Garfield County was awarded an EECBG block grant of $227,500.00 in 2009. The funding is moving forward according to the original plan proposed to the DOE, with $190,000.00 to be offered as incentives and rebates for households and businesses to increase access to energy audits and energy improvements, and $37,500.00 to be used for program design, outreach marketing/education and advertising, tracking energy savings, and management/reporting. Jim explained how the EECBG funds will be targeted at filling in gaps where utility, GEO rebates and incentives and supplementing additional funding sources to provide an audit/retrofit start-up program countywide. The Board directed staff to move forward in getting money into the hands of the citizens and businesses of the community. We will be trying to get some of this money out right away in the local business community to encourage use of their commercial audit retro fit demonstration project models that they did in Glenwood Springs to get money out to businesses county wide. This will include residential in same type of services and enhancing the idea of doing a little bit more directed approach to helping folks implement their recommendations that are coming out of their audits. Energy coaching to provide them additional support, direction and make it easier on folks to follow

through. This is not included in the CLEER contract but we will be discussing that on the agenda next week. It will be to amend the budget and the scope of work for this year's contract.

- **C. Department of Local Affairs Grant Extension – Jim Rada**

This contract is between the State of Colorado, Department of Local Affairs and the County of Garfield. The State is exercising the option for an additional term of 12 months, 6/30/11. The amount of the current fiscal year contract value shall remain unchanged. The total contract value to include all previous amendments, option letters, etc. is $1,605,000.00. They have been approved to extend the budget; the DOLA contract on the original GNECI grant through the end of June 2011. The thing that is not included in this letter is; they have had some discussion amongst the team and Garfield County had originally committed $75,000.00 in-kind support for staff involvement and they have exceeded that amount. There is a request that the Board approve and authorize them to increase that amount through a change letter, or whatever is needed at DOLA. They had talked about $150,000.00 for the rest of the term of the contract.
Chairman Martin –In reference to this extension, the grant between the Department of Local Affairs and the Board of County Commissioners, we need to ratify that particular extension and give our agreement to that because someone acted in our name.
Chairman Martin – He would like to have a motion to ratify that extension.
Commissioner Houpt – So moved. Chairman Martin – Second. That's only $1,605,000.00 we are ratifying under without participation of this Board and the contract between the State and this Board. Both parties should be aware of that; this is his first knowledge of it.
Additional discussion on when the original contract was set up; all along we had said we assumed it was three years and somehow they put in this summer. Jack Kirtland said that all along it would be extended and that was the timeframe we had put together.
Chairman Martin – Again the issue is it is a two-sided agreement; both sides need to be aware and he doesn't believe this Board was.
Commissioner Houpt feels as if she was because of the original discussion.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. Discussion/Direction Regarding Hearing Officers for Board of Equalization**

Lisa Warder stated that Mr. DeFord asked her to come and give the Board an idea of what they had last year. Last year was a reappraisal year and what they call the perfect storm year. Their appraisal date was at the very top of the market and then a year later they had to send out notices of value when the market was not quite so good. Last year they had the highest number of protests that she has seen since she has been there in 14 years, they had 2,753 protests. Of those 423 protested went beyond their office to the CBOE. She continued explaining the process to the board on how protests are handled. Many stipulations were made before the scheduling with the Board of Equalization.
MaryLynn – We had four hearing officers, she had their schedules, their days and they were all full.
Commissioner Houpt - What is your expectation this year?
Lisa – Thus far, there have been 93 protests. In an intervening year, they generally do way fewer and that means more time to talk to those folks when they come in the door or sent them letters that they can understand how their property was valued.
MaryLynn – Since the deadlines for real property is July 15th for them to file, and personal property is the 20th ,we have to have until August 5. It's your decision whether you want her to hire hearing officers next year. It will probably be the last two weeks in July and the first in August.

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT FOR MATERIAL HANDLING TO ALLOW FOR CONVERSION OF PR 26-34B NATURAL GAS PRODUCTION WELL TO A PRODUCED WATER INJECTION WELL – THE PARCEL IS 160-ACRES AND IS LOCATED AT 1689 COUNTY ROAD 300 WITH THE EXISTING WELL PAD LOCATED OFF COUNTY ROAD 304 – APPLICANT; NOBLE ENERGY ON BEHALF OF DONALD THROM, PROPERTY OWNER – KATHY EASTLEY

Judy Cohen, Joanne Layman, and Colin Mann 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 Kathy Eastley 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 – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff Report; Exhibit G – Staff Presentation; Exhibit H – Memo dated April 14, 2010 from Jake Mall, County Road and Bridge; Exhibit I – E-mail dated April 26, 2010 from Jim Rada, Environmental Health Manager; Exhibit J – E-mail dated April 26, 2010 from Judy Jordan, Oil and Gas Liaison; Exhibit K – E-mail dated January 12, 2010 from John Niewoehner, Planning Engineer; Exhibit L – Photographs of the site provided by Noble Energy; Exhibit M – Driveway Permit GRB08-D-74 and Exhibit N – E-mail from Joanne Lehman with attached Water Characterization Data.
Chairman Martin entered Exhibits A – N into the record.
Planner Kathy Eastley explained that Noble Energy, Inc as lessee and operator, has applied to the Board of County Commissioners for a Land Use Change Permit for Material Handling which would allow for produced water gathered from Noble's Parachute field to be injected into the PR 26-34B well. The produced water is proposed to be transported to the site from the well field via existing pipeline systems operated by Noble. No additional aboveground facilities are required at the well pad and no water will be delivered to the site via water trucks for injection.
STAFF RECOMMENDATION
Staff recommends the Board of County Commissioners approve the request for a Land Use Change Permit for Material Handling to allow conversion of PR 26-34B into a produced water injection well, on property owned by Donald Throm and operated by Noble Energy, 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.
Prior to issuance of the Land Use Change Permit, the Applicant shall obtain all required federal, state and local permits including, but not limited to, the COGCC permit for the injection well and any air emission permits that may be required from CDPHE.

Operation of the facility must be in accordance with all Federal, State and Local regulations and permits governing the operation of this facility. Industrial activities shall be required to comply with the following standards:
(1) The volume of the sound generated shall be so operated that the volume of sound inherently and recurrently generated does not exceed the COGCC requirements;
(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;
(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) 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.

19. The transport of fluids to the site is via pipelines and is not to be trucked to the site, except in emergency situations, unless an amendment is approved to the Land Use Change Permit allowing such transport.

Kathy has documentation and they are exempt from the emission permit. There is a condition of approval regarding the requirement for them to acquire all of the Federal, State and local permits. She has been speaking with Jim Rada, this morning, and there still is somewhat of a question outstanding regarding whether or not the air emission permit, or the APEN associated with the injection well will be necessary.
Kathy continued with her staff report. Staff was unable to go on a site visit because of some protocols regarding safety that Nobel Energy has and the requirements for taking some classes before you can on the well pad.
Discussion was held with the Commissioners and answers were given and conditions were clarified.
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 that we approve the request for a land use change permit for material handling to allow conversion of PR 26-34B and for produced water injection well on property owned by Donald Throm and operated by Nobel Energy with the conditions presented by staff, revising 41 to include residential volumes and adding a condition number six (6) which would require lighting be directed inward and downward from the boundary lines. Commissioner Samson - 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 6-ACRES OF A 340-ACRE PARCEL LOCATED SOUTH OF PARACHUTE, COLORADO OFF OF COUNTY ROAD 304 (FILE NO. LIPA 6242) – APPLICANT; NOBLE ENERGY, INC. – TOM VELJIC**

Judy Cohen, Joanne, and Colin Mann 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; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D –Application; Exhibit E – Staff memorandum; Exhibit F –Staff Powerpoint; Exhibit G – Memo from Jake Mall, Garfield County Road and Bridge, dated April 6, 2010; Exhibit H – E-mail from Dan Roussin, Colorado Department of Transportation, dated April 8, 2010; Exhibit I – E-mail from Jim Rada, Garfield County Environmental Health, dated April 12, 2010; Exhibit J – Memo from Garfield County Development engineer, dated April 15, 2010; Exhibit K – Memo from Steve Anthony, Garfield County Weed Management, dated April 23, 2010; Exhibit L – Letter from Rob Ferguson, Deputy Fire Chief of Grand Valley Fire Protection District, dated April 22, 2010; Exhibit M – E-mail from Judi Kohn, Noble Energy Inc., dated April 27, 2010; Exhibit N – E-mail from Judi Kohn, Noble Energy Inc., dated May 4, 2010; Exhibit O – E-mail from Joanne Lehman, CH2M Hill, dated April 21, 2010 with attached COGCC injection well permit and Exhibit P – E-mail from Joanne Lehman, CH2M Hill, dated April 26, 2010 with attached driveway access permit.
Chairman Martin entered Exhibits A – P into the record.
Planner Tom Veljic explained the request includes approval for a centralized storage facility operated on a year round basis for storage of supplies and materials used in the gas production industry. The narrative states that general operations on the site will occur between the hours of 7:30 AM to 6:00 PM. On-site storage may include; productions units, tubular (flow piping, tubing, and casing), excess tankage, miscellaneous valves, fittings, barriers, pit fabric, emergency response materials, and other items related to production operations. The unmanned site may also be temporary storage of vehicles and heavy equipment prior to transport to production well pad sites.
STAFF RECOMMENDATION
The Applicant has applied for a Land Use Change Permit for Storage of Supplies, Machinery, Equipment, or Products. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit for this specific use. Staff recommends the Board of County Commissioners **approve** the request from the Puckett Land Company for a Land Use Change Permit for the Storage of Supplies, Machinery, Equipment, or Products on a property owned by the Puckett Land Company located in the NW 1/4 of the NW 1/4 quarter of Section 28, Township 6 South, Range 96 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.

20. 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.
21. 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.

22. 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.
23. Site operations shall not emit heat, glare, radiation, dust or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
24. 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.
25. The applicant shall install a site-obscuring fence on the site boundaries.
26. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
27. All lighting associated with the property shall be directed inward and downward towards the interior of the property.
28. The Applicant shall adhere to the Storm water Management Controls and the required procedures detailed in the Materials Handling and Spill Prevention detailed in Section 3 of the Storm water Management Plan and attached hereto as ***Attachment 1***.
29. The Applicant shall adhere to the mitigation recommendations identified in the Wildlife and Sensitive Area Report as follows:
    a. Reclamation areas shall include Wyoming and Big Basin Sagebrush in the re-vegetation seed mix. Local sagebrush seed should be used.
    b. The applicant shall control noxious and invasive weeds to maintain native vegetation.
    c. No development activity should occur between January 1 and March 31 to meet CDOW and COGCC standards for the protection of Mule Deer critical range in the project area.
    d. Brush clearing activities shall occur outside of the migratory bird-nesting season, which is between May 1 and July 31.
    e. Site construction activities shall be restricted from March 15 to August 15 to protect Wild Turkey production.
    f. Construction activities shall be scheduled so that they do not interfere with breeding, nesting, and brood rearing activities for Raptors, which are identified in Table 4 (page 13) of the Wildlife and Sensitive Areas Report and attached hereto as ***Attachment 2***.
    g. Soil erosion control within the project area shall be implemented.
30. The following recommendations and requests of the County Vegetation Management Department shall become conditions of approval:
    a. The applicant shall construct a **washing station** to power wash and remove all seeds, soil, and vegetative matter for all construction, heavy or off road equipment and transport. This would include backhoes, trackhoes, dozers, blades, rollers, lowboys, and equipment trailers. Equipment shall be considered clean when a visual inspection does not disclose seeds, soil, vegetative matter, and other debris that could contain or hold seeds.
    b. The applicant has provided an acceptable menu of seed mixes.
    c. All seed tags must be saved and made available to the Vegetation Management Department for verification.
    d. The applicant has quantified the surface area to be disturbed as 5.0 acres on private land. Staff recommends a security of $20,000 based on the long-term rate of $4000/acre x 5.0 acres.
    e. 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.
    f. 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).
31. The following recommendations and requests of the Garfield County Road and Bridge Department shall become conditions of approval:
    A. A driveway access permit is required for this application with conditions specific to the driveway access location.
        1. The conditions would include a paved or concrete apron the width of the driveway access, 10 feet in length from the edge of pavement on Cr. 215 and a minimum depth of 4-inches.
        2. A stop sign shall be required at the entrance to Cr. 215. The sign and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices).
    B. Petroleum Development Company may be asked in the future to contribute to road improvements on County Road 215.
    C. All vehicles hauling equipment and materials for this project, including items to be stored shall abide by Garfield County's oversize/overweight system. All vehicles requiring oversize/overweight permits shall apply for them at Garfield County Road and Bridge Department.
    D. All vehicles applying for oversize/overweight permits shall have a letter or e-mail from Petroleum Development Company stating said vehicles can obtain oversize/overweight permits under their road bond on file with Garfield County.
32. The Applicant shall adhere to the following Garfield County Public Health conditions:
    a. The applicant shall comply with the Fugitive Dust requirements for disturbances of greater than 5 acres in Garfield County and obtain a construction permit from CDPHE APCD in accordance with Regulation 1 of the Air Pollution Control Commission. In addition, fugitive dust from haul roads and material storage and handling operations are also covered under the above noted rules.
    b. Access roads and disturbed areas adjacent to County Road 215 shall provide adequate surface stabilization and long-term maintenance to reduce fugitive dust and particulate matter.
    c. A dust mitigation plan shall be required as a condition of approval.

d. Puckett Land Company shall adopt, implement, and enforce a no idling policy for vehicles on this site as part of their air quality protection efforts.

Discussion occurred with the Commissioners and clarifications regarding water analysis and water sampling. There was a clarification on the wildfire risk area and the difficulty the fire district deals with when fire occur

Commissioner Samson asked for clarification on the letter from COGCC and Judy explained how they monitor the produced water, what is being injected into the wells as well as the monitoring. She addressed the integrity of the well bore and she believes they addressed the additional water testing requirements.

Deb clarified that easements were in place for crossing private property.

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 Samson – I move we approve the land use change permit through the limited impact review process for materials handling on the transport storage treatment and disposal of produced water and to an injection well on the Parachute ranch Federal 35-B well pad on the property owned by Noble Energy Inc. and with the 11 staff recommended conditions.

Commissioner Houpt – I would like to ask you if you would be willing to amend seven to include for residential purposes.

Commissioner Samson – I have no problem with that. Commissioner Houpt - Second.

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

PUBLIC MEETINGS:

- **A. Request Direction from BOCC on Adoption of the 2009 International Fire Code – Andy Schwaller**

On November 6, 2003, the Board of County Commissioners approved Resolution 03-92. This resolution established a commission called the Fire Code Adoption and Revision Commission. The purpose of this commission is to make recommendations concerning the adoption and revision of ordinances establishing minimum fire safety standards within unincorporated Garfield County.

The Fire Code Adoption and Revision Commission if convened would meet over several months to develop a proposed set of amendments to the 2009 IFC for approval by the Board of County Commissioners. Areas of concern with adoption of the 2009 IFC are similar to the adoption of the 2003 IFC. Andy detailed the code requirements and adopting the 2009 IFC the airport was exempted.

Chairman Martin – The request it the pursue the 2009 International Fire Code or leave it at the 2003 level?

Commissioner Houpt made motion that we do put a committee together to review the 2009 IFC and appoint those members recommended by the Sheriff's office and building and planning.

Commissioner Samson – I guess put my name in the motion.

Commissioner Houpt and I would move that approve Commissioner Samson to participate.

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

- **B. Presentation and Decision Regarding Engineering Analysis of the Intersection of County Road 300 and State Highway 6 & 24 – Fred Jarman**

Roger High Country Engineering and Fred Jarman presented a complete in-depth report to the Board. He summarized how the Board of County Commissioners approved an industrial subdivision (the Strong Subdivision), a gravel extraction operation (RTZ Gravel Pit), and finalized the creation of the Traveler's Highlands Public Improvements District (PID). Additionally, the Board acknowledged traffic impacts from natural gas exploration and production in the Spring / Wallace Creek areas as well as areas around Battlement Mesa. On July 28, 2009, staff presented a memorandum and PowerPoint presentation to the BOCC regarding the current impacts to county road / state highway intersections from development pressure and the inability of any current policy to adequately address these issues. The CR 300 / SH 6&24 intersection was used as an example to highlight these challenges.

As a result of significant discussion by the BOCC, the following "2-part" motion was made by both Commissioners Samson and Houpt and unanimously approved by all three Commissioners

Commissioner Samson made a motion to commit the County to "take the lead" in getting the intersection participants together to determine how to share the cost to get the necessary improvements made to the Intersection of CR 300 / SH 6&24. This motion also indicated the County would consider committing funds to this intersection, although no figure was presented and it would be subject to a budgetary process.

Part 2: Commissioner Houpt made a motion to commission a study prepared by a consultant that 1) prioritizes key county road / state highway intersections in terms acceptable levels of service, 2) identifies funding mechanisms to assist the County in funding any necessary future improvements, and 3) recommends policy changes to the County's Capital Improvements Plan and Unified Land Use Resolution. This memorandum is focused on the subject of Commissioner Samson's motion, which specifically addresses improvements to the intersection of CR 300 and State Highway 6 & 24.

Chairman Martin - Prior to this discussion by the BOCC discussed above the Board commissioned High Country Engineering (HCE) at an amount of $10,000 to examine this intersection and provide a rough look at what improvements would be necessary and how much they might cost. This study proposed improvements would cost between $1.2 and $2M but was not based on engineered traffic studies, was preliminary in nature, and did not address potential impacts / improvements to the Union Pacific Railroad (UPRR) crossing. Subsequently, the BOCC agreed to commission an RFP to have a more refined improvement / cost analysis performed based on actual traffic analyses and involvement by the UPRR. This work was awarded to High Country Engineering at a cost of $45,000.

HCE ENGINEERING completed the analysis, staff was directed to identify and meet with the key stakeholders involved with the improvements to CR 300 and State Highway 6 & 24 intersection. High County Engineering arrived at two designs one would be the inclusion of a traffic signal. Now that we have two costs ($1.79M and $2.2M), staff requests the BOCC choose which design and associated cost they believe is appropriate for this intersection. Once this is determined, staff will then be able to convene the key stakeholders who are required to make improvements to the intersection to determine how that costs is split among the group. Until we have this number, we cannot convene that group. This decision is critical to moving forward on Commissioner Samson's motion.

Staff believes the key stakeholders include: 1) Strong PUD (George Strong / Karl Hanlon / Eric McCafferty); 2) RTZ Gravel Pit: (Tim Thulson of Balcomb & Green); 3) Travelers Highlands: (David Hicks / Karl Hanlon) 3) Una Gravel Pit: (Bill Patterson) 4) The following Natural gas companies operate in

the area that primarily use this intersection that include : Noble Energy, Laramie Energy II, Antero: (John Black), Encana Oil and Gas; 5) CDOT: Dan Roussin; 6) Union Pacific RR: Kelly Abaray / Robert Gutierrez / Dale McGee: 970.216.0292 and 7) Garfield County. As to participation from these entities, the following was loosely agreed to in that meeting: Oil and Gas Companies = ¼ (330K to 500K); Garfield County = ¼ (330K to 500K); Energy Impact Grant Funding = ¼ (330K to 500K); Other Developments (George Strong / RTZ Gravel Company and others) = (330K to 500K); CDOT = no contribution; Traveler's Highlands PID and Mr. George Strong – Karl Hanlon proposed to expand the PID to include Mr. Strong's property so that an assessment via Mill Levy could be used to provide the funding for their fair share of improvements. This model would require the County to front Traveler's Highlands and Mr. Strong's fair share and then the PID would pay the County back over time. This way the improvements could be done in 2011. Staff understands Mr. Hanlon will be present at this meeting to present this concept to you. Staff has been working with Resource Engineering in reviewing the Strong Subdivision Final Plat and have determined Mr. Strong's fair share to be $158,895.00. Mr. Strong is still obligated to satisfy State law where the County cannot approve a Final Plat without access to a state highway, which is required by CDOT and demonstrated by Mr. Strong's own Traffic Engineer.

CONCLUSION

In conclusion, Staff is seeking the BOCC's decision on which cost you believe to be most appropriate. Staff cannot convene the stakeholders to decide how to split the cost until we have a cost. Staff expects there will be some discussion as to how this split occurs at this meeting.

The Board is being asking to choose between two options or two ultimate costs. Fred is hoping they will be able to submit the design to CDOT; the County obtains the permit and gets the review underway. The Union Pacific has been contacted and we are fortune that they have been brought into the discussion with High County Engineering. With those players in mind, the two costs range from $1.79 to $2.2 million dollars. The designs will be presented to the Board. Then we can convene these players together and try to be in-kind materials from the Una Pit. Then bring that back to the Board on a plan that you can talk about and agree to or not.

Roger gave a presentation. They looked at traffic volumes, talked to the oil and gas people, and got their projections. They looked at different 20-year projections of traffic at this intersection and he presented his findings.

Dan Roussin – CDOT is the permit manager for region three. We envision signalization in the next 20 years; he has a tough time visualizing that now. It is good to have the conduit under the railroad; he thinks is good planning for the future and that is really important.

Commissioner Samson – So option one is the way to go.

Dan – Yes.

Commissioner Samson - I move that we adopt option one; which would be for the amount of $1,798,000.00 for this to go forward and clarify the purposes of who the key stakeholders are and who pays for what costs.

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

Chairman Martin asked Karl Hanlon if he wanted to address something after this issue, establishing what the overall cost would be and you are a participant on two levels.

Karl – He just wanted to get some sense from the Board on how they feel about the expansion of that district. If that is something that the Board would be willing to consider then he can prepare a petition, they need to get a noticed meeting of the improvement district for the Board to consider that petition.

Commissioner Houpt just wants to make sure that if we expand the district there isn't an assumption that Garfield County will write a check for the entire project and over these years slowly recoup monies. That was not the way it was represented when they put the first district together.

Chairman Martin – The other issue is the gravel pit itself or actually both of them and George Strong and EnCana and everybody else there. He thinks they need to look at it as a business transaction.

Commissioner Houpt –Fred talked about meeting with all of the stakeholders and negotiating the amount people would invest and now she is hearing that no one has money to invest, so do we need to have this meeting? What you are suggesting today is two things, 1. We expand the district to include Strong and the second is that we change the intent of the district from what it was when we developed it.

Karl doesn't think the intent of the district has changed in that it is paying for public improvements. That has remained the same. What he is suggesting is that where the funding is coming from that it is paying back through the public improvements may need to change, and that is a policy decision that he is not asking the Board to make today. He is just acknowledging what the lending world looks like. All he is really asking today is that if it is an idea you are willing to consider; they will present a petition for inclusion of the Strong PUD in the improvement district, which will necessitate a noticed meeting of the improvement district to consider that petition for inclusion,.

Commissioner Houpt asked if it was okay with Travelers.

Karl – Yes.

Commissioner Houpt – It certainly makes more sense to have one expanded one.

Karl said that was kind of his thought. It makes some sense in the overall picture and some of the long term minor internal road maintenance and things like that; the Strong PUD has similarity of interest in that it is a privately maintained road on the interior. Commissioner Houpt – What's important to her, and she agrees with Karl's suggestion of expanding the district. She thinks that could make a great deal of sense. What is important to her is that her staff be able to go to this meeting and have people not see them walk in and say okay here is the checkbook for getting this done. We have to recognize the responsibility of business paying for itself, and the responsibility that all of the stakeholders have. Therefore, we have to find creative ways of approaching this.

Karl – Absolutely. Please understand there is no suggestion that those property owners, within Travelers Highlands and the Strong PUD, don't ultimately pay for that. The financing mechanism that has that happen is going to be a matter of a policy discussion for the improvement district and will use the BOCC to have. How that plays out he doesn't know; but somehow the districts are going to have to finance their portion of that improvement. That is just one of the realities of what's going on right now. The good news is they have a solid revenue stream and we can, if necessary, go out on the municipal bond market and find whatever their percentages are after the stakeholder meetings gets a shaken out. We can do that. He would say from the stand point of efficiency there might be a better way to do it.

Chairman Martin – And since we have this board we probably end of paying that particular bill; collecting it over a period of time on a special assessment of properties.

Commissioner Houpt – Well we'll see after we have the discussion.
Chairman Martin thinks they need to make a decision, are we going to allow the expansion or not and to have a petition come in or not.
Deb- You can't the make decision today; because no one asked for direction to bring it back before you can take formal action.
Chairman Martin – I understand.
Commissioner Samson thinks they need to go forward.
Commissioner Houpt thinks it would make sense to bring it back to us.
Karl – What do the calendars look like; can they anticipate it will come in on the first meeting June? Everyone said that was fine.
Deb – On this item, whoever is petitioning for inclusion should probably be responsible for assuring that the notice is published.
Karl – We'll be back on the second week of June in the afternoon.
Chairman Martin – We made the two decisions to at least to give direction on one and also establish what the overall cost would be. He thinks they are making progress slowly.
Deb – During Mr. Jarman's presentation, he did indicate that the application for the access permit is ready to go; but she doesn't know if this Board ever make the specific decision that it would be submitting that application.
Chairman Martin thinks they should since Mr. Samson said we would take the lead.
Commissioner Houpt – doesn't know; don't we need….
Deb – He did say take the lead but he didn't specify what that was to actually designate some staff member or the Chair to sign an access permit.
Commissioner Houpt - Would like that to come back to the Board, maybe next week after you have a meeting with the other stakeholders so they know there is money in place to be able to move forward with the access.
Chairman Martin – You don't need money to move forward with an access permit; you need to get that process going right now. He would say that you have to….
Commissioner Houpt – Well you get it going; but what she would really like to see, she wants to make sure there is commitment from all stakeholders before we submit the access permit. She supposes they could always withdraw the access permit.
Chairman Martin – You can and that's the issue; you need to start that process.
Dan – You can apply for an access and if you choose not to move forward; the permit expires. There is no financial obligation for you to move forward.
Chairman Martin – The only financial is going to be with staff time to make sure that the presentation goes to CDOT, get's it mailed with the application and under the contract with High County, and he believes they already have that. If we give staff the recommendation to move forward with that application, which was option number one, for an access permit identified with all the information, send it to Mr. Roussin then they can act on it. Then we can go ahead and have a meeting to setup the other finance.
Fred thinks that is right; he thinks if that is the direction they want to go then you have to authorize the Chairman to sign that.
Commissioner Houpt – It doesn't say anything about authorizing an access permit.
Deb suggests they put it on the consent agenda so at least all of them have the opportunity to read that permit before you authorize the Chair to sign it and get legal staff…
Commissioner Samson – So you will have it for us next Monday?
Deb – If High County can have it by then she thinks that would be appropriate.
Commissioner Houpt – But let's have it be on the regular agenda not the consent agenda.
Fred – Regular agenda- public meeting. This was fine with everyone.

- **Request for Funding for Request for Proposals of the County Road/State Highway Intersection Study – Fred Jarman**

Fred gave a review of the background regard the RFP for the CR 300 and Hwy 6 &24 Intersection 3 miles southwest of the Town of Parachute. Specifically, the Board of County Commissioners approved an industrial subdivision (the Strong Subdivision), a gravel extraction operation (RTZ Gravel Pit), and finalized the creation of the Traveler's Highlands Public Improvements District (PID). Additionally, the Board acknowledged traffic impacts from natural gas exploration and production in the Spring / Wallace Creek areas as well as areas around Battlement Mesa.
On July 28, 2009, Staff presented a memorandum and PowerPoint presentation to the BOCC regarding the current impacts to county road / state highway intersections from development pressure and the inability of any current policy to adequately address these issues. The CR 300 / SH 6&24 intersection was used as an example to highlight these challenges. As a result, significant discussions were held by the BOCC, the following "2-part" motion was made by both Commissioners Samson and Houpt and unanimously approved by all three Commissioners. Some of this was addressed in the prior agenda item.
Then on
On January 5, 2010, the BOCC gave staff direction to move forward with a Scope of Services intended to address County Road / State Highway Intersection Policies.
Because the BOCC had not identified any funding to support the RFP, staff sent the scope out as a Request for Information (RFI). As of two weeks ago, staff has received four responses from firms in Colorado: SEH: Denver, CO; URS: Colorado Springs, CO; SGM: Glenwood Springs, CO; and LSC: Colorado Springs, CO.
Staff has done an initial review of the responses and found there to be good proposals for a potential scope of work, timelines to complete a study and approximate costs for such a study, which range between $76,000.00 and $140,000.00.
Staff requests the BOCC provide funding support for an RFP in an amount not to exceed $140,000.00. Once this has been determined, staff will send out the Scope of Services in a RFP format to move this project forward to be consistent with Commissioner Houpt's motion.
The LSC group is under contract with the County right now with the comprehensive plan. They have a very good sense of the county's road systems. They were also commissioned by this Board to do the county's transportation master plan back in '06. You have not adopted that study; but they have looked at turning movements at key intersections and so on. Their thinking came in about $76,000.00; he believes that is very low.

Chairman Martin – They are relying on all the information from the master transportation plan.
Fred – That's part of that. SCH came in at $140,000.00 and Fred is asking for is $140,000.00.
Ed asked if that came out of his $602,000.00.
Commissioner Houpt – This actually is to guard against what we just talked about from happening again. We need to figure out how we as a county are going to work on this. She thinks it is a significant effort and she thinks they need to; you will put out to RFP to everybody so you not just focusing in on two different companies.
Discussion was held as to where the funds would be taken from with several options general fund, administration and building and planning.
Fred – We manage the contract for you; but we are asking for funding.
Commissioner Samson – I would really like to see CDOT helping a little.
Dan Roussin – Obviously, their planning mechanism works; it is a very formalize mechanism and it is through the TPR that they go through their funding mechanism. There are other funding mechanisms; hazardous elimination funds, safety funding, there is the FASTER money.
Chairman Martin – But you are playing with the Federal government money.
Dan – The FASTER money is where we get money from our tax, our registration of vehicles. We don't know exactly how that is going to play out.
Commissioner Samson – Dan, could we possibly get some funding from FASTER funds for this CR 300 intersection?
Dan – Not very quickly.
Chairman Martin thinks it's time to be bugged about the funding in reference to the State highway dollars. It's already committed and not only this year but into the next three years; plus there is a shortfall.
Commissioner Houpt – And the priority lists from the TPR's is very long and the money is so slim, even if you got on the list it would be years before it would become a priority.
Dan wanted to try to give them some good news and some opportunities saying one of the things they look at is access along a corridor. As you know we have several that we deal with; Highways 82, 13 and 133, even Douglas Pass 139 goes through, 325 and Hwy. 6. He doesn't know if they could provide funding for the entire system, but one of the things they try to do is partnership with local governments. He tried to sell it with staff is that there is the possibility where they can help fund an access look on State Hwy 82. They see a need for it in the City of Glenwood to start looking at the access points. There is absolutely a need for it in the county areas, Cattle Creek, CMC access, Catherine Store; they can go to Carbondale, as far as they want and look at something like that. CDOT has committed some funding for that and they committed basically $100,000.00 for funding of that corridor. They are looking for partnerships with the City of Glenwood, possibly Garfield County and will they hit all the intersections in Garfield County; no. However, what they can do is hit a corridor and try to figure out how to fix those corridors and plan those corridors.
Commissioner Houpt – That fits in with what they are talking about today in terms of contracting for a plan. Because that would include Hwy 82 and when they get the results they can sit down and figure out how they could partner together on some of those priorities, or will we be too late?
Dan – No, what they are looking to do on Hwy 82 is an access control plan similarly, what they did in Rifle and Silt. By the way, both of those have been adopted by this Board as well as the City of Rifle and the Town of Silt. What they are looking to do is actual access control plan and look at what needs to happen long term. Will it give you a good understanding of what's needed at these intersection on 82; absolutely. It will also give you a good long-term look where the accesses should be, so they have a plan, a blueprint for 82. Are we looking to do it today; yes, but he thinks they are willing to wait.
Commissioner Houpt – How would that differ from what we are talking about here?
Chairman Martin – It would be included; an example that you have along Hwy 82 is already an existing by-pass or secondary road, which is already there, it just needs to be paved. Between the old Hwy 82 at Buffalo Valley. It starts and goes all the way down to Cattle Creek and beyond. It goes all the way almost to Carbondale on the east side of Hwy82. The improvement that is needed at each access is at a light and you never utilize that. It is in the CDOT right-of-way; it used to be used for the bicycle, the ATV's, and the jeepers, but it is a nice road. He has seen the maintenance vehicles sitting on there. It exists now but it is underutilized, so those are some of the issues they can bring out, improve the road system for both county and State and local access, businesses and the whole works. It has potential.
Dan – Agreed, and what he is offering today is not what Fred is talking about, it is a supplement. That is probably the best way of saying it. Right now, all that CDOT can provide for instance on County Road 300 is they promised they would go through the process as quickly as possible. That has been his direction from his boss. When they get the county's application, they will not dilly-dally; they will provide good responses and timely responses. On State Hwy. 82, they have some funding and it could help and could supplement. It might not be all that you want to do or everything you want to do countywide but at least they can help. They do have a funding partner with the City of Glenwood Springs. If all three entities come in, it's basically a synergy of getting something done on 82, at least to look at 82 and start planning the 82 corridor. It is a major corridor.
Fred doesn't think this is a duplication of services. He and Dan have met a couple of times and thinks there is a lot of merit to what CDOT's focus is here. His feeling is it is too narrow of a scope that he thinks for the purposes that your planner is telling you that you need to look at really needs to be countywide because Fred is hoping that the document will help inform you as a whole county east to west, where those policies then get put into place and not just focused on one area of the county. He is looking at the end of the day the mechanisms that will become known after looking at things everywhere east to west. He thinks what Dan's project is, is too narrow for what Fred believes the county needs to do. Also it is not that much money; $100,000.00 to be split between what the City of Glenwood Springs wants to do and what you want to do, frankly his fear they is they would get bootstrapped to something that would take a lot longer and drags us into an area we didn't want to go. By you commission this; you remain in control of your project. He doesn't suggest doing that, he thinks Dan has accurately phrased it and sees Dan's project as part two, really. Once you understand the whole breath of the issue, then it is a wonderful opportunity. Then you can work with partnerships. The policies you will see may very well say absolutely get as many partners as you can together.
Dan wanted to clarify that CDOT would commit up to $100,000.00. It's not $100,000.00 for the entire study. Depending on how far the scope is, or how far we want to look on 82, they are willing. What they

find is that the local governments have to be involved in the process and they become far more successful. Rifle for example, they wanted to have a plan together to start looking at what they needed to do and how to understand it and how their land use; how the transportation will reflect in their land use and co-mingle with their land use.
Fred – That is a very interesting point Dan. The thing that is critical, very important for the timing of your motion in this larger study, Commissioner Houpt we have this one track of the comprehensive plan moving along this. He thinks they will be informed to a great degree by that process. There will be at some point, those are going to come together, which is the very point that Dan is raising in the transportation land use connection a type of hand in glove.
Chairman Martin – We need to get back on track and authorize the expenditure of a certain amount of money to go to the study that Fred has got in progress. He thinks $140,000.00 is too much and suggested s $100,000.00.
Commissioner Houpt – I make a motion that we approve funding support for an RFP for County Road State Highway intersection study in an amount not-to-exceed $140,000.00.
Commissioner Samson – Second.
Commissioner Houpt – The reason I wants to go with $140,000.00 is not because we have to go with $140,000.00. Her guess is that they won't go with $140,000.00 probably the RFP's will come in potentially lower than that. This is really a complex study and Fred has been involved with the transportation study, the comprehensive plan and has a real handle on what really needs to be done and how through it needs to be. She doesn't anticipate them spending that much; but she thinks they need to be prepared to spend, to empower our staff to bring recommendations forward that they think will cover this issue. Because her concern is that they have just spent three years trying to work out a County Road state highway intersection issue that from the outside probably looks to people is not being that complex; but because we don't have any policy or understanding of how to procedure with those intersections in place, it has becoming a very expensive and time consuming process. She just wants to make sure they do this right and that they identify resources to enable the county to accomplish that.
Chairman Martin said it has been about eight years; it hasn't been three years.
Commissioner Houpt – No, since the land use application triggered this.
Chairman Martin – Prior to that even we have been trying to get that done. Anyway, the motion is to go ahead and authorize up to $140,000.00.
Commissioner Houpt – As recommended by staff.
Commissioner Samson - Out of which account would these funds be directed.
Commissioner Houpt – They will come from general fund and be directed to the planning department budget.
Commissioner Samson – I would amend and strike $140,000.00.
Commissioner Houpt – You can ask me for friendly amendment; but otherwise we have to vote.
Commissioner Samson – No, it would be appropriate to amend; but I will ask you out of courtesy, would you amend that to $100,000.00?
Commissioner Houpt – No, I would meet you in between; but I don't think $100,000.00 is enough. I'm not hearing from the staff that that's where they want to go.
Commissioner Samson – Well, I'm looking at this $76,000.00 here, by LSC and I'm saying you know we give them another $24,000.00 on top of that, that's plenty.
Fred – Chairman Martin raised a good point and that was the primary reason that came in low was because they have already done a lot of work for you as the County recently in the last few years. They already have that intellectual equity. Now, but you have to compete the bid.
Chairman Martin – So there is no amendment to the motion.
Commissioner Samson – No there isn't.
Commissioner Samson – I would amend the motion that we strike $140, 000.00 and insert $100,000.00. That's my amendment.
Chairman Martin – I second your amendment.
Commissioner Samson – Now you vote on the amendment and then you vote on the motion.
Commissioner Houpt – I just wanted to be clear to staff that you know you can come for a budget supplement. If it becomes apparent with these proposals that we are not competing properly, I think your point Fred is really important because it puts others at a disadvantage if you take it to a level where they can't or don't have the same level of information that another firm has.
Commissioner Samson – That's true but I'm trying to save us, theoretically $40,000.00. I agree with what you're saying, I'm just trying to save us some money.
Commissioner Houpt – We're not sending the RFP out saying if you spend less then you send it back. Our threshold level is $140,000. It's only giving Fred money in his budget, it doesn't mean that you spend it.
Commissioner Samson – I understand.
Chairman Martin – We are going to vote on the amendment which is to reduce the overall cost to $100,000.00.
In favor: Martin – aye Samson – aye Opposed: Houpt - aye
Chairman Samson – Now I would call for the question on the motion as amended. Not the original
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I voted for it because I am for this project; but with the understanding to move this forward because it is a important project and I just want to make sure that it's not undercut because we have to resolve these issues.
Chairman Martin – If it isn't accepted it always goes back out for bid and authorization of more money. Dan had a question, in regards to what I had mentioned in the access control plan would you like to have a formal request from CDOT and the City of Glenwood and you guys to see if you would be interested in participating in the access control plan?
Commissioner Houpt – Absolutely.
Chairman Martin – It's outside our budget year. Of course, it is yours and the City of Glenwood Springs and they are having some type of financial crisis anyway.
Commissioner Houpt – But we would want to be part of that discussion.
Dan – I will come back to you guys at a later date.
Deb – On that last statement, you will need staff to come forward with a budget supplement for that amount.

Chairman Martin – Yes, we are aware of that because it's general fund.
Commissioner Samson – I would rather it come out of Building and Planning's budget; he didn't want out of general fund.

Commissioner Reports
Commissioner Samson – One of the things he wanted to talk about and we need Jean's input. We need to go forward with having meetings outside of Glenwood. He thinks the meeting in Rifle was great; but he thinks it was a hassle for Jean and she has expressed that with the troubles of having a properly recorded meeting. When will the Sheriff Annex be done so they can start using it?
Ed – Mid-June 2010.
Chairman Martin – Then you need also your communication stuff that Jean would have to review. He is sure it would take more than a week or two.
Commissioner Houpt – It was appreciated when we went to Carbondale. She thinks it is important; people didn't show up because they didn't know about it because we didn't put any ads in their local paper.
Commissioner Samson – There was a write up in the Glenwood paper.
Commissioner Houpt – But it was not in the Sopris Sun.
Ed said it might make sense to do it in July.
Discussion continued regarding other towns where meetings could be held.
Jean – With Silt, you are looking at very small meeting space; it would depend on what you had on your agenda. She doesn't know the actual capabilities so we would have to talk to Sheila the Town Clerk but she thinks that Paul Vandre told them we could record there, and Paul records there for public TV. However, there is no option for him to record a meeting in New Castle. He is working very closely with IT so that when the Sheriff's annex is available then he will be down there to make that a live broadcast. The Human Services Building did not have TV broadcast and we did not have an adequate record.
Chairman Martin – The only other alternative in New Castle would be the Community Center and that doesn't have any recording capabilities.
Ed thinks that staff recommended that you not consider Silt because there is no capability there either.
Jean – The meeting room is so small plus you guys didn't want to sit above everyone and that is exactly how Silt has their setup.
Commissioner Houpt – Doesn't know if that would preclude us from doing it.
Commissioner Samson – His question is in Silt how many people can you fit in the room; ½ of this?
Jean – Maybe 1/3 of this capacity.
Chairman Martin – Depends on how you set up your seating.
Commissioner Samson was just there a week ago and it is small but he did not to preclude them meeting in Silt.
Ed – Could you consider the Sheriff's annex as a Silt meeting since it is so close?
Commissioner Samson – He was thinking a long-range plan; do you ever dedicate a new building or do you ever have an open house? He was thinks what might be appropriate is to have something like that during a regular meeting.
Ed – That would be great.
Commissioner Samson is saying combine the two.
Jean – The real issue of having meetings in other locations is to make plans far enough ahead of time so building and planning can let the applicants know where they need to notice the meeting.
Ed – That's the problem Molly is running up against now; if we want to schedule anything in June she needs to know right now. Ed recommended July 12.
Commissioner Samson – Why don't we do that? It's pretty close to Silt; but not in Silt.
Ed said July 12 is usually the lightest schedule and it gives the opportunity to give the dedication in your meeting.
Commissioner Samson and Chairman Martin will be attending the NACO summer conference in Reno and will be back on Sunday, July 20.
Discussion regarding the meeting on July 21 – but it was decided that the Commissioners would be available to hold the regular meeting on that Monday.
Commissioner Houpt – Yes, which is a Monday; that would mean that in July we would have the first
Commissioner Samson – We need to start making sure we advertise that we will have a dedication/open house of that building and have our regular meeting etc on July 12.

Other Meetings:
Commissioner Samson attended the DOW meeting last Thursday at the Ramada. He met many of the commission members and the directors. He told them the county was very pleased to have them in Glenwood, Garfield County.

Chairman Martin met with BLM and the cooperating agencies down in Silt last week. It is the RMP of revision, chapter 4, 866 pages with all of the other comments made by Jesse Smith. We have to recreate all of our comments in reference to chapters 1, 2, 3 and 4 by our next meeting. It also dealt with the Wild Receding River Initiative and the entire inventory. It is available on a disc it's probably 4,000 pages worth of documents you need to read if you wish to make any comment. That has to be in written form and you have to present those to the folks by June 4th.
Commissioner Houpt is wondering when they made the comments before, the board had weighed in on that, but you re-read it and you think we need to redo that?
Chairman Martin – Not necessarily but we have to recreate all of those. In other words, we have to find what those comments were; because they have redone the RMP and remember this is a four-year process that has been in place. Our original representative on the RMP was Jesse Smith and he traveled up to Rangley and Meeker and gave all the input, which then left out any input in reference to oil shale and the development and management of all of the resources. They also put aside the travel management plan, and the oil and gas development. Now it's all come back together and we need to put comments on everything. If you want a copy of the disc he has he will burn extra copies and you can review it.
Commissioner Houpt – Is Fred going to pull Tamara into these things; because Dave Pesnichak took the place of Jesses work.
Chairman Martin – I have never read any of the comments that David had made. That's what our goal is and we will get that taken care of. It also goes along with the watershed, western water resource collation,

which happens to be out of Mesa County and they have done a lot. Mesa County and Rio Blanco and we haven't had much of a comment on those particular projects. It includes most of the drainages in Garfield County; which deals with the greater sage grouse work plan. Larry McCown was also our representative on that and we never had a final report back to this Board. The Division of Wildlife is supplying the actual plan to us. I don't we have a copy of that plan; however it was the last one of the State of Colorado to be done and the most comprehensive going to the Utah boarder.
Commissioner Houpt – We should have a work session. Could we get comments from planning?
Chairman Martin – Yes, we can make those requests or see if they have any requests.

Commissioner Samson – Thursday and Friday he will up in Craig at the Energy Summit. AGNC will be having their meeting in Craig on Thursday and he will be attending. He was instrumental in getting them to change that RAC committee meeting to June 9. He asked if they received an e-mail from the Federal Government on another RAC. He wanted to know if he was the only one noticed.
Chairman Martin – There should be two RAC's the BLM and the Forest Service.
Commissioner Samson – This one is the BLM and he doesn't know why but he is the only one received it.
Chairman Martin – Your' probably taking Larry's position.
Commissioner Samson – I haven't been officially designated or assigned to that but he will see if he is and report back. I may have to go through the application process.

Commissioner Houpt – The Garfield policy advisory committee in Rifle on Wednesday; GNECI and I-70 Collation on Thursday. The policy advisory committee grew out of a grant on substance abuse; they are in year three of that project to work on alcohol abuse by kids in high school. They work with the school district and the police department.
Commissioner Samson asked if there was anything on marijuana.
Commissioner Houpt – We have been looking at substance abuse however, the leading issue that has been identified has been alcohol.
Commissioner Samson agreed say as a schoolteacher and administrator for 30 years alcohol is the number one problem among teenagers.
Chairman Martin – Statistics say it's the medicine cabinet at home that contains controlled substances for mom, dad, grandpa and grandma and that's where the biggest abuse is right now. However, things have changed.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JUNE 7, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. in Glenwood Springs on June 7, 2010 with Chairman John Martin and Commissioners Mike Samson and Commissioner 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.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
John Gorman – Brought to the commissioner a request to plant an extra tree he purchased in the County planter. He would like to replace the Chinese elms with this new tree. He has the equipment necessary but had a question about water.
Chairman Martin stated that Richard Alary could assist John with the necessary water.

COUNTY MANAGER UPDATE: ED GREEN

F. **SENIOR BENEFIT – SENIOR ADVISORY BOARD**

Lisa Dawson, Senior Advisory Board Members - Mildred Alsdorf, Judy Martin and Dave Sturgis were present.
The Senior Advisory Board met a week ago Friday to talk about the senior benefit expansion and they made a motion to set the parameters of the expanded benefits. The criteria includes: The person needs to be a US Citizen, a resident of Garfield County for 10 consecutive years, be 65 years of age as of May 17, 2010, which was when the original resolution was done, and complete an affidavit stating those parameters in it and then also show their identity by using a government issued identification card. The timeline of how long we would be accepting people to apply for the expanded service, which is 90 days
Discussion was held regarding the effective date which was May 17 when the Resolution was approved, however, Ed clarified that those who turn age 65 as of January 1, 2010 are already included.
Chairman Maritn – The Senior Advisory Council will review the appeals, make a determination if they meet the criteria, double check to make sure the senior has not already been paid the benefit of $163.00 and then finally come to the Board with a recommendation.
Judy clarified that the appeal process does not include being a registered voter. They will also take a copy of the US document showing identification. The criteria used for identification is the same as the Secretary of State.
Chairman Martin – We need a motion to go ahead and accept the recommendation and the parameters.
Commissioner Samson – So moved. Commissioner Houpt – Second.
Don – Could the motion include direction to my office to prepare a Resolution confirming your action and the establishment of what will be the expanded senior benefit program.
Ed – Do you want the Senior Advisory Board to actually review the documentation and make a recommendation?
Chairman Martin – Yes.

Ed – They will look at each candidate's documentation and then make a recommendation to the Board as to whether a payment should be made.
Chairman Martin – Correct.
Don – It is the kind of detail I would appreciate you preparing a Resolution and the other thing I point out to the Board in the original Resolution establishing the initial senior benefit program you established a general dollar limitation on the program and I am assuming you to expand that so some comment to that effect would be appropriate in the expanded Resolution.
Lisa said any funds received back would divert back into the general fund.
Commissioner Houpt restated – We added a Resolution and added some language to that Resolution for the legal department to go by, are you adding additional funds…
Chairman Martin – If necessary, not to exceed $10,000 on the expanded revenue.
In favor: Samson – aye Martin – aye Houpt – aye
Judy – Added on more think, we forgot to do was. Shall I come back monthly with a list or all at once?
Chairman Martin – Whatever you have so we can act on them.
Lisa – Explained the process for these appeals, which included the Senior Advisory Board review these application and accept them in July and August and we will present it to the Board at the very beginning of September and then after that list is approved then the finance department would have 30 days to print those check and that is what I explained to the folk who have called me and that is acceptable. This would allow us to double check the expansion list against the list of registered voters and the checks would go out in October.
Judy will be the one who will receive all calls regarding the expanded benefit. She will meet with folks at the meal sites as well as our office in Glenwood and in Rifle.
The Commissioners gave thanks to the Senior Advisory Board for all their work.

G. **COLORADO STATE GRANT – BRIAN CONDIE**

Brian Condie submitted the Colorado Discretionary Aviation Grant Agreement 10-RIL-01 funding award to Garfield County saying this is for $18,752,637.00 with local cash of $687,631 and federal funds of $17,815,006. The CDAG grant fund requested is for $250,000. We will receive another one next year. When the project is done, FAA 93%, 2% and 3% from the State.
Commissioner Houpt made a motion to approve the Colorado State Grant for $250,000. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye

H. **RELEASE TO CONTRACT NO. 7, CH2M HILL – BRIAN CONDIE**

Brian Condie submitted the release and explained this is for the Garfield County Airport Apron Cost Estimate of $1,851,836.00. This was put on hold until last month meeting for this contract. It has been budgeted and appropriated. We took the amount out for paving. We have enough in this account to complete the paving.
$214,734 release to contract amount. Money on page 21 and has our form appropriate language.
Completion is November 2010.
Commissioner Houpt made a motion to approve the Release to Contract No. 7 to CH2M Hill for $214,734.00.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt – aye
The parking lot is being paved and completed today.

I. **ENERGY ADVISORY BOARD UPDATE – JUDY JORDAN**

Judy Jordan gave her report explaining the agenda application form that will be reviewed as a prerequisite to being heard beyond the "General Public Comment Period" of the meeting. This form requests specific submittal requirements and timing requirements. This form will enable EAB to have an opportunity to research, respond and provide the forum necessary to have a productive dialogue between the board, the public and the applicant regarding the specific issue. The application needs to be received at least two weeks prior to the hearing requested.
This form was proposed to help be more constructive for the topics on the agenda. Last Thursday, not a requirement but if they wanted to get some facts out, they could use the form this way. Commission and purpose,
The Commissioners discussed the idea of Judy's proposal to pay a professional mediator to lead the EAB in the right direction.
Commissioner Houpt suggested holding a work session on July 13 with the EAB members in the morning and invite the public to attend especially those who have used the advisory board in the past. This may provide opportunity for a toolbox to share for the members, as they are volunteers and not mediators. It was also suggested to have a community survey to see what ideas the public would have as to how to handle this form and give direction to Judy and her assistant so they would time to find the right people to respond.
Commisioner Samson – Agreed that he would like to have a work session first and then get their questions for the survey.

J. **STAFF RECOMMENDATION TO APPROVE A SOLE SOURCE JUSTIFICATION AND SUBSEQUENT CONTRACT TO AIR RESOURCE SPECIALISTS, INC. IN THE AMOUNT OF $59,221.00 FOR AIR MONIOTRING SERVICES FROM JULY 1, 2010 THROUGH JUNE 30, 2011; AND AUTHORIZE THE CHAIR TO SIGN A CONTRACT IF THE SOLE SOURCE JUSTIFICATION IS APPROVED – KENT LONG**

Kent Long and Paul Reasor submitted the request, summary and the justification based on AIS has
State will reimburse $20,000. Kent stated they are not doing air monitoring in Glenwood Springs.
No air monitoring in Glenwood springs.
Carolyn added the contract if from July 1, 2010 through June 30, 2011 and all money was budgeted.
We typically are reimbursed and we approach the State for that amount in a quarterly invoice.
Ed – The entire amount of $59,000 will carry over after December 2010 and a renewal letter will be issued in January.
Commissioner Houpt made a motion to approve a sole source justification and subsequent contract to Air Resource Specialists, Inc. in the amount not to exceed $59,221.00 for countywide air monitoring services and authorize the Chair to sign the contract. Commissioner Samson second.
In favor: Samson – aye Martin – aye Houpt - aye

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario – No report given.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE –
Don stated he needed to discuss with the Board the following items: Legal advice disclosure of appraisals; update Vandelay and direction, banking agreement, two general topics, BAA and one concerns oil and gas action items and BAA litigation.
Commissioner Houpt made a motion to go into an Executive Session for items listed by the County Attorney. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye
Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt second. In favor: Samson – aye Martin – aye Houpt - aye
Action taken:

- **DIRECTION REGARDING RELEASE OF PROPERTY APPRAISAL – VALLEY VIEW HOSPITAL**

Don DeFord – This concerns the release of a property appraisal conducted by the County concerning property underlying the Valley View Hospital as well as property utilized for our Public Health and other services. We have a formal written request from Valley View and to release that appraisal, the Board needs to take action on that request.
Pleasure of the Board:
Commissioner Houpt – I think they are requesting a copy of the appraisal in good faith and I would make a motion that we release the appraisal to them for review.
Chairman Martin seconded the motion for discussion.
Discussion and Issues:
Chairman Martin – My situation is we need to sit down with the Valley View Hospital Board and see there is continued interest in transferring of that property, etc and for what reason. The other one is that we know that the Valley View Hospital received a variance and is going forward with their plans to go up instead of out. This was done for an asset so that we can report on how much public value there is and if we want to go into negotiations I think that we need to see if negotiations are necessary before we release the document.
Commissioner Samson - I would agree with that, after talking with some individuals and reading some various things that have been brought out I need more information from the Hospital Board as to what their intentions are. It appears but I do not know, that is why we need to have more of a discussion with them, but it appears that they may not be interested in the original things that we were thinking about. However, if they are I would like this Board to sit down with their Board and ask them. If they say thanks, but no thanks then I see no need of releasing that. If they want to go further, then we need to ask them what exactly their plans are since they have already procured the variance for the height.
Commissioner Houpt – Well, I would be happy to withdraw my motion if the Board would like to meet with the Hospital Board and discuss everyone's intentions on this prior to releasing it, to draw a line in the sand and say we are not going to release it is not the message that I want to send today. If the message is that we would be happy to meet with them and talk about what they would like to see into the future and where we can work and partnership on that is what you both are saying, them I am in full support of that and I'll withdraw my motion but I will not agree that there would not be a time during this discussion with them when I would not support handing over the appraisal to them. I think it is important to recognize that they're a non-profit hospital that is a tremendous asset to not only this community but to the County and we serve the same people. For that reason I think it is a product that we should share with them but I have not meeting with them prior to releasing that document.
Chairman Martin – That is where we need to be, we can set up that meeting.
Commissioner Houpt – So I would make a motion that we not release the appraisals at this time but meet with the Hospital Board and then discuss when we should release the document.
Chairman Martin – Procedurally, you wish to have an amended motion with those stipulations then I will withdraw my second and second this new amended motion.
Vote to withdraw the motion:
In favor: Houpt – aye Samson – aye Martin – No vote

The second amended motion, call for the question on that.
Commissioner Samson – I agree with what Commissioner Houpt has said and we need to find out and sit down as the two boards and see where everyone is coming from on this, work together with them, I think our intentions and I think their intentions are to work together but they might say, I don't know and that's why I need to talk to them and they might say we're no longer interested in any of this and thank you, but perhaps they will not so that is the best way to find out.
Don – I can write back to the attorney on your behalf and simply say the Board is not releasing the appraisal at this time but I recognize that is not the motion of the Board. If you want to set up a meeting then you need to decide who is going to contact who on the Board to get that process rolling, it is the County Administrator contracting the CEO, is it the Chairman of the Board contracting the Chair of their Board, how do you want to do this?
Commissioner Houpt – What I envisioned in this motion is that a letter go out saying that "At this time we would like to, if the Board is interested in opening up discussions again, we would like to wait until we have a joint meeting with the Hospital Board and the Board of County Commissioners and invite them to set up a joint meeting with us and tell them at that meeting we will talk about releasing the appraisal."
Chairman Martin – Again, the letter is going to be directed from the legal or administration:
Commissioner Houpt – Well, legal received the letter.
Chariman Martin – So we will assign that letter with that content go from the legal department to the Board.
Don – I would read the motion then as direction to me to respond to the attorney for the hospital substantially the way you just indicated in the motion and then anticipate that he would take to whoever he thought was appropriate in the hospital hierarchy to start the ball rolling for a meeting.
In favor: Samson – aye Martin – aye Houpt - aye

- **DISCUSSION/SETTING OF DATES FOR BOARD OF EQUALIZATION HEARINGS**

Don DeFord and Mary Lynn only need 2 -3 days in July and August. There are 455 appeals to the Assessor's office. Normally we figure 10% to Board of Equalization. All the hearings must be heard by August 5 so Don was requesting the last week in July and 1-2 days in August. Dates were set for July 29, 30 and August 3 in the afternoon after the regular work session.

Lisa said most the appeals are standard; however Aspen Glen Golf Course could be controversial and the Board should schedule ½ day. They may use this as avenue for state appeal.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Liquor license renewal for Retolisa LLC DBA Columbine Restaurant in Rifle – Jean Alberico

Commissioner Samson made a motion to approve the Consent Agenda Items a – e. Commissioner Houpt second.

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

- **SIGNING OF RESOLUTION REGARDING REUSABLE SHOPPING BAGS**

Members representing the 4H program submitted the Resolution encouraging the use of reusable cloth bags in lieu of plastic bags in Garfield County and requested the Chair be authorized to sign. This resolution was presented to the Commissioners with evidence that plastic shopping bags are excessively consumed, degrade the environment and have significant economic implications.

Photo submitted

Changes to the Resolution were made by Commissioner Houpt saying two changes to make, my proposed change is in the title adding plastic or paper bags because we talk about both in the body of the Resolution; and the second one is the final paragraph in the sentence that talks about what we are resolving, I would say, "that the Board expresses support for their ongoing efforts of the individuals groups and businesses that discourage the use of plastic and paper shopping bags" instead of the excessive use. The message in here is use and the ultimate goal is to change the way we carry our products home.

Commisioner Samson asked who drew the Resolution up and presented it to us.

Ed – Tamara Allen.

Commissioner Houpt – The message fits better here with taking "excessive" out and it is not something that will happen overnight, people will have to work toward this and we are not mandating but encouraging and if we are encouraging what we are really encouraging is the use of bags that are not made of plastic or paper.

Jean – Noted this is not the standard format we use under Resolutions where it is recorded how each Commissioner votes and she asked that this be corrected as well. List the three names of the Commissioners and the votes of Aye or Nay.

Commissioner Houpt made a motion that we adopt a Resolution encouraging the use of reusable cloth bags in lieu of plastic or paper bags in Garfield County with the addition of 'paper' and the word 'or' to the Title of the Resolution and with the deletion of the word 'excessive' in the final paragraph and reconfiguring the block for voting on the Resolution. Commissioner Samson – Second.

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

Commissioner Houpt – This should be placed on our website so that people can see the Resolution with your picture.

- **CONSIDERATION/APPROVAL OF BAA STIPULATIONS ON 2009 VALUATIONS FOR THE FOLLOWING:**

Sean McCourt and John Gorman presented. John Gorman said the stipulations before the Board today are the result of a huge amount of work and negotiations by Sean McCourt and urge the Board to accept and approve them.

Sean – If we go back to 2009, typically what happens in our calendar year is the oil and gas have to report to us by April 15 and we have until June 15 to evaluate all the production and personal property in the County. They have 2 weeks to protest and the Assessor has 10 days to respond to their protest. Then it comes before the BOE and the Board stood behind us on all of our values. Some of the denials were done administratively. This process has taken much longer than typically primarily because these are BAA stipulations and once it leaves this board the taxpayer can request a BAA hearing and those are scheduled timely which puts pressure on both parties to get to a Resolution or continue the line drawn in the sand and let the BAA decide. We had an oil and gas case in Montezuma that put a hold on everyting because it was an evaluation issue and it was a constitutionally issue and we have been in a holding pattern waiting on the decision and then the fallout from it. Sean said has been dealing with six different gas companies since last year and we have resolved five of those cases that are before this Board today. The important thing to realize is that the taxpayers has an opinion of value, as do we and somewhere between those two values is what it should be. We are talking about $720,000,000 originally valued all of these pipe companies; their opinion of value was $340,000,000. We have come to a stipulated agreement of $560,000,000. This is a good figure for both sides and we are both in agreement and these are brought to you today.

Chairman Martin – This is $160,000,000 less in valuation and it deals with paybacks and some other things on which has already been paid. It is a tax refund but overall value changed. The Special Districts will lose funds and their Mill Levy will be posted as a $160m loss as well as will have to be paid back, the taxpayer will have to be paid back by the county. We will have to be compensated by the Special Districts and School Districts the following year to recover the proportional share that is being withdrawn. The county pays upfront and then we collect it in next year's taxes. There will no increase in the mill levy.

John Gorman – The revenue reduction, subject to Don DeFord's understanding of the law which does not specifically address this particular situation other than to say the money gets paid back to the entities – taxpayers forthwith. The opinion is that Georgia will be able to withhold from future payments starting today those funds that would have gone to the taxing entities and to withhold them until she has withheld the amount that is to be paid back.

Commissioner Houpt asked if the taxing entities were aware of this issue and has the process and amount been explained to them.

Don DeFord – Georgia has been involved and one thing on John's comments, actually the critical date is the date on which the BAA enters its quarter, it is from that quarter that refund is made.

Georgia has been working with the attorney's office and put together a letter but it has not been mailed. The amount of money to be included in the amounts and since this is a public meeting, I would be called those entities today and let them know of what is occurring. Nothing is as exact as we want it to be at this time. It does not start today, once the decisions are made and each decision would be made separately on each of these companies. As the decisions are made that is when the petitioner needs to be paid forthwith

and then depending upon how the tax collections come in after that decision is made is how the money will be paid back.
Chairman Martin – the question being all this money also has interest assessed to it and the county has to absorb that interest payment and then the 1% handling fee as a collector on it. It goes on and on in reference to the amount of money that will be collected. It is difficult, it is budget season and there has been a tremendous cut in school revenue from the state level and this is going to hurt even more and they need that information as soon as possible so they can make adjustments.
Commissioner Houpt expressed her concern for the school districts and it is less than the 50% cut that was being proposed but there will be an impact.
Chairman Martin – All mill levy holders will be affected.
Sean – As far as notifying the various taxing authorities, Georgia has been in a holding pattern because what numbers do you sent out there which is dependent upon where Sean in the negotiations. We have been five wrapped up and that is certainly helps us to sent out a solid letter.
Chairman Martin – Looking at this list it looks like the very largest and the biggest taxpayer in Garfield County is the other issue.
Sean –No, we have had a very good rapport with that company. There is one last company on here and it is probably the smallest and that is PVC, their valuation is similar to Noble.
Chairman Martin - The number in front of us is $1,654,990, which is being recommended by the Assessor with those situations.
Don – If the Board moves forward and approval the recommendation of the Assessor's office your motion has to include authority to me to sign these stipulations that is the process the BAA is looking for.
Commissioner Houpt – You have been doing this for a long time and I know you have been working on these negotiations, how do you feel about this final number.
Sean – The number is fair to both parties and more objective than it was as it sits here on paper because we have had much more, much more information to analysis and we could look at it from more than one approach to value which is typically how Assessor's office value personal property. We have received a lot of information from this and the painful part of this is the money we have to give back but to where we got the valuation was ultimately a positive in this process and with the communication on both sides to get to that number.
ETC Canyon Pipeline.
Encana Oil & Gas
Commisioner Houpt made a motion that we approve stipulation from Document No. 52074/52111 between Garfield County and EnCana Oil and Gas in a stipulated value amount of $350,000,000 and authorize the County Attorney to sign the stipulation.
Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye
ETC Canyon Pipeline LLC
Commisioner Houpt made a motion that we approve stipulation from Document No. 51982 between Garfield County and ETC Canyon Pipeline LLC in a stipulated value amount of $50,008,540 and authorize the County Attorney to sign the stipulation.
Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye
Enterprise Gas Processing LLC
Commisioner Houpt made a motion that we approve stipulation from Document No. 51931 between Garfield County and Enterprise Gas Processing LLC in a stipulated value amount of $97,427,140 and authorize the County Attorney to sign the stipulation.
Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye
Bill Barrett Corporation
Commisioner Houpt made a motion that we approve stipulation from Document No. 51920 between Garfield County and Bill Barrett Corporation in a stipulated value amount of $51,780,390 and authorize the County Attorney to sign the stipulation.
Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye
Noble Energy
Commisioner Houpt made a motion that we approve stipulation from Document No. 51922 between Garfield County and Noble Energy in a stipulated value amount of $12,062,700 and authorize the County Attorney to sign the stipulation.
Commissioner Samson – second. In favor: Houpt – aye Martin – aye Samson - aye

- **CLEER CONTRACT FOR GNECI SERVICE DELIVERY – ALICE LAIRD AND HEATHER MCGREGOR**

Alice Laird, Jim Rada, Kathy Tuttle Operations and Contract Manager and Heather McGregor submitted the CLEER contract amendment of 2010 for GNECI management, services and projects delivery as outlined in the Garfield County New Energy Communities Initiative DOLA grant contract that was originally approved in December 2009 with a placeholder amount and the direction to return during 2010 for this amendment once additional details were known about 2010 work. CLEER's proposed budget for 2010 is for $474,348 and this amount backfills the contract total for 2009 third party expenses and covers CLEER's 2010 in-house, sub-contract and third-party expenses starting January 1, 2010. This
Heather McGregor stated this was advertised in the Post Independent today on the Garfield Clean Energy for Business and we have radio and print advertising running through the month of June to attract the attention of businesses in the entire County. This is the method we are using to distribute the block grant the County received from DOE and the allocation for the health department for environmental directed to us as well. It is a combination of energy coaching, energy tracking and a rebate booster of up to $5,000 for businesses that apply. The money is being offered on a first come first serve basis however even after the rebate booster is gone businesses will still be eligible to receive the energy couch and on line tracking services for free.
Alice Laird - We are here to follow up on the contract renewal that was approved for CLEER. There was a competitive process to select the firm for managing and delivering the services described in the overall Garfield County Initiatives Department of Local Affairs grant. That competitive process was conducted last spring, the grant was awarded to CLEER and the team of firms and contractors. That contract was renewed in December 2009 with a placeholder budget amount with the direction we come back to this Board once more. We are back with a more refined budget. Alice identified the contents submitted to the Board in the

packet including a memo, amended budget, Exhibit A listing all the different deliverables and these documents will service as a scope of services.
Contract renewal letter issued for 2010 and it can be amended and attach a scope of service including the DOE money.
Chairman Martin – You are asking for the release of $84,878 already in the funds being held to cover the overall budget, this is not a request for more general fund dollars from the County.
Commissioner Houpt that we approve the amendment of the 2010 CLEER project team renewal letter to the contract and to the scope of service and adjust the budget to $511,878 as proposed which includes the EEC BG grant monies from DOLA and attach an exhibit that outlines the DOE grant functions.
Jim clarified the EEG BG money is from the Department of Energy and not from DOLA.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye

A. DIVIDE CREEK UPDATE – JUDY JORDAN

Judy Jordan submitted the in-depth information on the Divide Creek Seep stating it is still a concern for county residents. New applications for permits to drill have arrived and Lisa Bracken has requested assistance with opposing them. Her concern is that natural gas continues to propagate through the subsurface, threatening water quality and additional production activities will only contribute more problems and potential sources of contamination.
In the summer of 2009, COGCC staff arranged for a multi-attack on Dr. Geoffrey Thyne work. Then following the most recent appeal to the Board, Commissioner Samson arranged for a conference call with Dave Neslin, Debbie Baldwin and me, Judy Jordan. The outcome of that call was that COGCC determined the Dr. Thyne was wrong in his conclusions about water quality condition.
Therefore, whatever the Board decides to do regarding Ms. Bracken's request, I would recommend that the County encourage COGCC to investigate and remediate the improperly constructed wells noted in the URS and Papadopoulos in Phase I and Phase II studies back in 2004 that was connected to the Schwartz, Dietrich, Magic 10-1 well on EnCana P3pad. She encouraged the Board to support Dr. Thyme's presentation to the scientific community as many regions of the country are in need of a greater factual understanding of the effects of natural gas development. Many need to know whether facing causes contamination and it is important for them to understand that our studies have not implicated facing. It would benefit the communities and the industry to understand areas of disagreement within our studies so they can apply lessons and elevate the overall level of knowledge about the issues.

- **5TH SUPPLEMENT TO THE 2010 ADOPTED BUDGET – LISA DAWSON**

Lisa Dawson presented the 5th supplement to the 2010 adopted budget and the Exhibit A outlining their requests for changes to the 2010 budget.
Commissioner Houpt made a motion to close the public hearing. Commissioner Samson second.
In favor: Samson – aye Martin – aye Houpt - aye
Commissioner Houpt made a motion to approve the 5th supplement to the 2010 adopted budget.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye

- **APPLICATION FOR A NEW LIQUOR LICENSE FOR 35TH AVE CAFÉ BAR, INC ON BATTLEMENT MESA. APPLICANTS ARE FRANCISCO AND CLAUDIA ESPINOZA – JEAN ALBERICO**

Francisco and Claudia Espinoza, Jean Alberico and Deb Quinn were present.
Deb Quinn verified proper notification was accurate, timely and advised the Board they were entitled to proceed.
Jean submitted the posting notice on the property and the documents necessary for Board action stating the petitions for contained 28 signatures and none was against the liquor license.
Boundaries were discussion and Jean submitted the petitions of 28 individuals who are in favor.
Jean had some clarification that there was some remodeling and reported a couple of concerns from state about who would be the manager since Francisco is the manger of another restaurant. It was clarified that Claudia Espinoza will be the manager at the 35th Avenue Café Bar, Inc in Battlement Mesa. On the application, we need to state the amount of money being borrowed to start up this restaurant and a signed loan agreement to satisfy the state. It was clarified that is was $20,000. Jean had two concerns regarding they wanted to serve alcohol on the patio area which will require blocking the enclosure which can be a fence or a gate on one end. This would be considered an optional premise and Mr. Espinoza would have to license both.
The other concern is the food service license and they cannot open without it in place.
The applicant stated the license could not be transferred so a new license has been applied for at this time. However, Jean requested the Board approve the new liquor license with conditions and she would not give them their license until conditions are met. Jean will do another site visit and inspection once the remodeling is completed. The state is waiting for the local Board to grant authorization.
Commissioner Houpt made a motion to close the public hearing. Commissioner Samson second.
In favor: Samson – aye Martin – aye Houpt - aye
Commissioner made a motion that we approve the application for a new liquor license for the 35th Avenue Café Bar Inc. in Battlement Mesa with the following conditions 1) that Claudia Espinoza will be the manager and a signed loan agreement will be sent to the state as requested , 2) the food service license will be obtained and 3) a fenced area on the end of the side that you want to service alcohol will be established prior to the issuance of a license.
Chairman Martin – That would be a controlled area in reference other than just a fence depending upon the lease as it may not be allowed to occur.
Jean said the gentlemen working on this that they were going to put up some type of fence but it was not a permanent block wall more like a trellis that would block access.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye

Update on COGCC

Commissioner Houpt – This is a topic that I need to recuse myself from the County Commissioner due to having discussed this as an Oil and Gas Commissioner but gave an update on the discussion held last Tuesday at COGCC hearing. She made the request that the staff come back to us with a presentation on how they're approaching APD's in this area and to analysis the activity that has occurred in the area from the Divide Creek seep, the study in place, to the concerns that were brought out a couple of years ago and the current contamination of a couple of wells, they are preparing something to bring back to the Oil and

Gas Commission for the July meeting and then our COGCC chair asked if it would make sense for COGCC staff to meet with Jeff Thyne to talk about their various theories in this area. That is the direction given.
Lisa thanked Tresi for doing this, these were outstanding directives and looking forward to the presentation, and when the staff sits, they will determine discrepancies and theories or approach and some clarification through this process, as there are some gaping holes in the data.

A. DIVIDE CREEK UPDATE – JUDY JORDAN

Judy Jordan submitted the in-depth information on the Divide Creek Seep stating it is still a concern for county residents. New applications for permits to drill have arrived and Lisa Bracken has requested assistance with opposing them. Her concern is that natural gas continues to propagate through the subsurface, threatening water quality and additional production activities will only contribute more problems and potential sources of contamination.
In the summer of 2009, COGCC staff arranged for a multi-attack on Dr. Geoffrey Thyne work. Then following the most recent appeal to the Board, Commissioner Samson arranged for a conference call with Dave Neslin, Debbie Baldwin and me, Judy Jordan. The outcome of that call was that COGCC determined the Dr. Thyne was wrong in his conclusions about water quality condition.
Therefore, whatever the Board decides to do regarding Ms. Bracken's request, I would recommend that the County encourage COGCC to investigate and remediate the improperly constructed wells noted in the URS and Papadopoulos in Phase I and Phase II studies back in 2004 that was connected to the Schwartz, Dietrich, Magic 10-1 well on EnCana P3pad. She encouraged the Board to support Dr. Thyne's presentation to the scientific community as many regions of the country are in need of a greater factual understanding of the effects of natural gas development. Many need to know whether facing causes contamination and it is important for them to understand that our studies have not implicated facing. It would benefit the communities and the industry to understand areas of disagreement within our studies so they can apply lessons and elevate the overall level of knowledge about the issues.
Dr. Thyne's submitted his report and a power point presentation explaining the present day geography and subsurface geology. We need the state's information.

- **F12E PAD – LISA BRACKEN**

Lisa Bracken submitted the following a detailed report. She stated that she appreciates the County asking the COGCC for their cooperation in this matter. Lisa requested the County for a temporary moratorium until this has been reviewed and corrected.

Chairman Martin stated there is a problem and we understand that there are people living with this situation everyday and Judy does the reviews and we will move forward with a request to review and intervene on the F12E pad.
Commissioner Samson agreed we need to go forward with this and commented to Lisa on the admirable job she has done and put in many hours on this issue. What is frustrating is the COGCC since Lisa has highlighted but it seems like their unwillingness to stonewall on certain things and this is a struggle for me.
Judy pointed out that I called David Neslin, Debbie Baldwin the environmental manager and James Dillon their engineer and read into the record that "following Lisa Bracken's most recent appeal to the BOCC for support in opposing any further APD's in the Divide Creek area, Mike Samson arranged for a conference between COGCC staff, Dave Neslin, Debbie Baldwin and the engineer, Debbie described the activity that COGCC staff is taking to investigate Divide Creek issues and Dave Neslin stated that three heavy hitters showed up last summer and Mr. Thyne was wrong in his conclusions about water quality conditions. I explained that I thought Mr. Thyne's reports maybe partly responsible for residents continued concerns and that perhaps a discussion between Debbie, Mr. Thyne to resolve disagreements over technical interpretations might help us to develop a common view of the situation that would make it more amenable to resolution. Debbie rejected this proposition out of hand and cited her busy schedule and higher priorities dealing with real problems as the reason. Clearly COGCC staff has no intention of working with us constructively to investigate and resolve the Divide Creek issues raised by your consultant and constituents, it is important to recognize that any additional effort the BOCC may decide to invest in this issue could be fruitless."
We are trying to help and I am not saying who is right or who is wrong, I am not an expert and I do not have all the answers but there are some questions that need to be answered that seems to me that the COGCC staff/commission have not done their part. With those four points that Lisa brought forward to the Board we need to go forward. Once we do this then we have done it and we cannot keep going with this issue.
Lisa stated she understands that the County has limitations on priorities on budget and resources.
Ed stated there are two things going on here, a request to intervene on the F-12 E Pad and then Judy's request to encourage the COGCC to investigate.
Chairman Martin – Following the recommendations of Judy Jordan, reviewing the information of Dr. Thyne presented on another basis to also review the 97 wells in reference to information and issues brought forth by Lisa Bracken, review the possible adjustment of field rules in reference to the Divide Creek Seep area as well set a workshop with Garfield County and Judy put all this together in a letter addressing it the Department of Natural Resources, that would be my motion. Commissioner Samson – Should we also have a copy go to the Chairman of the COGCC? Chairman Martin – Agreed and that should come from the Board of County Commissioners signed by the Chair. Commissioner Samson – Second.
Don clarified there is no direction to request a hearing regarding the permit applications on the 12F pad.
Chairman Martin did not include that and felt we would not have a chance and how much information we would have to present in reference to evidence to request that other than having all of this reviewed.
Lisa appreciates all that Commissioner Samson has done, listened to and positive attitude.
In favor: Martin – aye Samson – aye Houpt - recued

REGULAR AGENDA: BUILDING & PLANNING ISSUES

COUNTY ATTORNEY UPDATE – LAND USE ISSUES: DON DEFORD

None

AUTHORIZE THE CHAIR TO SIGN THE RESOLUTION CORRECTING & REPLACING RESOLUTION NO. 2008-55 CONCERNED WITH THE APPROVAL OF A PLANNED UNIT DEVELOPMENT AMENDMENT APPLICATION SUBMITTED BY SPRING VALLEY

DEVELOPMENT, FOR SPRING VALLEY RANCH PLANNED UNIT DEVELOPMENT. APPLICANT IS SPRING VALLEY HOLDINGS, LLC - FRED JARMAN

Fred Jarman, Mike Gamba and Don DeFord were present.

December 7, 2007 this Board approved the Spring Valley PUD and the first preliminay plan Resolution however when we memorialized everything, we neglected to attach the phasing plan, the zoning plan and the text for the PUD are on record as being approved but they ought to be in the record. That is what we are to do today. As a matter of process, the larger documents will be mylars to be recorded.

Mike Gamba spoke to change on page 5 of the Resolution No. 13.11 the raptor survey. The original condition at the time of the first final plat the applicant shall demonstrate compliance to Section 4.33 of the Wildlife Use Impact Report submitted by the applicant, which essentially required a raptor survey to confirm that construction was going to impact any raptors on the site. The reason this was moved to the second final plat was that the first final plat all the construction consists of about 200 feet of roadway, water and utilities and is at least ½ mile from any raptor nests. There is no possible impact from Phase I. Therefore, the modification so when we start Phase II, which is the first phase of real development then that raptor survey will be completed at that time.

Fred submitted the Resolution and requested the Chair be authorized to sign.

Commissioner Samson made a motion that we authorize the Chair to sign the Resolution correcting and replacing Resolution No. 2008-55 concerning the approval of a planned unit development amendment application by Spring Valley Development. Commissioner Houpt second. In favor: Samson – aye Martin – aye Houpt - aye

CONSIDER A REQUEST TO EXTEND THE PRELIMINARY PLAN APPROVAL FOR IRONBRIDGE PUD, PHASE III. A PREVIOUS REQUEST FOR EXTENSION WAS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS WITH A CURRENT EXPIRATION DATE OF MARCH 10, 2010. THE REQUEST FOR A SECOND EXTENSION WAS RECEIVED ON MARCH 3, 2010 – KATHY EASTLEY

Kathy Eastley, Tim Thulson and Don DeFord were present.

The following exhibits were submitted: 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 2008-42 – Preliminary Plan approval; and Exhibit E – Staff Memorandum.

Chairman Martin entered exhibits A – E into the record.

LB Rose Ranch, LLC requests the Board of County Commissioners (the Board) grant them 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 of the development.

The Board granted Preliminary Plan approval on March 10, 2008, memorialized in Resolution No. 2008-42, with a one-year timeframe in which the final plat application must be submitted and accepted by Building and Planning. The owner requested the Board extend the filing of a final plat for a one-year period and the Board, in a Public Meeting held on March 2, 2009, extended the approval to March 10, 2010.

The second request for a one-year extension was received on March 4th which seeds an additional one year extension to file the final plat, until March 10, 2011.

STAFF RECOMMENDATION

Staff recommends that the Board grant a second extension to allow Ironbridge, Phase III a 1-year extension to file the Final Plat, until March 10, 2011.

Tim Thulson supports the request due to hard times and uncertainty.

Commissioner Houpt made a motion to grant a second extension to file the final plat. Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye

AUTHORIZE THE CHAIR TO SIGN ACKNOWLEDGEMENT OF SATISFACTION AND DIRECTION TO TREASURER REVEGETATION BOND RELEASE FOR THE BARGATH (WILLIAMS) COTTONWOOD COMPRESSOR STATION TO PARACHUTE CREEK GAS PIPELINE – STEVE ANTHONY

Steve Anthony submitted the document and requested the Board authorize the Chair to sign the release as submitted.

Williams requested a revegetation site inspection this spring for a natural gas pipeline project in the Parachute area. The pipeline revegetation was inspected on May 18, 2010 and the work was deemed successful. The revegetation security is $245,000, reception number 700228.

Commissioner Samson made a motion to authorize the Chair to sign the as above Commissioner Houpt second.

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

CONSIDER A REQUEST TO VACATE AND RELOCATE A PORTION OF CR 121 (COULTER CREEK ROAD) RIGHT-OF-WAY. APPLICANTS ARE JAMES AND HENSLEY PETERSON. THIS APPLICATION WAS CONTINUED FROM APRIL 12, 2010, MAY 3, 2010, AND MAY 17, 2010 – EASTLEY

Tim Thulson, Kathy Eastley and Deb Quinn were present.

Deb Quinn reviewed the notification requirements for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing.

Chairman Martin swore in the speakers.

Fred submitted the following exhibits into the record: 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 –Staff Memorandum dated 5-3-10; Exhibit E – Proposed Language for "Adequate Water Supply;" Exhibit F – Power Point Presentation regarding Legal Descriptions on Site Plans

As you are all aware, the Public Hearing associated with this request has been continued from April 12, 2010, May 3, 2010 and May 17, 2010 in order to finalize necessary documentation. The documentation listed below has been added as exhibits as marked as such.

Kathy submitted Exhibit Q – Vacation resolution; Exhibit R – Amended AVLT Conservation Easement; Exhibit S – Deed from Peterson to BOCC for the relocated road right-of-way; Exhibit T – Deed from Petersons to BOCC for the connector right-of-way; Exhibit U – Amended easement agreement between Coulter Creek Valley Ranch and Petersons; and Exhibit V – Amended easement between Petersons and Crystal River Ranch.

Chairman Martin entered Exhibits Q – V into the record.
Don said the Board needs to authorize the Chair to sign not only the vacating Resolution but as well the acceptance for the deeds on the new rights of way if you decide to proceed with this vacation.
Commissioner Houpt made a motion to close the public hearing. Commissioner Samson second.
In favor: Samson – aye Martin – aye Houpt - aye
Commissioner Houpt made a motion that we approve the request to vacate and relocate a portion of County Road 121 right of way and authorize the Chair to sign the vacation resolution which is Exhibit Q and the deeds from Peterson to BOCC for the relocated road right of way and authorize the Chair to sign both deeds one for the relocated right of way and one for the connector right of way and include the staff recommendations.
Commissioner Samson second. In favor: Samson – aye Martin – aye Houpt - aye
Hensley Peterson expressed his appreciation for giving us the extra time and especially to Kathy Eastley and Deb Quinn for the response to all the issues as they came up and thanked the neighbors. You have a great staff.

CONSIDER CERTAIN AMENDMENTS TO THE TEXT OF THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED CONCERNING AMENDMENTS AND ADDITIONS TO ELECTRIC GENERATIONAL FACILITIES AND THEIR ASSOCIATED USES - FRED JARMAN

Don DeFord reviewed the notification requirements for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing.
Chairman Martin swore in the speakers.
Kathy submitted a list of amendments that clarifies the confusing array of uses related to "Electric Generation Facilities" and the multitude of associated uses that go along with that use such as substations, transmission lines, distribution lines, etc.
Fred explained how this transpired.
Holy Cross submitted a letter included in the packet and their concerns. They were present with the Planning Commission and were very helpful in this process.

Electrical Substation:

Planning Commission Recommendation:
Delete the current definition and replace: UTILITY SUBSTATION means any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity sixty-nine (69) kilovolts or greater.
Utility Lines: Replace with UTILITY DISTRIBUTION FACILITY means any gas or electric line other than gas gathering, transmission lines or electrical transmission lines as defined herein and telephone or telegraph line, cable television line, water line, sewer line, or neighborhood substations.
Utility Substation: Redefine – Any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity sixty-nine (69) kilovolts or greater.
Major PUC Regulated Electric or Natural Gas Distribution Facilities: Redefine as any electric energy generating facility with generating capacity of ten (10) megawatts or more, and any appurtenant facilities thereto. Facilities that generate less than (10) megawatts shall be considered as uses by right.
Electric Power Transmission Line: Add – means any power line designed for or capable of the transmission of sixty-nine (69) kilovolts of electricity or greater and which emanates from an electrical power generation facility or electric substation and terminates at a substation.
Utility Distribution Facility: Means any gas or electric line other than gas gather line lines, transmission lines or electrical transmission lines as defined here, and telephone or telegraph line, cable television line, water line, sewer line, or neighborhood substations. Fred said this does not conflict with the natural gas distribution lines.
Neighborhood Substation: Means any facility used for the purpose of reducing voltages to levels of less than sixty-nine (69) kilovolts, for distribution to individual users.
Gas Transmission Line: Means gas main or gas laterals used in the local distribution of natural gas service.
Commissioner Houpt made a motion to close the public hearing. Commissioner Samson - Second.
In favor: Samson – aye Martin – aye Houpt - aye
Commissioner Houpt made a motion that we approve the text amendments recommended by the Planning Commission presented by staff with the findings contained in the staff report. Commissioner Samson - Second.
In favor: Samson – aye Martin – aye Houpt - aye

CONSIDER A REQUEST FOR PRELIMINARY PLAN TO ALLOW FOR A TWO-LOT SUBDIVISION OF A 50.7-ACRE PARCEL LOCATED ON COUNTY ROAD 112 (CRYSTAL SPRINGS MOUNTAIN). APPLICANT IS SAM MARQUIS FOR CE-MAR-SAM CO, LLLP – KATHY EASTLEY

Kathy Eastley, Davis Farris of Western Slope Consulting LLC representing Ce-Mar-Sam Company, LLLP as well as Sam Marquis and Don DeFord were present.
Don DeFord reviewed the notification requirements for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing.
Chairman Martin swore in the speakers.
Kathy submitted the following exhibits into the record: Exhibit A – Proof of Publication; Exhibit B – Proof of Mailing; 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 report; Exhibit G – Staff presentation; Exhibit H – Updated letter from Jake Mall, Road & Bridge; Exhibit I – Email dated February 23, 2010 from Jim Rada, Environmental Health; Exhibit J – Letter dated March 3, 2010 from Perry Will, Colorado Division of Wildlife; Exhibit K – Email dated March 6, 2010 from Bill Gavette, Carbondale & Rural FPD; Exhibit L – Letter dated March 11, 2010 from Karen Berry, Colorado Geologic Survey; Exhibit M – Memo dated March 11, 2010 from Steve Anthony, County Vegetation; Exhibit N – Letter of concerns by Barbara Preston, 0900 CR 112 presented at the PC hearing; and Exhibit O – Letter dated May 19, 2010 from Dick Stephenson, President – Park Ditch and Reservoir Company.
Description of the project: The proposed Marquis Subdivision seeks to create two lots from a 50.7-acre parcel legally described as Lot 1 of the Marquis/Wallbank Boundary Adjustment Plat. The proposed lots

will be utilized for residential use; two existing units on proposed Lot 1A, a 45.7-acre parcel; and one additional unit on proposed Lot 1B, a 5-acre parcel.

The function of the preliminary plan review is to evaluate the feasibility and design characteristics of the proposed subdivision based on the standards contained in Article VII of the Unified Land Use Resolution of 2008, as amended. This process also includes review of preliminary engineering design as well as compliance with the Garfield County Comprehensive Plan.

This parcel was part of a property subject to an exemption approved by the BOCC in 1980 by Resolution 80-316. A subsequent boundary line adjustment (BLA) plat was recorded in 1981 (see adjacent map) which created the 50.7 acre parcel that is the subject of the current application. The Marquis property has approval for a Special Use for a Guesthouse pursuant to Resolution 82-217.

STAFF CONCERNS AND ISSUES

Staff has no major concerns with this request for subdivision, however would like to reiterate that this application is for "Subdivision Preliminary Plan" which requires that information be provided for each parcel to be created. Due to the type of application, submitted Lot 1A is not considered a 'remainder' parcel as it would in an Exemption application, but, even though existing, is required to be reviewed pursuant to the code requirements.

Recommended conditions of approval mitigate impacts that may result due to the creation of an additional residential site at this location. Other conditions of approval are standard concerns typically associated with a preliminary plan and are indicative of requirements at final plat.

An adjacent property owner, Barbara Preston, provided comments, see Exhibit N. It appears that Ms. Preston has an issue with the continued use of the Park Ditch for an additional dwelling unit as it could affect her use of the Park Ditch. The Planning Commission, in its discussion of this issue, determined that this was a civil matter and that the ditch company was the proper authority in this dispute.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at their meeting on April 14, 2010 at which time they unanimously voted to forward a recommendation of APPROVAL to the Board of County Commissioners for the Marquis Subdivision, with the following conditions:

33. That all representations made by the Applicant in the application, and at the public hearing before the Planning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
34. The Preliminary Plan approval shall be valid for a period of one (1) year.
35. The Applicant shall comply with the final plat requirements in addition to those requirements contained within the Garfield County Unified Land use Resolution of 2008, as amended (ULUR):
    a. The Final Plat shall contain the following notes:

        i. Control of noxious weeds is the responsibility of the property owner. 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.
        ii. All exterior lighting shall be the minimum amount necessary and that all exterior lighting shall 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.
        iii. Colorado is a "RIGHT-TO-FARM" state pursuant to C.R.S. 35-3-11, 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, sound, and smells only as inconvenience, eyesore, noise and odor. However, state law and county policy provide that ranching, farming and other agricultural activities and operations within Garfield County shall not be considered 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 amendment, herbicide, and pesticides, any one or more of which may naturally occur as part of legal and non-negligent agricultural operations;
        iv. 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 an 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;
        v. Dogs kept on the property shall be in a fenced yard or on a leash to prevent harassment of wildlife;
        vi. Fencing on the property shall comply with the Division of Wildlife specifications for wildlife-friendly fencing;
        vii. Engineer-designed septic systems are required within this subdivision; Engineer-designed foundations are required within this subdivision;
    c. The Final Plat shall contain the following certificates as contained within the Plat Certificate Appendix of the ULUR:
        i. Certificate of Dedication and Ownership;
        ii. Lien holder Consent and Subordination Certificate, if applicable;
        iii. Board of County Commissioners Certificate;
        iv. Title or Attorney Certificate;
        v. Treasurer Certificate of Taxes Paid;
        vi. County Surveyor Certificate;

vii. Clerk and Recorder Certificate;
viii. Surveyor Certificate.

36. The Applicant shall delineate and legally describe all easements on the final plat and convey all easements to the responsible entity. This dedication shall be in a form acceptable to the County Attorney's Office and transfer shall occur at the time of recording of the final plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, water system easements, stormwater drainage easements, open space and any internal roads required as a part of this development;
37. The Applicant shall treat inventoried State and County listed noxious weeds including, but not limited to, Absinth wormwood, Canada thistle, Oxeye daisy, Common tansy, and Plumeless thistle prior to July 31, 2010 or the approval and recordation of the final plat, whichever comes first. Records of treatment shall be submitted to Garfield County Vegetation Management for review and approval;
38. The Applicant shall submit the results of well testing as required by Section 7-104 B. of the ULUR with the Final Plat application. The report shall provide data sufficient to demonstrate provision of adequate water quantity and quality to serve the lots in the subdivision.
39. The Applicant shall submit an appraisal with the Final Plat application so that calculation of the amount of the fee-in-lieu payment of school land dedication for the subdivision can be calculated. Payment of the fee-in lieu will be required prior to approval and recording of the final plat for the subdivision.
40. Prior to approval and recordation of the final plat The Applicant shall be required to comply with Resolution 2008-05, the required residential impact fee for the Carbondale and Rural Fire Protection District.
41. The Applicant shall be required to satisfy Traffic Impact Fees which will be calculated and due prior to approval and recordation of the Final Plat

10. The final plat shall describe a 30' right-of-way easement for County Road 112 along the length of the property.

Davis Farris gave a power point presentation. He asked the BOCC for consideration of a 60-foot County right of way and a driveway permit at the same time in case they do not build for several years. A 30-foot right of way would go from the centerline of the existing pavement.
Kathy said at final plat the requirement will be for the surveyor to put the improvements on the plat including the edge of the existing pavement, so we will get information at final plat that will either determine that yes he does have the ability to provide a right of way easement or no he's off of the property line of the existing right of way.

Davis added we have done the survey and according to the survey plat from the centerline and went on to explain the width of the driving lanes. He also explained the traffic volumes on CR 112 and how this intersects with Cattle Creek CR 103 with abound 200 vehicles.

Kathy – We are attempting to obtain is 60 foot of right of way and we do not expect one applicant to provide 60 feet of his property especially if the road is not in that location. If the road is outside of the property from the Marquis Subdivision then that condition would not be necessary.
Fred – A word of caution but as the County for years we have in so many terms required this right of way and it has become of age over the last year plus that it is a suggested request because of the lack of a rational nexus test or reasonable relationship between what this property is doing and the public good. There is nothing in the Land Use Code or Road and Bridge Documents that gives you authority to say you now need to give me 30 feet of right of way. Applicants oftentimes do this as they understand the overall beneficial good is for the County in order to properly maintain and plow the roads as we continue to grow, widening the roads is better than a narrow skinny roads in some cases.
Commissioner Houpt inquired about the driveway access.
Davis stated it was in Jake Mall's letter and not a condition from the Planning Commission.
Kathy – In order for a building permit to be issued a driveway permit needs to be obtained for this site. We can put a condition of approval in that pursuant to Road and Bridge regulations the applicant shall obtain the necessary driveway permits. The permit would not be necessary until such time they were going to build.
Davis – The existing driveway and to get a new driveway permit they would have to go through process and they would probably have to install an apron.
Kathy – It is because this is a subdivision and Davis is correct there is an existing driveway however, it was never permitted because it previously existed but R&B have been requesting driveway permits on all driveways pre-existing or planned for the future. That is covered in the letter from Jake.
Commissioner Houpt asked Fred if he was coming with a request to have the 30-foot right of way added to the Land Use Code.
Fred – I have not been asked to do that yet but we could do that but has to occur is discussion with the County Road and Bridge Department and informally in a work session format because no one understands why R&B requests these things and what legal authority there is out there to get them in place if the Board chooses. There has to be reasonable relationship what is often called the Nola Dolan test on what you are requiring of someone who is holding the land to give the public and there needs to be that demonstration and that has not occurred.
Davis mentioned the Park Ditch issue and how that had been satisfied and was an issue of the Park Ditch and not the County and submitted a letter from Dick Stephenson repeating the same. Historic practice on the property has been able to maintain a hay meadow with adequate irrigation water and they lease it to folks for their horses. Sam Marquis would like to get ½ share to the new lot so he would not have to use well water for irrigation. A well is available for irrigation on a limited basis and between that and the irrigation water there are requested to be split up there is plenty of water to irrigate the large meadow.
Commissioner Samson made a motion to close the public hearing. Commissioner Houpt - Second.
In favor: Samson – aye Martin – aye Houpt - aye
Commissioner Houpt made a motion to approve the Preliminay Plan to allow for a 2-lot subdivision on County road 112 Crystal Springs Mountain, applicant Sam Marquis for CE-MAR-SAM CO, LLLP as presented with the Condition 1 – 9 as presented by staff. Commissioner Samson second.
In favor: Samson – aye Martin – aye Houpt - aye

Executive Session – Advise concerning the status of Vandehay litigation.
Chairman Martin has one in reference to personnel.
Commissioner Houpt made a motion we go into Executive Sesssion to discuss the two items identified. Commissioner Samson second. Motion carried.
Commissioner Samson moved to come out of Executive Session. Commissioner Houpt second. Motion carried.
Action Taken
No action was taken.

COMMISSIONER ISSUES:
COMMISSIONER CALENDARS
Commissioner Samson – Tomorrow a work session and there will be a discussion on five different topics. Wednesday – I'll be in Delta with the Federal Resource Advisory Committee (RAC) Next on the 14th – 6 p.m. joint meeting with Carbondale Trustees dinner at 6:00 p.m. at Town Hall. The 16th is the Budget kickoff at 8:00 a.m. to 10:00 a.m. I missed the meeting with the Fire Code Committee when we were at CCI. Invitation Northwest Colorado Cultural Heritage two meetings on the 23rd in Glenwood at 11:00 a.m. and at 5:30 p.m. in Rifle to get the ball rolling for the people we gave money in conjunction with the 125th year celebration for the City of Glenwood Springs.
Chairman Martin – Stated that Barney Mulligan volunteered to be at these meetings and works with Andy Schwaller and has great credentials in reference to fire suppression and fire
Commissioner Houpt –GNECI on Wednesday. I-70 on Friday.
Chairman Martin – Meeting on the 18th – Thompson Creek Coalition and Energy Producers at Town Hall at 10:00 a.m. to 2:00 p.m. in Carbondale, which includes about 20 different agencies coming together. Intermountain TRP on Thursday with Jeff Nelson engineer from 1:30 p.m. to 4:30 p.m. in the Garden Level County Building in Eagle at the new Courthouse.

COMMISSIONER REPORTS
CCI Conference in Vail, which all three attended. It was very impressive with many of the sessions. The session presented by NACO from Chip Taylor and their session on how CCI works. The business meeting was interesting, the propositions and amendments was good to know that information. It is good to attend these meetings. The meeting in Montana was good to see on a national basis and the reason is to talk to other people from other states and counties and exchange problems, ideas, and they give input.
Commissioner Houpt attended the Climate Communities meeting in DC and they regionalized many of the discussions and met with Montana, South Dakota, Washington and California and they were very impressed with what we are doing in Garfield County with GENCI. They had not attempted to regionalize for the economy of scale issue. It was interesting to make sure that we were using those resources in a way that would allow us to move the projects forward. If there is going to be an energy and climate bill, which may or may not be a possibility the block grants need to be and that was the message we took to the Senate. The monies come to the counties without another administrative layer so we have more money for these programs.
Chairman Martin – Met with some financial folks in reference to the new energy special districts and they will probably be launching a campaign against it because of the laws of Freddie May and Freddie Mack and federal banking commission making mortgage secondary to taxes and they are very concerned. Boulder has stopped taking any kind of applications until this issue is resolved. There is a federal intervention in reference to this type of financing mechanism so we need to research that as well to make sure we do not get into it. It may table everything until that issue is resolved.
Commissioner Houpt – The legal department has some information and it is unfortunate that the mortgage companies are asserting themselves because they are not making loans.
Chairman Martin – They are making loans but not the same as it used to be. The existing loans on mortgages have been in long standing and they are not looking at being secondary to a tax bill.
APPROVAL OF MINUTES
Commissioner Houpt and Jean have corrections. The Minutes are still being reviewed.
COMMISSIONER AGENDA ITEMS
NONE

Recess until tomorrow for the Work Session at 8:00 a.m.

Attest: **Chairman of the Board**

_____ _____

JUNE 21, 2010
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 21, 2010 with Chairman John Martin and Commissioner Tresi Houpt being 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 CITIZENS NOT ON THE AGENDA
Ron Galterio and wife Mary, residents of Battlement Mesa presented. Ron is the co-chair of the Battlement Concerned Citizens on behalf of the Battlement Concerned Citizens. He expressed appreciation for the

Commissioners and the Jim Rada of the County Health Department for the strong support of the health impact assessment project in keeping the residents of this area updated on the Health Impact study. Additionally, he presented a request from the Battlement Concerned Citizens addressing the possibility of designating the Battlement Mesa PUD an activity of state interest under the provisions HB 1041, the Colorado Land Use Enabling Act of 1974 commonly known as the 1041 powers. This would be a novel application of the law; however, the Battlement Mesa legal counsel would prepare the report needed to provide the county with broad authority over developments or activities that could affect the long-term growth and development of the community. Battlement Mesa is an unincorporated community and without a municipal authority to address issue that may impact the future of its growth. This is an opportunity for the county to step in and fill that gap in local regulatory control. In the report from their attorney, it details the legality of their request and explores the 1041 regulations to activities such as oil and gas exploration and extraction, which could affect the overall growth and development of Battlement Mesa. They realize this proposal may take considerable time to move through the legal and political process and they look forward to working with the county during those processes.

Chairman Martin responded that he has gone through the 1041 powers and we have some 1041 powers in place right now. It was very arduous and difficult to get the ones that we have in place now. Mr. DeFord was also very helpful in bringing those forward. They dealt with transportation and mass transit locations. The State still reviews them under the criteria and do not necessarily put a stamp of approval but as part of the process they determine if there are conflicts.

Commissioner Houpt – Chairman Martin has been through that and she would love to have an opportunity to review this request as in her opinion it makes a great deal of sense to check into the possibility.

Ron added this has been presented to the Battlement Mesa Service Association, the Homeowners Association and they are considering endorsing it. At present, this is being studied further and it potentially will be presented later this month to the Battlement Mesa Metropolitan District and the Grand Valley Fire Protection District. If the Commissioners are inclined to move forward with this proposal and find it appropriate to have community endorsement then another petition, web pole or survey of the residents could be done to determine support.

Commissioner Samson asked Ron if he was familiar with any other county that has done this in Colorado concerning oil and gas operations.

Ron – It has not really been applied specifically to oil and gas operations, but as our attorney detailed in his report, he does believe the language of the statute supports it however, it requires some further research.

Chairman Martin – In response to Commissioner Samson's question, this could apply to transportation, mass transportation, locations of mass transportation locations within the county, water supply, etc.

Don added water supply, sewage treatment and as referenced by the attorney it is the creation of new communities plus some others. Mr. Galterio is correct in saying that this would be a cutting edge interpretation of the 1041 regulations. The basic 1041 regulations provide, as it relates to oil and gas an activity that could be regulated. 1041 regulations directed at oil and gas has to be approved by the Oil and Gas Commission and is stated in the statutes. The interpretation by the attorney on new communities might present another opportunity. Don's office just hasn't had the time to look into this at this time and would therefore need time if the Board directs his office to go forward.

Ron – The way they understand the process would be that the county would have to draft general rules and regulations that would be tied directly to the long-term growth and development of Battlement Mesa and could not be tied directly to specific exploration and extraction processes of the oil and gas industry. The issue would remain for the state and the COGCC to address issues such as social economic population changes.

Chairman Martin – It will also take a lot of research in reference to the PUD approval process, the zoning and everything else within that particular approval process. It would also have to fall in line with the comprehensive plan, which you are doing as well and allow that particular growth through there based upon the projections and what the PUD was supposed to accomplish. Its' not an easy process rather is it very challenging.

Commissioner Houpt would like to learn more about it as it relates to this question. She asked if John and Mike agreed that it would be fine to direct the staff to some research and come back.

Commissioner Samson – Absolutely.

The Commissioners asked Don DeFord's office to take the lead in regard to this request and bring it back to the Board after research was complete.

Chairman Martin – The other issue is, remember if we do get down to what we are really looking at in this request is the regulation on oil and gas still has to be approved by the Oil and Gas Conservation Commission because of conflicts and the way the State statutes are written.

Sun Dog

Bruce Shugart – 840 Faren Hill Ranch Road came today to address the Commissioners and understands they will go into executive session to discuss some potential zoning for the Sun Dog LLC. He proceeded to go into some testimony about the case before the BAA and some potential inconsistencies give a quote "therefore the classification should be vacant and not agricultural land because it is not being used as agricultural even though a conservation easement was placed on the ranch". It is all being used as Ag land.

Chairman Martin cautioned Bruce that he was getting into testimony in reference to this particular issue. He added that Mr. DeFord would potential request public action on this matter.

Don clarified for that Mr. Shugart spoke about a zoning matter inadvertently. It really is a valuation matter. It emanates from the Board of Equalization from last year and is currently un-appealed through the Board of Assessment appeals, hence the matter of administrative litigation. He has discussed that with Mr. Shugart and he does anticipate an executive session as indicated to provide you with legal advice on the status of that case. Don does anticipate public action as the Chair has indicated; there is a form of resolution in front of the Board as part of the public record that would correct at least one of the errors of which he is aware of in the original resolution.

Chairman Martin – At that point then we will take testimony and information as that is part of the public process.

COUNTY MANAGER UPDATE – ED GREEN

- **A. CSU Cooperative Extension Update – Lou Swanson**

Lou was not present.

- **B. AIP 19 – Grant amendment up to $1.8 Million – Brian Condie**

The FAA has approved a project for the airport consisting of improving runway 8/26 safety area, Project VI regarding paving, lights, and marking.
Brian has heard some rumors from the FAA that they have a good portion of this money and they are trying to get the rest of it. He ran out of money in the middle of July and the FAA is trying to get it to them in the next two weeks. Unfortunately the Commissioners don't meet in the next two weeks and that is why is here today. Up to $95,000.00 additional county funds to match the $1.8 million is needed. He explained it is up to $1.8 million but they are looking at $1.5 million.
Ed stated this is a prospective amendment.
Brian - If everything comes through they will get the $1.8 million; then the county's obligation will be less than the $95,000.00. Brian stated he needs authorization for the Chair to sign a grant amendment.
Commissioner Houpt is this an amount of $1.8 million for the runway?
Brian – Yes.
Commissioner Houpt - So moved. As part of that motion, she will authorize the Chair to sign if the grant amendment comes forward. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Martin - aye

- **C. AIP 20 – VOR $2.4 Million Grant Offer – Brian Condie**

The FAA has approved a project for the airport consisting of improving runway safety areas (relocate VOR).
Brian – This is actually a new grant offer. It was cut out of the FAA budget about three years ago; they have the found money for this and the county's match will be about $127,000.00. This wasn't in the budget because they didn't know they were getting money. That is also coming in the next couple of weeks and he wanted to get this process going and expel that in 2012. The $2.4 will be what Brian gets from the FAA; the total project is $2, 526,315.00. We have to have our 5% match on top of the $2 ½ million. He explained the FAA would give them 2.4; that is 95% of the project.
Commissioner Houpt - But where does it say that in this agreement because she sees $2,227,000.00 number and she is looking for the other number.
Brian stated that was probably the 95%.
Commissioner Houpt – So our match and the state's match will take it up to the $2.4?
Brian – Yes.
Commissioner Houpt – So the grant agreement is actually only for $2,227,000.00
Brian – Correct.
Carolyn – Mr. Martin, she heard Brian say that we have not budgeted this because we weren't expecting it this year. That means we will need a budget supplement for the BOCC match and when is our next supplement possible, is it in July?
Ed – Yes, probably.
Brian – We don't run out of money until July 17th.
Carolyn – The reason she brought this up is that she is hoping the motion will include directions to staff to process a budget supplement.
Commissioner Houpt – I make a motion we approve the grant agreement with the FAA in the amount of $2,227,036.00 for runway safety, airport improvement number 20 and direct staff to process a budget supplement for the monies that hadn't been anticipated from the county which would be a portion of that 5% match and authorize the Chair to sign. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Martin - aye

- **D. Staff Recommendation to Approve a Contract in an Amount Not-to-Exceed $92,230.36 to Alpine Technologies, Inc. to Relocate the Cameras at the Garfield County Regional Airport – Brian Condie and Kent Long**

Requests for proposals were posted to the Rocky Mountain E-Purchasing System on May 3, 2010 and advertised in the Post Independent on May 17th, 19th and 24th, 2010 and the Rifle Citizen Telegram on May 20th, 27th and June 3, 2010. One proposal had been received and that proposal was determined to be responsive to the RFP. Staff is recommending the Board approve the award of a contract to Alpine Technologies, Inc. in an amount not-to-exceed $92,230.36 to relocate the cameras at the Garfield County Regional Airport.
Commissioner Samson – I move that we approve the award of a contract to Alpine Technologies in the amount not-to-exceed $92,230.36 to relocate cameras at the Garfield County Airport, specifically the ramp.
Brian – Runway cameras and the ramp. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Proposed Action Concerning Colorado Department of Health and Air Quality Commission – Aron Diaz**

Aron is here to speak today about some action that GNC is taking up and he wanted to give some background information about HB 1365, which requires Xcel and Black Hills Energy to significantly reduce emissions on their power generation in the state. The act requires full implementation of the plan by no later than December 31, 2017. He explained the project and the effects this could potentially have on the coal industry. AGNC has been intervening in the process because this bill as it moved quickly through the legislature with not much public comment. Several of AGNC's member communities are affected dramatically by any reduction in the need for coal; especially on the Front Range, particularly jobs are at stake in Moffat and Routt County.
A great deal of discussion was held with the Commissioners.
Commissioner Houpt – Do you have those numbers. The Colorado Mining Association is projected at least 600 plus miners would be affected.
Commissioner Houpt –They talking about two very old power plants and not until 2017. This is talking about time for plans to progress.
Aron's position it to give it some time and work together on the assumptions and come to an agreement.
Commissioner Houpt – People have been talking about clean coal energy for a very long time. The Front Range is having air quality issues and so they need to do something with these plants. She hasn't seen any records of where the coal goes from the counties that you are saying are impacted or what kind of impact that would have in seven years to those counties. You might push the coal industry to get their technicians together and figure out how to make it a clean industry. Are you asking this commission to take a position of opposition to this?

Chairman Martin – He's asking to go put this on hold and not eliminate coal but to make sure we achieve our goal. Then we start making sure that we wean ourselves off fossil fuels into the future. This automatically gets rid of almost 600 plus jobs in our neighboring county, which also puts on hold the 6 million ton project in Garfield County on hold because of the market. It also causes transportation issues if they are to stay in business at all and try to market their coal through the Moffat tunnel route because of the limitations of getting coal through there to other markets. It maybe theoretically the right way to go; but in reality it is causing tremendous hardships on the untold economic impacts already on already impacted counties is greater than what is expected.
Commissioner Houpt – There is absolutely no proof that's been brought forward that this is going to impact 600 jobs.
Chairman Martin thinks it's close to the projections and if you don't have a market then it is shut down, there's no demand for your product and that eliminates jobs.
Commissioner Houpt – Your talking about two plants out of thousands in this country, which she is having a difficult time understanding the argument. Her information is the coal that is mined in Colorado is exported out of this state and if that is true then she would need to see that documentation and statistics.
Aron – We can supply that information.
Commissioner Houpt - Additional, we need to be concerned about air quality and that's what this bill is about.
Aron – It is not just about air quality and proceeded to explain who put this bill together including utility companies, oil and gas industry and the governor's administration who were the only ones at table. We have social significant impacts and the impact on jobs in our area that need heard. This is the request and it is not an anti gas position or an anti air quality position. We are saying is that we have some potential impacts with this plan and all we want to do is have a want a fair hearing, get this debate in the open and let each side speak in an open dialogue like any other democratic process. The entire industry was never allowed in the discussion. They were never invited when this bill was crafted nor when the plan was being crafted about how this would go into place. The only piece they have to talk at all was during testimony in the state legislature. This is one of the quickest bills he has ever seen go through; it was introduced and passed within 15 days.
Commissioner Houpt requested the down side because we are talking about just two plants that probably need to be closed.
Aron explained it was just about two plants now however, when the public service company Xcel presented the outline for their plan for the first time they didn't just talk about the two plants on the Front Range. One of the plans they specifically mentioned was the Hayden Plan in Routt County but they are expanding this to over 1,500 or more plants. He is asking to have more discussion about the plan and how we can work together to make it work for everybody.
Commissioner Houpt – There has been a lot said about natural gas being the clean rich fuel and so it's not surprising that we are taking a critical look now at the other fuels to try to figure out how we can approach some goals on air quality by making some changes. She thinks it is incumbent on the coal industry, which is a powerful industry to come up with solutions. The solution isn't to derail a plan that could positively impact air quality in this state; the solution is to come up with way to put coal to work in a cleaner manner. They have a research and development team that has been working on it.
Aron - They are willing to be part of any potential solution but presently many of the local governments have been excluded and there are significant potential impacts to many communities. The ones behind this continue to have meetings, produce this plan, and work in back room.
Commissioner Houpt – You are being very political; you are talking about exclusion and back rooms, but have you made phone calls, have you made an appointment with the key people. She can't imagine they would close the door to talking to people.
Chairman Martin – This is the issue is and the intervention is to go ahead to allow that to happen.
Commissioner Houpt – She is not in support of a formal intervention.
Chairman Martin – It's already in place.
Commissioner Houpt – Did we formally make a decision to do this?
Chairman Martin – AGNC has already done a formal intervention as an acting body they took action and went forward.
Commissioner Houpt – We are a member organization so that was a big decision. Since Garfield County's name is on this being members of AGNC, she wants some facts. There is some real emotion attached to this and a date is seven years away for implementation, which clearly gives a great deal of time for planning.
Aron – The plan has to be in place and presented to the PUC by August 13 of this year.
Chair Martin – This is what this intervention is about which will bring that forward. All the information on the discussion, facts and figures have been presented to AGNC as well as the other industries that have created the legislation. This has been shared with the county through email from AGNC to each one of the Commissioners for review.
Commissioner Houpt requested to have this information. The problem is we are talking about two industries that should be meeting with each other and having the government intervene.
Chairman Martin – We will agree to disagree because this should have been done a year ago before the legislation was proposed.
Commissioner Houpt -What she is hearing this is just an update.
Chairman Martin –. It's an update in reference to a situation crisis that is going to get worse if it goes forward without input. That's why it's important to discuss and why we brought it forward.
Commissioner Houpt stated actual accurate data is needed, nothing is in writing. Many of the facts are missing. It is always good for stakeholders to meet and that's why she hopes that the message they are bringing forward isn't that AGNC counties are against this piece of legislation but want to sit down and talk about the plan.
Aron – This is what is being proposed. One piece is to petition the air quality control commission to being this process for a discussion. We are going to petition them to define what is meant by the phrase reasonably perceived of requirements as used in the act and to establish clear and objective rules, criteria and standards on which the plan review shall be conducted including consideration of the economic and social impacts of the plan on the affected communities. It would provide the public opportunity to offer comment on the proposed rules, criteria and standards to be applied to the plan review. That is all we are asking is to have a process where we can actually have a dialogue and slow this to have opportunity to

address concerns. There is some emotion involved but it's because so much of this plan has been kept secret and when you don't know what is being discussed, you can't have a critical, objective viewpoint on what may be out there. So that is what they are trying to do is let's get our foot in the door and actually try to discuss the issues.
Commissioner Houpt – It's possible that these power companies aren't accustomed to bringing stakeholder groups together and having these discussions. She has no problem with that at all but she would have a problem if they took a position as interveners against the bill, because she thinks that if planned well and if executed well it could be a benefit to the people in Garfield County and the people in Colorado. We have to work with our neighbors and help them with a plan; but her sense is that the coal company is going to be working hard to enhance their market too. She would agree with him that the stakeholder processes are important.
Chairman Martin – The objective is not to put one industry against the other, which is perhaps the root problem to divide and conquer. What we have is a problem in reference to the delivery of power throughout the nation and that is to combine all resources to make the best out of all of them and not put one against the other. He thinks that is what this bill is aimed to do to start that particular wedge to drive it through so that the competitive market is again driven by politics and that is not where it should be it should be combined and to come up with solutions instead of, again one against the other.
Commissioner Houpt – This is where we may not agree on the analysis of what the piece of legislation was about; rather it was more about clean air.
Chairman Martin – It was about a market share in his opinion.
Commissioner Houpt disagreed and requested more information from Aron on what the concerns are from our neighboring counties.
Aron agreed to get some information to her this afternoon. The mining association has been working on something specifically on how this would affect neighboring counties and was not positive if it is statewide or regionalized. We do produce most of Colorado's coal in our region anyway. In addition to the information he will provide to Commissioner Houpt they will continue filing a petition with the Air Quality Control Commission tomorrow and send that to her.
Commissioner Samson – Is there something you would like us to do at this time?
Aron – Today he is bringing this to your attention and if possible would like to have a motion to go forward with what the petition is trying to do.
Commissioner Houpt – There is no petition and normally we have paper in front of us so that we know what we are voting on.
Chairman Martin – Clarified that the information and intervention was contained in the emails, sent out by the news on the arguments for and against, discussed in committees and AGNC took the position through its members. This issue has been discussed openly and extensively since the legislation began.
Aron – This has been a quick process and our attorney's are working on this petition back in Denver. They have been working on this all weekend and didn't have anything available by the time they had to put the packet together. The petition would explain 1) why the Air Quality Control Commission established the rules, which is to define or discuss what is meant by the phrase "reasonably for seeable requirement as used in the act." 2) It would establish clear and objective rules, criteria and standards on which the plan will review shall be conducted such as consideration of the economic and social impacts of a plan on affected communities; and 3) It would provide the public sufficient opportunity to offer and/or comment on proposed rules, criteria and standards to be applied….
Commissioner Houpt – Mike if you wanted to do a motion that only included those 3 items she would be fine with that because he has presented those to us today. What we are saying is that we are not supporting anything other than beyond what Aron just explained.
Commissioner Samson – I would move that we as a Board support the petition and pass it that it would explain why the Air Quality Control Commission of Colorado first establish rules that would do the following. Number one; define or discuss what is meant by the phrase "reasonably foreseeable requirements" as used in the acts; two, establish clear and objective rules, criteria and standards on which the plan review shall be conducted including, for example, consideration of the economic and social impacts of a plan on affected communities; and three provide the public sufficient opportunity to offer and/or comment on proposed rules, criteria and standards to be applied to the plan review.
Commissioner Houpt – Second – Again she thinks it is important for stakeholders to have opportunity to ask questions and weigh in. In favor: Houpt – aye Martin – aye Samson – aye
Ed's issue for executive session is the banking agreement and would like Lisa to participate.

COUNTY ATTORNEY UPDATE – DON DEFORD

- **D. Consideration/Approval of Resolution Concerned with Acceptance of County Road 317A as a New Public Right-of-Way and County Road and Acceptance of Deeds for the Road**

Deb went into detail on this which is the Beaver Creek Road that has been relocated by one of the energy companies that needed better access to its operations in that area. The City of Rifle was in support of relocation of the road and those deeds need to be accepted by this Board and recorded. Then the Board can accept and call it one resolution which makes this alternative route 317A become a county road while the old road will continue to be part of county road system for the time being.
Commissioner Samson – Accept the deed, which states it will now be a county road.
Deb – First accept the deeds from the property owners conveying the right-of-way to the Board; second approve the resolution that authorizes the Chair to sign the deeds, as well as sign the resolution that makes this part of the county road system.
Commissioner Samson – I would move that we adopt and accept the deeds for those properties granting the right-of-way to this Board, and to accept the resolution concerning the acceptance of County Road 317A as a new public right-of-way and county road and acceptance of deeds for those roads.
Commissioner Houpt – Second.
Marvin Stephens – We talked earlier about keeping Beaver Creek open but not maintained; does that need to be in a motion, or any further discussion on the maintenance on the existing road.
Commissioner Samson – We shouldn't have to if it just stays a county road; we just continue to maintain it.
Marvin – We talked about it being a county road and unmaintained.
Don – How is that show on the HUTF report now? Is it shown as maintained or unmaintained?
Marvin – Maintained.
Don – So you need to change that; but you will do that next year?

Marvin – Right.
Chairman Martin – That would be through Rob and that you will show and go ahead and put the maintenance on the new road and the other one is only right-of-way.
Marvin – That answers his question. This protects the Rifles watershed.
In favor: Houpt – aye Samson – aye Martin – aye
Marvin – So we start maintaining it now.
Chairman Martin – Yes; that becomes your right-of-way we just accepted it and you would need to make sure everything is in place and establish what your maintenance schedule is going to be.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don would like to have executive Session in regard to 2A and 2E, which are both Board of Assessment appeals litigation matters. We need to provide the Board with legal advice concerning possible resolution of those matters first and he will anticipate public action on those matters. In regard to 2B it obviously is a matter of litigation and bankruptcy court and Ms. Quinn would like to provide you with an update regarding that matter. Ed has already noted the banking agreement, which is a contract negotiation matter, the Treasurer is present and we need to provide you with legal advice on that item as well. A 10:15 item, we should cover in executive session is item 4A concerning the Kancilia tax lien sale.
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 to come out of Executive Session; motion carried.
Action Taken:

- **A. Approve Stipulation for Settling Board of Assessment Appeals Case with Petroleum Development Corporation.**

Chairman Martin – We need to take action on Mr. DeFord's stipulation in reference to the Board of Assessment case.
Don – We have this matter pending in front of the Board of Assessment Appeals.
Shawn – This is the final stipulation before the Board and he went into detail as to how this occurred.
Chairman Martin – It needs to go to a final hearing for acceptance.
Shawn – PDC assigned it and the assessor agreed to it. We need your signature and then it goes back to the DA.
Chairman Martin – Do we have any foundations to challenge the recommendation or to agree?
Commissioner Samson - I move that we approve the stipulation for settling the Board of Assessment appeals case with Petroleum Development Corporation, docket number 51921.
Commissioner Houpt – Do we need to do the separate schedules numbers by motion?
Don – Yes and Carolyn has reminded him, and she is correct, you should be assembled as the Board of Equalization that is the ruling that is being appealed.
Chairman Martin – However we need to go ahead and accept this as a piece of evidence under the Board of Commissioners and then relay it to the Board of Equalization and go from there. We have done such we will accept this. Do we accept this and move forward to the Board of Equalization.
Don – That's right you would assemble as the Board of Equalization.
Commissioner Houpt – We have to move into the Board of Equalization.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Samson – aye Martin – aye

Board of Equalization

Commissioner Samson – I would move we approve the stipulation for settling the Board of Appeals case for Petroleum Development Corporation, docket number 51-921 and the following schedules which are attachment C; P909012, P909166 and P909167.
Commissioner Houpt – Second. Do you want the values in your motion?
Commissioner Samson – For a total value of $17,280,680.00. Commissioner Houpt – Second.
In favor: Houpt – aye Samson – aye Martin - aye

- **E. Board of Equalization**
  1. **Consideration/Approval of Resolution Concerned with Amending and Correcting Resolution No. BOE-09-0178 – Sundog Enterprises**
  2. **Consideration/Approval of Resolution Concerned with Amending and Correcting Resolution No. BOE-09-0179 – Sundog Enterprises**

Chairman Martin – This is a corrected resolution; is that correct?
Don – That is correct. Mr. Shugart is present again. The Chair is correct; what is placed in front of you are two resolutions concerning two different parcels and schedules that came in front of you in the Board Of Equalization. The purpose of the resolutions in front of you is simply to correct an error in the recitals because the recitals were not consistent with the actual finding. Your finding was to support the position of the assessor in terms of valuation. That was not the recommendation of the referee so this simply corrects an erroneous whereas clause, which is the purpose of the resolutions that are in front of you today.
Chairman Martin asked if Bruce if he understood as the taxpayer and the recipient of our disagreement with the hearing officer.
Bruce stated he understands the action in front of the Board today and he would like to ask that he would have opportunity, as a taxpayer to sit in front of this Board and try to present some of the facts that the hearing officer had. As he reviewed the notes from the commission meeting Board of Equalization of August 3, 2009, it appeared there were also some items that did not appear to be factual and he would like to, if possible, sit in front of the Board with that a couple of the things without going into particular.
Chairman Martin– Unless you are going to ask us to reopen the entire issue at which time we would have to take action to withdraw our action with the State board. We are supporting the assessor right now. If you come back with more information and try to get us to reopen it, again the whole other set of rules have to jump in and we will take your information
Commissioner Houpt – But its new information.
Chairman Martin – It could be new information that we may or may not agree with and if we agree with it; at that point then we have to go ahead and withdraw and then open up the hearing under the timelines. That would be a real issue with the State.
Bruce explained in detail the situation including the history of this ranch.

Commissioner Houpt – The difficulty she is having, because of the tax year that occurred, we were in the situation where we hired hearing officers. For that reason, we didn't receive all of the testimony; but the hearing officers did.
Don – Other than ministerial type of actions that Don asked them to take earlier today, you really don't have jurisdiction over this case now. It's been submitted to the BAA and the case had been appealed to court of appeals therefore district court can't revisit that until the court of appeals releases it.
Don – You as a Board do not have jurisdiction because the appeal has been filed in BAA at this point.
Chairman Martin –I recommended that we hear all these tax issues in front of this Board instead of hiring hearing officers. I could not uphold the hearing officers finding and I said we need to send this even further if it goes to appeals to the State for them to clarify again their rules and regulations versus conservation rules and regulations and tax code implications etc. That's where it is and it needs to be there for the State legislature to clear up these issues both for Bruce and for this Board. There are good arguments on both sides but the legislation isn't supporting either one of us. They need to decide which way they need to go and that's where it is and I think that we need to leave it right where it is and allow the State to muddle through the best they can.
Commissioner Samson – And in doing so to set a precedence to help us for in the future
Commissioner Houpt – You are talking about the definition of agriculture.
Chairman Martin thinks they need to do that and he has a difference of opinion that if you have a conservation easement its' always Ag etc and it can never be classified. It can be used for anything but its still classified as Ag. He did have a philosophical difference with that particular issue. If it stops being active agricultural purposes and just goes to non-productive land, vacant etc. it should be vacant land under the tax code of the State of Colorado and not agricultural purposes. The ideal of a conservation easement is to preserve land for what it was to be preserved for and under this one has an agricultural easement and it needs to remain. Now if there were other issues such as building envelopes and lots that can be traded and sold and what have you and covenants and all that; that needs to be worked out; but it needs to be worked properly on both sides of the tax law as well as the true purpose of the conservation easements and he thinks they are in the middle here on all issues. This is where he has the conflict because it has to be exclusively for Ag. Unfortunately, now you have building envelopes within agricultural areas that can be bought or sold and developed as housing or residential and it's not in perpetuity on those particular issues under the conservation easement and the purchase and agreements.
Commissioner Houpt – That's part of the conservation easements.
Chairman Martin – That's true, but again that is where he has his conflict. If it's going to be truly a conservation easement it needs to be 100% conservation easement and active Ag. If it is going to be carved out to have housing here and there for future investments that's not all Ag and it's not all conservation easement.
Commissioner Houpt – We do disagree on that. She thinks it would be a huge mistake if the State didn't support the notion of conservation easements to the point where they would allow some land to be carved out for residential purposes. The idea of keeping lands open and in Ag use or even in open space is something that she thinks is very important to people in the State of Colorado.
Chairman Martin agrees 100%, but you can't put residential in a conservation easement and call it Ag. It has to be conservation easement Ag carved out and then its residential lots. Therefore, there is the difference in taxation and classification. So that's what needs to answered by the State and then we can all have a nice understanding how our State legislature works and things, and then we can apply that and Bruce can live with it and so can we. At least we'll put the question to the state and say; I think you've got a problem.
Don – One thing he wanted to note for both Mr. Shugart and the Board because of the changes in the structure of the BAA and how the cases are handled. It is a trial in front of the Board of Assessment appeals. It's not a question of being stuck with the record at the County Commissioner level, Everyone gets to present their whole case all over and add anything they wish.
Chairman Martin – And you have some good information that needs to come forward Bruce. If we are not going to take action in reference to reopening up this case, we need either to take action correcting the resolutions that has been presented by the county staff or to reject it for some other reason.
Commissioner Samson – I think we need to go forward and let the State make the decision. So with that we need to, in his way of thinking, you're asking for us to pass these two resolutions so that can go forward. I would move that we pass the following resolution number BOE10-001, resolution concerned with amending and correcting resolution of BOE 09-0178 concerning the denial of the appeal of the determination of the Garfield County Assessor by Sundog Enterprises LLC.
Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye
Commissioner Samson – I would move that we pass resolution BOE 10-002, a resolution concerned with amending and correcting resolution of BOE 09-179 concerned with the denial of the appeal of the determination of the Garfield County Assessor by Sundog Enterprises LLC.
Commissioner Houpt – Second. In favor: Houpt – aye Samson – aye Martin - aye
Chairman asked Bruce if he got copies of the resolution so he could have that as part of his information and he stated yes.
Don asked that they adjourn as Board of Equalization and reassemble as the Board of County Commissioners.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Martin – aye
LB Rose Ranch:
No public action.

- **C. Direction/Modification of Banking Agreement**

Don explained the agreement. In all other respects, the Garfield County Banking Agreement of 2007, as annually renewed and modified, shall remain in full force and effect. The Board has been presented with a proposal to amendment the current banking agreement with Alpine Bank as that has been amended over the last few years. The proposed amendment would allow you to seek services from other banks if you desire at some point. Right now Alpine is simply an exclusive banking arrangement. It removes the minimum deposit provision in the current agreement and alters the maximum deposit provision. Don is asking the Board to adopt that amendment as proposed to the Board of Commissioners.

Commissioner Houpt – So moved. Commissioner Samson – Second. Who makes that determination do we as the Board. The first paragraph; the Garfield County Treasurer is hereby authorized to utilize the bank, as a depository; but this agreement shall not be construed to create an exclusive banking agreement.
Don – That allows the Board of Commissioners to make the determination if you wish to use another bank or an additional bank.
Chairman Martin – We have a motion and a second. In discussing and looking at all the facts and figures that I have seen as well as trying to keep everything as local as possible; Alpine Bank being the home owned bank and what have you with great assets and what have you and we have all gone through good times and bad times and I think there is no faltering on Alpines Bank at anytime; I think that we need to just sit with our partners and stay there. I don't think that we need to move out so I don't see the need to go ahead and authorize the change - that's my opinion.
Commissioner Houpt – This doesn't change that at all.
Chairman Martin – I understand.
Commissioner Samson – It would be up for us to change that so that doesn't do what you are alluding to.
Chairman Martin – It only opens the door.
In favor: Houpt – aye Samson – aye Opposed: Martin – aye

- **B. Update on LB Rose Ranch LLC Bankruptcy – Deb Quinn**

Don DeFord, Tim Thulson and Deb Quinn were present for this discussion.
Don stated there is a desire to have a public update on LB Rose Ranch if that is permitted by the Board.
Chairman Martin – Is that public request from our attorney or from the attorney representing LB Rose Ranch.
Deb I made the request and included information in the Board's packet of material.
Chairman Martin - Okay, it's from our staff; let's go ahead.
Deb has provided a chronological history of the development and the bankruptcy in her memo to the Board. She presented Exhibit A - Summary Statement of Claim. Deb gave a detail analysis of the issue and an update.
Deb stated the ratio falls below the 10 to 1 and the Board would be able to require additional funds to be placed in escrow.
Tim Thulson stated he agrees with Deb and confirmed her report as factually accurate. He thanked them for the extension on Phase III.
Chairman Martin – No action is needed at this time.

CONSENT AGENDA

jj. Approve Bills
kk. Liquor License Renewal: Sassy Sisters LLC, dba Trappers Lake Lodge and Resort, Located on the Flattops – Jean Alberico
ll. Liquor License renewal: Sassy Sisters LLC dba Trappers Lake Lodge and Resort, 3.2% Beer Off Premises License – Jean Alberico
mm. Liquor License Renewal for Hall and Reis dba Valley Liquors, Glenwood Springs – Jean Alberico
nn. Authorize the Chair to Sign a Resolution Approving a One-Year Extension to File a Technically Complete Final Plat Application for Ironbridge, Phase III to March 10, 2011 – Applicant; LB Rose Ranch LLC, as Debtor and Debtor in Possession in its Chapter 11 Case in the United States Bankruptcy Court of the Southern District of New York, Case No. 08-13555- Kathy Eastley
oo. Authorize the Chair to Sign a Resolution Approving a One-Year Extension to File a Technically Complete Final Plat Application for Oak Meadows, Filing 4, Phase III – Applicants; John C. Richert, Ethan A. Jacobson, and Emerald Isle Lending Company – Kathy Eastley
pp. Authorize the Chair to Sign the Resolution Approving Certain Text Amendments to the Unified Land Use Resolution of 2008, as Amended Regarding electric Generation Facilities and Their Associated Uses – Fred Jarman

Commissioner Houpt – We need to pull one of the items - f. There is a typo on the last page that is pretty substantial. It says Mike reclused himself instead of her.
A motion was made by Commissioner Houpt and seconded by Commissioner Samson to approve the Consent Agenda Items a - g; carried excluding f.
Commissioner Samson – To accept item f authorizing the Chair to sign the resolution, approving the one year extension to file a technically complete final plat application for Oak Meadows with the one correction that it says that Tresi reclused herself not him so with that correction is my motion.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

HUMAN SERVICES COMMISSION:

- **Health – Dustin Dodson, Sandy Swanson, Liz Stark and Mary Meisner**

The Aspen to Parachute Dental Health Coalition was established in the spring of 2009 with representatives from a three-county area, multiple agencies, private citizens, local dentists and others. Its mission statement is to provide high quality, affordable, accessible, preventive dental education and treatment services to residents with emphasis on the underserved and under-insured living in the Aspen to Parachute, Colorado region. The coalition is actively providing preventive dental education through in-kind contributions and grant funding solicited by their coalition members. The coalition is actively providing preventive dental education through in-kind contributions and grant funding solicited by our coalition members. The activities were included in the update and Dustin provided a presentation and an update fully explaining the progress.
Liz provided a brief history and thanked the Commissioners for their support. Oral health is a big issue across the county.
Sandy presented the Board with a handout from Dental Aid explaining that part of the funding that was given to them by Garfield and Pitkin County has paid for this first piece of the feasibility study. Now, with the information that Dental Aid supplied them is being used to roll into grants for the major Colorado and local foundations. There is only a certain amount of fees that we can garner from Medicaid and CHIP so we are looking at the people who do not have the means to pay very much as well as the local dentists who don't want to take them. They will be applying to Pitkin County in August and probably Garfield County in January to fund the oral health consultant for year two.
Commissioner Houpt suggested bringing this request this fall while we are working on the County budget for 2011.

Chairman Martin – In your presentation you said they have two dentists in the area that take CHIPs and Medicaid; how many dentists are in that region?
Sandy – 33-34.
Chairman Martin suggested we should work on that organization as well.
Sandy – That is part of the regional oral health consultant's position, which is to find out the and work through them. The billing issue is primarily the biggest barrier and the process it takes to have the state reimburse.

BOARD OF HUMAN SERVICES:

- **Approval of EBT/EFT Disbursements for May, 2010 – Lynn Renick**

Client and provider disbursements for allocated programs totaled $301,729.94 and client benefits for food assistance and LEAP totaled $562,930.01. Total EFT/EBT disbursements for May totaled $880,729.94. A copy of the certification summary is on file in the Clerk and Recorders Office.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consideration and Approval of the SFY11 Single Entry Point Contract with the Colorado Department of Human Services – Lynn Renick**

The State has separated two single entry point functions, the Home Care Allowance and Adult Foster Care programs, to be administered through the Colorado Department of Human Services. The department has received new SFY11 contracts from CDHS in the not-to-exceed amount of $4,721.89 and approval of that contract is being requested. All other functions managed by Single Entry Point agencies will continue to be under Health Care Policy and Financing. Contracts from HCPF have not been received at this time; however, the anticipated not-to-exceed amount for SFY11 is expected to be $515,479.31.
Lynn requested approval of the request.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consideration and Approval of the Memorandum of Understanding for the Colorado Works and the Colorado Child Care Assistance Programs with the Colorado Department of Human Services – Lynn Renick**

The CO Works Program is funded by Federal Temporary Assistance for Needy Families (TANF) funds. The term of agreement in this MOU is July 1, 2010 through June 30, 2011. The language is identical to the MOU from last year and CCI has agreed to the language. For the Board's information, Garfield's preliminary TANF allocation is projected to be $1,269,023.65.
Commissioner Houpt – I make a motion we approve the Memorandum of Understanding for the Colorado Works and the Colorado Child Care Assistance Programs. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Program Updates**

Lynn provided the Board in her packet of information all the program updates and statistics.

BOARD OF HEALTH

- **CDPHE EPR Contract – Mary Meisner**

This is a master contract, dated January 23, 2007 and the State promised to increase this contract by $39,839.00 for a renewal term of one year, ending on August 9, 2011.
Chairman Martin – Do we have a motion to accept the $39,839.00 contract for emergency preparedness.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Farmer Market Presentation – Mary Meisner and Christine Singleton**

The State WIC office is interested in conducting a small pilot: a Farmers Authorization Pilot. The pilot would involve authorizing select Colorado farmers in certain locations to accept cash value voucher (CVV) checks issued by Colorado WIC during the 2010 growing session to determine if Colorado WIC clients should continue or expand authorization of farmers to accept cash value vouchers in the future. A pilot provides opportunities to evaluate the project on several levels, including learning from the local WIC staff, participants and farmers on how to improve the process should it be continued.
Christine explained the proposal and requested some funds to help with the cost of training the vendors and to use as an incentive to their clients to participate. Their cash value vouchers are typically from $6-$10.00 per month. They currently have about 1,450 participants on the WIC program. It could be a fair amount of money for the vendors. The vendors are great and they want to see people get this kind of access to food; but they also need to make some money.
Chairman Martin thinks it is actually an expansion of the program because last year the Glenwood Springs market took vouchers that we sponsored as the Board of County Commissioners. Now we have Carbondale, Glenwood Springs, New Castle and Rifle with farmers markets. Parachute is still in limbo.
Christine said it was what they called a community-sponsored market.
Chairman Martin – Actually seniors even benefited from this effort.
Christine estimated $1,500 would give a $5.00 voucher for 300 participants.
Chairman Martin suggested raising this to between $3,000 and $5,000.
Commissioner Houpt – I make a motion that we authorize the expenditure of $5,000.00 for the Colorado WIC Program Farmers Authorization pilot program coupled with the; will this work to have it coupled with the matching WIC payment, or the voucher payments?
Christine - Last year we gave them $10.00 through TANF funds and then the Board doubled it. We could just double their cash value voucher.
After discussion, Commissioner Houpt revised her motion to include a $10,000.00 grant from the Board of County Commissioners Grant Program to do the farmers market programs and so it would include the pilot program that you presented today and expand the voucher program that we did last year.
Christine stated we would not spend more than we need. That is my motion.
Carolyn – I have a question for Mrs. Houpt; since there is nobody outside to contract with, I assume what you are talking about is money from the BOCC's grant line item into the Public Health Agency Budget.
Commissioner Houpt – Correct.
Ed – It is moving it from one fund to another because Mary has a separate fund.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Consideration and Approval of IGA, UCDSPH and BOCC for Design of Environmental and Health Monitoring Study – Jim Rada and Carolyn Dahlgren**

The term of this IGA shall commence on August 1, 2010 and terminate on December 31, 2010. The CSPH will use faculty expertise to design an Environmental and Health Monitoring Study. Scientific considerations may lead CSPH to design the EHMS to include only Battlement Mesa, or to include all of Garfield County or a combination of both. This design phase does not include conduct of the study; but will include the design of at least the following components and a pilot study included in the Board's packet.
Carolyn – In response to Commissioner Samson's request to clarify the appropriations, she stated the dollar amount is what the University says they are going to spend and that includes the 53% overhead. This contract allows for letter renewal next year if everything doesn't happen this year. So this is the language that says it can only go into next year if the department comes back to you with a letter of renewal and says carry this money over to next year. This is included in the sample IGA renewal letter as an attachment.
Commissioner Houpt – I make a motion we approve the IGA for provision of professional services of design and environmental health monitoring study between the regions of the University Of Colorado on behalf of the University of Colorado, Denver Colorado School of Public Health and the Garfield Board of County Commissioners and authorize the Chair to sign after it has been through their system; if it's not changed.
Carolyn – They started their waiver process weeks ago.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – As a point of clarity in reference to charitable trust; he did a little research on those. This started by Sun Oil Company and all their investments, 95% of their investments are all oil and gas corporations and investments. I found it interesting that Halliburton down the Gulf of Mexico holds a huge amount of assets. Into billions of dollars under PU trust 95% of it is all oil and gas production and holdings. I found that very interesting in reference to their publications on the environment.
Jim – I would just take the opportunity to let the Board know that although we did not get the PU Charitable Trust Grant, interestingly the PU Charitable Trust has come through with some indirect funding for this project. They have hired a consulting firm out of Canada to assist the School of Public Health and provide some technical assistance as well as guidance on our review on the process while we're involved with the health impact assessment. I don't know what the amount of money was but they actually are providing some support. They are very interested in seeing the outcomes.
Commissioner Samson – One question on Exhibit B, Epidemiologists, what exactly would they be doing to save pollution concerns upon the skin?
Jim – It has nothing to do with epidural; epidemiologists study disease in the community and the causation, etc.

- **Care Grant Update Presentation – Jim Rada and Diana Smith**

Jim and Diana gave a slide presentation explaining they have a few months with this grant project and will provide information that is more detailed and updates as they move ahead.
Jim – It took a lot longer than they anticipated; they hit a few bumps along the way but he thinks they are getting to a point where they can share good information regarding the survey and how the open house meetings were held in the late afternoons and early evenings of the week of May 17th through the 20th. These were held in all of the communities of Carbondale, Glenwood Springs, New Castle, Silt, Rifle, Parachute and Battlement Mesa. Since the open houses, they have been analyzing the priorities and the reactions people had with an idea that they need to give Jim and the environmental health staff some way to get a good handle on all of this and move ahead. One way of doing that is to categorize the issues in some way so they are not dealing with 35 individual ones but ones that bear some relationship. She showed a slide to show them one way of doing that. We have three months left, starting July 1 with the EPA Care Grant and they are pushing to get to the end of the project. From this point on, they will work to convey information from this final report to the Board as well as the residents of the county. They will be working to define how to measure the progress on these issues as they move forward and organize their future work. Jim thanked the Board for their support on this would like to have any additional comment, observations and reactions that the Board might have to the project so they can incorporate that into the final product. The CARE program has been in existence for about four years now and they are very interested in knowing how this process has worked in this community; particularly since our project is very much different than many of the other CARE communities that have been involved in the program. We are a government agency and many of the CARE communities' projects are being run by local non-profits or other community based organizations.
Commissioner Samson – You used a figure of 71 taking part but you said 150 were invited.
Diana – You have two things overlaid. We invited 150 people to participate in the consensus building process and when we held open houses at the conclusion of that process 71 people attended the open houses. There were different.
Commissioner Samson - We can't force people to do things however, he would like to have more people taking part.
Chairman Martin – The participation of 71 people was slim out of our population of 55,000. Another issue is in the advertisement with the title of CARE as this is an adoption and animal protection facility at CMC. Many people are just skimming over that particular issue if they are not interested in the adoption or the animal exchange according to the feedback he received.
Commissioner Houpt thinks the process was comprehensive and very good although as everyone else she was hopeful that more people had responded. Do you feel it was a group of people that represented across the county. Actually, that is shown in your pie chart, so there was representation.
Diana – There was but clearly, they would have like more. There was no sense that they can find that it was skewed in terms of people who did participate and did respond, rather it was broad based and well distributed. We knew the occupations so they did not have to ask.
Chairman Martin – It would be real interesting in reference to the cross reference on age, occupation and participation. Those that have time, those that don't have time, and those that are busy doing survival, have two and three jobs, and just didn't have time to participate. Yes, they are concerned, yes, they have an opinion but they just didn't express it.
Diana commented that based on her observation of the open house meetings the people with time and strong interest tend to skew older.
Chairman Martin – That happens to be the level of involvement simply because of the ability to apply their time on higher priorities than just trying to exist.

Commissioner Houpt was happy to see an older group represented.
Jim said they also did a significant outreach, because of EPA's requirements for them to look at health disparities and various ethnic groups. They did a significant outreach to the Latino community and it was difficult to get any real input. They had a few people who were representatives of that community or often speak for that community.
Commissioner Houpt is looking forward to seeing the end report and appreciated all the time and effort put forth in this study.

Senior Benefit Checks:

Ed explained that Lisa has prepared a letter to be attached to the senior benefit checks; and it is to be signed by each one of the Commissioners.

- **Resolution concerned with Reimbursement for Tax Lien Sale Certificate #2006-0056 Schedule #R042520 Assessed to Fred L. and Anna Lee Leeper, Certificate Holder Leslie Kancilia – Georgia Chamberlain**

Georgia explained that this property was erroneously offered for tax sale and a reimbursement is being requested as follows: $63.04 for the amount paid plus $170.00 premium bid and $29.48 for interest. Reimbursement is from the funds, to which tax was originally distributed with interest from the general fund. Her office did notify the certificate of holder. On the 2005, 2006 and 2007 tax roles, there was a 50% mineral interest on certain properties. Those taxes were not paid, became delinquent and she took them to tax lien sale and sold them. The certificate was purchased by Leslie Kancilia, then after three years, from the date of the sale, the investor has the right to apply for a treasurer's deed and that's what happened. During the process of treasurer's deed application they go for a title search that search revealed some information that was confusing and Georgia didn't feel comfortable moving forward without consulting the Assessor's office to make sure this was a valid property that she should have taken to sale. The assessor stated they should not have put it on the tax role and that Georgia should cancel the sale. In consultation with the county attorney for an opinion on the assessor's decision, she is asking today that the tax lien sale be cancelled and all the money be refunded to the certificate holder with interest. She stated they would take the tax money from all the different taxing authorities that benefited when the taxes were paid. The interest comes from the county general. It was $63.04, which is the tax that would come from the different taxing authorities including the county's taxing authorities. This is the resolution in front of the Board to pass today.
Chairman Martin – His question is with the outstanding minerals sold in the 3-year sale, now it's producing so who owns the other 50% of the minerals and who is going to be receiving the royalties because of this sale?
Georgia – That is out of her realm of knowledge; she has not researched who is the current owner and what lease they have with the oil and gas company.
Chairman Martin – What he is looking at; if the sale took place, the agreement when into affect after ownership of those severed minerals, are we embroiled upon this now payment of royalties to the person who should have had the royalties and ownership first, but we sold those rights under a tax sale?
Georgia – We didn't sell the rights; they only sold the lien.
Deb Quinn thinks the production taxes are based on overall production and we don't get involved with the leasing arrangements directly.
Chairman Martin just didn't want somebody to happen to own them for so many years and then all of a sudden lose them because of a tax sale that we did.
Commissioner Samson – I would move that we pass the resolution concerned with the reimbursement for tax lien sale certificate number 2006-0056, schedule no. R042520, assessed to Fred L. and Anna Lee Leeper, certificate holder Leslie Kancilia. Commissioner Houpt – Second.
Chairman Martin – Any other testimony we haven't heard?
Leslie Kancilia – She has owned the property for 30 years. She owns the other half of the 50%. She has had title work done numerous times on the property and they have never came up with the opinion that the attorney came up with. In fact, she paid for title work and that man didn't come up with that name either. It was the attorney that came up with it and it came up with a different acre interest then what they were told the Leeper's own, which was 70-acres. He came up with 90.
Chairman Martin – That sounds like a dispute you will have to take to a different area. Based upon the sale, based upon the information that Georgia has brought forward, we are going to take action in reference to the resolution on the sale or actually the lien. Looks like Leslie has more work to do.
Georgia – But one of the things that Ms. Kancilia has brought up is payment of the title search. We paid for the title search with her money; but now that can't be used for the treasurer's deed, that would be one of the reimbursements. She put the bill in there for the Board to see.
Chairman Martin – That's a secondary step; let's go ahead. He just wanted to make sure they understood what the Board was doing with this resolution. There's a motion to approve that with the reimbursements that are there. All in favor of the resolution.
In favor: Houpt – aye Martin – aye Samson – aye
Another issue:
Georgia – The title search expense is $1,946.25 and that was listed as a cost in issuance of the treasurer's deed and now that we are not issuing the treasurer's deed, should that be, normally that would be reimbursed to the applicant. We used her money to get the title search.
Commissioner Houpt – She could still have a copy, right?
Chairman Martin – It's a public document at that point if we used it in any other tax sales or whatever, he would say it is a public document that you based your findings on.
Carolyn – If you wish it to be released, unless you say its released its still confidential.
Commissioner Samson has no problem in releasing it.
Commissioner Houpt – I make a motion that we approve the reimbursement of $1,946.25 for title work and allow the information that was brought forward from this work to be available to the Kancilia's.
Commissioner Samson – Second.
Chairman Martin – The motion becomes public information or just directly to the one individual.
Commissioner Houpt – Just directly.
In favor: Houpt – aye Martin – aye Samson – aye
Georgia – She is not budgeted for a $2,000.00 expense like that; she went to Theresa Wagenman and she explained that Georgia had to come to the Board to get it paid and then include it in a supplemental budget.

Chairman Martin – That is the correct procedure.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Betty Scranton from Glenwood Springs is here to talk about the green agenda items on that are on today.

Chairman Martin – Now if this is going to be an item on the agenda you have to wait until that time.

Executive Session:

Deb – We need an executive session in connection with legal advice on the new law concerning medical marijuana. She believes that Mr. DeFord needs to provide information on Sundog.

Don – There is a very brief item he needs to discuss a housekeeping matter on Sundog and Commissioner Houpt informed him that she would like to have an executive session discussion to receive legal advice on the 3:00 p.m. item concerning the River District litigation.

Chairman Martin - Motion to go into executive session. Commissioner Samson – So moved.

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

Commissioner Houpt – I make a motion to come out of executive session.

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

Chairman Martin – All was legal advice; no public discussion or decision was made.

PUBLIC HEARINGS:

- **Consider a Request for a Revision to Condition 8 of Resolution 2008-49 for a Special Use Permit Amendment to Allow a Temporary Water and Waste Water System for Five Years for EnCana's Employee Office Located Approximately Three miles North of the Town of Parachute Off of County Road 215 Adjacent to American Soda's Parking Lot (File No. SUAA 6206) – Applicant; American Soda, LLP – Molly Orkild-Larson**

Rinada Bush with EnCana 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.

Deb stated it is her understanding that the applicant wishes to request a continuance of the hearing, pending this Boards discussion scheduled for July 13 on water use.

Chairman Martin – You wish to continue this meeting; he didn't have any notification that there was a request.

Molly – That came this morning.

Chairman Martin – And the grounds are to go ahead and finalize different issues.

Molly – The request is based on the discussion that will be held in the work session on permanent verses temporary land uses, which this application is covering. They are requesting to be continued to August 2 to a date certain so they could participate in a general sense in that work session.

Commissioner Houpt – I make a motion we rescheduled this hearing until August 2, 2010 at the 1:15 time slot. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **NECI LID – NECI Advisory Board and CLEER**

At their June 9th meeting the Garfield New Energy Communities Advisory board made the recommendation that with the passage and signing of HB1328, joining forces with a statewide approach is the preferred path over creating a local district, and would like to forward this recommendation to the Board of County Commissioners. HB1328, the New Energy Jobs Creation Act, creates an independent, statewide improvement district authorized to make loans to residential property owners for energy upgrades. The bill was signed into law by Governor Ritter on Friday, June 11, 2010. Key provisions of the Colorado New Energy Improvement District (NEID), is on file with the Clerk and Recorder. HB1328 also requires the state auditor's office to review NEID performance every five years and repeals the district on January 1, 2016 unless it has issued bonds that have not been repaid by that date. The district may not issue bonds or new loans after that date. TABOR issues; declares that NEID is neither a state or local government, and therefore not a district subject to TABOR because: It does not have the authority to levy taxes and can place a tax assessment only on property owners who voluntarily borrow from the fund.

Carolyn – This is a noticed public hearing today for consideration and decision by the BOCC as to whether or not to form a local improvement district that you have reviewed a number of times. Carolyn stated she has made no more changes to the resolution consistent with earlier discussion; because it is her understanding that your advisory board is going to recommend to you today the opposite of what they recommended before, and that is that the local LID not be formed. We are not agenda today to discuss the statewide LID except to hear that the Board may wish to have some discussion.

Chairman Martin – This is not a public hearing; the board is advising us to withdraw the public hearing process for a local improvement district.

Carolyn – It is not statewide.

Chair Martin – Then we are dealing with the local one; the local one is on the agenda, therefore it's a public hearing.

Shelly – We are not recommending the county pursue a local improvement district at this time.

Carolyn – Mr. Martin, since this is a hearing, she has received proof of publication titled Board of County Commissioners Garfield County notice of public hearing on the proposed creation to Garfield County CLEEN energy Finance District a statutory "local improvement district" for 1:15 this afternoon. She gave the clerk the published notice.

Chairman Martin – I am in a quandary then; if we have a recommendation to withdraw that, but you have notification, why should we go ahead with the public hearing?

Carolyn – We just opened it and now she assumes the Board will accept the recommendation and close the public hearing and not do anything. But we don't know that; you could decide to not accept the recommendation of your advisory board and go forward.

Chairman Martin swore everyone in. In front of us is a recommendation, and that recommendation from Shelly is to withdraw the local improvement district public hearing process. Am I correct?

Shelly – Yes, that is true for today. The board discussed this and they have an alternate recommendation, which will come forward she thinks later.

Chairman Martin – How many people are here to testify in this matter? This is for local only. He asked Betty if she wished to speak but she did not. We need to close the public hearing.

Commissioner Houpt – I'll make a motion to close the public hearing.

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

Commissioner Houpt – I make a motion that we withdraw this public hearing as recommended by the NECI Advisory Board for discussion of the local LID. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Mr. McWilliams – Will the state issue the new HB 1382, the one for the state energy district; when will that, is that to be scheduled?
Chairman Martin – This is to be scheduled but it is not scheduled at the present time. It will be up to the advisory board to come forward with a recommendation to follow that and they are not doing so today. So therefore, we know we can't enact even the state entry unless we have a public hearing and the majority of the board give the approval to enter into the state improvement district. That hearing has to be scheduled.

PUBLIC MEETINGS:

- **Consider Public Action and Direction to Staff Regarding the Recent Passage of HB 1284 Regarding Medical Marijuana – Fred Jarman**

Fred gave a power point presentation and submitted the following exhibits: Exhibit A: Staff Notes from CCI Conference Session on Medical Marijuana on 6/03/10; Exhibit B: Eagle County Proposed Land Use Regulations; Exhibit C: PowerPoint Presentation at CCI Conference by Eagle County Attorney; Exhibit D - Garfield County Ordinance 96-01 "Nude Entertainment Ordinance"; Exhibit E: Eagle County Resolution 2010-044 "Re-adoption of Temporary regulations to prohibit cultivation and production of medical marijuana within unincorporated Eagle County by persons or entities other than patients for primary care-givers."Exhibit F: Eagle County Resolution 2010-023 "Eagle County Land Use regulation Amendment Pertaining to medical Marijuana Dispensaries." And Exhibit G: House Bill 1284.
BACKGROUND
As you now are aware, on Monday, June 7, 2010, Governor Ritter signed HB 1284 and SB 109. with the following statement: *"In my State of the State Address in January, I called on the legislature to work with my office, law enforcement, the medical marijuana community and other stakeholders to bring bipartisan, common-sense solutions to the chaotic proliferation of medical marijuana dispensaries in communities all around Colorado," Gov. Ritter said. "The companion measures I signed today strike a delicate balance between protecting public safety and respecting the will of the voters."*
"House Bill 1284 provides a regulatory framework for dispensaries, including giving local communities the ability to ban or place sensible and much-needed controls on the operation, location and ownership of these establishments," the Governor said. "Senate Bill 109 will help prevent fraud and abuse, ensuring that physicians who authorize medical marijuana for their patients actually perform a physical exam, do not have a DEA flag on their medical license and do not have a financial relationship with a dispensary."
Staff attended the Medical Marijuana Session at the CCI Conference in Vail the week prior to the signing of the bill where State Representative Tom Massih, Eagle County Attorney Bryan True, and Denver-based Attorney Josh Marks presented their views on the pending legislation. Staff finds that the new law places direct responsibility on Counties to respond to the requirements of the law prior to July 1, 2011. This memorandum presents the various options available to Counties with respect to this new law primarily from a zoning perspective but also discusses the local and state licensing program as they are attached to the zoning issue.
Fred stated the current zoning regulations and the new law explaining that the Unified Land Use Resolution of 2008, as amended (ULUR) does not contain any terms/uses specifically related to the growing or selling of medical marijuana. Instead, these uses have been discussed as generally falling under larger umbrella uses such as "agricultural" types of uses.
More specifically, growing operations could be generally interpreted to be included in the definition of "Agriculture" and "Commercial Nursery / Greenhouse," which are both uses-by-right in the Rural and Public Lands Zone Districts. Further, Commercial Nursery / Greenhouse are also allowed in the Commercial Zone Districts as a use-by-right and in the residential zone districts with an Administrative approval.
Staff has been unclear as to how regulations might apply as we waited to see what the pending legislation would provide in terms of ability to regulate these uses. Regarding dispensaries in Garfield County, Staff is aware of at least 2 operations including *Medicine Man (947-WEED*) in the Glenwood Commercial Plaza and *Hydroponic Creations* in the Thunder River Marketplace, which are both located in the commercial zone district. We are unclear if these are dispensaries only or also grow operations. There is a listing website for various operations in our area at http://www.mmjcoloradolist.com/dispensary.list.html. As you can see, the County's ULUR does not specifically define medical marijuana or medical marijuana growing or selling operations; however, the new law does specifically define these uses.
Within the zoning context, Staff finds this to be highly extraordinary language that may be subject to challenge because most uses cannot be prohibited, but you can regulate where they can go which is, in part, the basis of Euclidean Zoning. A good example of this is the use, 'nude entertainment establishments'. The BOCC cannot prohibit them outright from taking place in the County; rather, the County is required to designate appropriate areas where they can and cannot exist and put together standards such as buffer distances from schools, residences and set hours of operations, etc. to regulate them. In this case, of HB 1284, it appears that counties can be more or less restrictive than the state regulations with no issue of pre-emption. HB 1284 has provided wide latitude to Counties in how they wish to treat these uses.
As stated above, the new law deals with both zoning and licensing. Where they are specifically connected is in the following section 12-43-308(1)(c) which seems to say that no license can be issued either locally by Garfield County or the State of Colorado for cultivation, manufacture, and sale of medical marijuana if the use is not permitted in the zoning tables. ***Restrictions for applications for new licenses***.
This concept of the grow operation location being "confidential" appears to fly in the face of due process under zoning regulations where notice (normally posting the property, mailing to neighbors and publishing in the paper) is required for a land use hearing if this use is to be regulated to certain locations as a use requiring a public hearing. Perhaps the County could allow the use as a use-by-right in certain zone districts which would negate the need for a public hearing and no notice would be required for the zoning issue; however, this is also problematic for the public hearings which are required to obtain a local or state license. This directly conflicts with the purpose of a public hearing.
TO REGULATE OR NOT TO REGULATE
Staff believes the current land use regulations do not adequately deal with grow operations and dispensaries of medical marijuana. Like any other use that the County regulates, Staff believes the Board has the authority to either prohibit the uses outright or direct Staff to propose zoning regulations that properly

address these specific uses. In either case, staff suggests the Board adopt a moratorium on these uses until the Board decides which direction it intends to proceed.
Also as stated above, the Board could take the position that since the uses are not specifically included in the zoning tables as allowable uses that they are already prohibited and that they do not generally fit into agricultural types if uses such as Commercial Greenhouse / Nursery, etc. By way of example, Eagle County specifically lists medical marijuana dispensaries and cultivation and production as explicit uses in their land use tables as shown in Exhibit B). Staff understands that existing growing operators and dispensaries have until July 1, 2010 to get their applications in to the state to be licensed, which still requires local zoning approval. The state does not have the licensing program operational as of yet and the new law provides Counties until July 1, 2011 to either adopt a local licensing program or "opt out" of that program and leave it to the state, as well as put regulations in place unless the county decides to outright 'prohibit' the use from the zoning tables. Should the BOCC decide to regulate the uses connected with medical marijuana, Staff would suggest treating the use no differently than you might with liquor stores or nude entertainment. The BOCC regulates both of these uses either within the zoning or via ordinance to certain zone districts and has applied specific criteria associated with operations as noted before. For reference, staff has attached "Ordinance No. 96-1 Nude Entertainment Ordinance" as Exhibit D so that the Board can review the regulatory approach taken in 1996. Staff has also attached the proposed land use regulations (Exhibit B) currently under review by Eagle County, as an example of how zoning might react to this new law should the BOCC wish to regulate it. Finally, the state is working on licensing regulations to serve as a guide to counties wishing to adopt licensing programs, which will not be available for some time. It was suggested at the CCI Conference that if counties decided to implement local licensing programs that they model the program after local liquor licensing programs administered by the County Clerk. In that example, the Clerk issues liquor license for liquor stores but those stores need to be located in the proper zone districts.
NEXT STEPS
Staff believes counties can do the following things as authorized by HB 1284 prior to July, 2011 when the state licensing program goes into effect: Adopt our own licensing program / laws; Adopt the State's licensing program / laws; Affirmatively "Opt Out" of the requirements of HB 1284 and do nothing;
Set up specific Zoning laws; or Set up a moratorium until Counties figure out what it wants to do if there are existing programs in place.
Fred submitted the Medical Marijuana Staff Notes from CCI Conference on 6/3/10 explaining
In Colorado, there were about 1,700 to 1,900 card carrying patients between 2001- 2008, then the federal govt. announced they were hands off if states had their own regulations which is when CO patients went to 100,000.
Earlier, SB 109 really focused on Dr. / Provider / Patient relationships where it required an "arms length" relationship between care-giver / Dr. and that cards had to have a 1-year life requiring renewal;
HB 1284 really focuses more on the dispensaries as a commercial activity rather than on the patient and keeps the patient / caregiver ration at 5 to 1.
In large part, the structure of HB 1284 was modeled on the "gaming" model as well as liquor licensing model so that these dispensaries are legitimate commercial businesses that require state (and maybe local) business licenses to operate and pay sales tax;
Counties have the authority to place these businesses in the "right" spot with respect to zoning.
Counties can be more or less restrictive than the state regulations with no issue of pre-emption;
Counties may vote to prohibit medical marijuana centers and associates uses from occurring in their jurisdiction; (CRS 12-43.3-106) It was suggested that Counties could put regulations in place similar to the liquor licensing model; HB 1284 does require "labeling standards" for marijuana infused products and these products can only be sold at licensed Centers; All dispensaries (called "centers") are required to be licensed by the state and produce at least 70% of their product at the licensed center and can only purchase / import the other 30% from other licensed centers. You cannot have a separate grow operation in the County that is not a licensed dispensary; State Licensing does into effect in July, 2011 so Counties have until then to decide how they are going to approach this industry; HB 1284 does require Centers to post a $5,000 bond to ensure that all taxes get paid; HB 1284 requires that employees of a Center also be licensed to work in the facility to be able to sell marijuana, etc. HB 1284 really addresses the commercial operations and is not focused on the patient / caregiver relationship; HB 1284 provides a distance requirement of 1,000 feet for Centers to be away from schools, childcare facilities, etc. The County can set any distance it believes is appropriate; Counties can do the following things as authorized by HB 1284 prior to July, 2011 when this goes into effect: Adopt our own licensing program / laws; Adopt the State's licensing program / laws; Affirmatively "Opt Out" of the requirements of HB 1284 and do nothing;
Set up specific Zoning laws; Set up a moratorium until Counties figure out what it wants to do if there are existing programs in place; State Guidelines are coming that can help Counties set up their own systems;
Who does the county licensing? Most likely, the County Clerk would have this responsibility and operate it similar to liquor licensing and can hold public hearings, set fees, etc.; Eagle County's laws go before the BOCC in the next week or so. They may be a good example to look at for guidance; Regarding zoning, HB 1284 requires that no licenses can be sought or approved without first demonstrating that the zoning allows for such a center to exist; Zoning approval (whatever form that may take) will need to occur before and separate from the licensing (state and local) requirements; County can decide where Centers are allowed in the zoning context and require distances as well as other requirements similar to other health, safety, and, welfare standards like Adult Entertainment laws; HB 1284 gives counties "wide latitude" to restrict these centers to certain areas such as commercial / industrially zoned areas or non-residential areas, although the BOCC would need findings to support their decisions; HB 1284 does not grandfather existing operations; they are all going to be required to meet state requirements when that takes effect; "Optional Premises Cultivation Operations": On-site vs. off-site grow operations: In all situations, it is the "facility" (Center) is required to obtain at least the state license so the owner of the facility has to be the same person as the owner of the grow operation property which also needs to have a license. More clearly, it is anticipated that the growing and selling will occur at the same site. (This may need clarification). This operation is also confidential…see page 34 and 40 of the bill; How does this work for zoning and licensing? The County is responsible for shutting down operations that do not have the proper state licensing as of July 2010; there may be a "vested rights" issue if a county actually issued a land use change permit, but this is unclear as well. In any case, counties should hold public hearings to give and take away rights for due process reasons; It is clear that if counties choose the "opt out" provision, they need to do that via formal action; It

was highly recommended that counties wait for the guidelines to come out before they enact their licensing programs;
Fred stated there were a lot of point he didn't talk about, the very specifics of the bill; having do for example how much can a dispensary purchase from another dispensary for example. The 70/30 rule. There are a number of very specific components to it. As your staff, this is new for them too; they are wrestling with this bill and are looking for some direction and again they have suggested for the Board to do a moratorium so they can sort this out particular to the zoning code.
Deb – One correction, Fred said the act (HB1284) is now law; the Governor has signed it, but it does include an effective date. Section 18 of the bill says that the Act shall take effect July 1, 2010 and except as otherwise provided in subsection 2 of the bill; subsection 2 is the one that give a July 1, 2011 deadline for counties to enact or prohibit.
Chair Martin – We could take some kind of action by that date.
Quinn Winton from Carbondale and proprietor of LEAF who has a dispensary in Pitkin and Garfield County have been very proactive in working with legislators and lobbyists on the Front Range. I am familiar with HB 1284 and what expectations are contained.
Jamie Hill-Miller spoke with the Department of Revenue and the direction they are looking to go with this issue. As far as the county authority, it can be placed on the ballot for the voters. If the people voted on the question, then this would trump the decision of the Board.
Chairman Martin – The people would still have to go through the rules and regulations of land use, which is governed by this Board. The people don't establish the rules; this Board does.
Quinn – Having existing operations and looking forward to passage of this bill; he has a vested interest in seeing this work in the county. As a resident, business owner with these operations in the county, this is his concern. Agriculture is something that is befitting and even before becoming more involved in this issue he has been a long time avid home gardener. Now he has goats, pigs, 50 chickens and a greenhouse so he would call that pretty agricultural. From a zoning standpoint with all the sub-defined uses considered agricultural, this would fit somewhere in the zoning. There are many patients in our county, valley and communities therefore to limit access to specific different strains of medical marijuana is like limiting various types of lettuce as an example. Garfield County is an agricultural community and HB 1284 was larger crafted for more metropolitan issues and concerns. With additional statewide regulation, many would be eliminated naturally because of the additional requirements under state law. It would have an effect on free market pressures as well. He would urge the Board to have an allowable use for this in our community. We have an opportunity to make it work and have citizen safety.
Jamie is a patient advocate and working closely with politicians around the Front Range and the Department of Revenue. I am a caregiver and many of the valley's indigent patients and homebound patients that are very debilitated. My understanding of the written law is that you have to be operational for a year as of July 1, 2010 to apply for that 2011 license. By August 1, the applications have to be in with the Department of Revenue, if you are going to have a center then by September 1 of this year and validate that you are growing 70% of your medicine for patients. If a moratorium were put in place in unincorporated Garfield County that would literally make anybody currently operating incapable of operating if that is where he or she have elected to have their operation.
Chairman Martin – The question of vested rights to continue operations has not been answered by the state. That is one of the issues this Board is looking at.
Jamie – At the Glenwood Springs City Council when they enacted the town moratorium, it was very interesting to her to learn of the growth in physicians and employees at Valley View Hospital. This shows the population of ill people in Garfield County is growing exponentially and having access to alternative medicine has been very beneficial to our debilitated people and our community. For a community such as Garfield County with the localized authority is good and holds the belief that this bill was really written with the Front Range in mind. I have been working on the board in the Town of Carbondale and they are talking about home occupation, which the law allows for a caregiver to grow for five patients without being a part of this regulatory license process. The Town of Carbondale is looking to allow people who are not in a retail business to do that within the capacity of their home use. They are also looking at the agricultural zoning, industrial use zoning and this seems to be where that town is headed. The application process with the confidentially is very difficult yet the state licensing authority will be regulating any off grow licenses including investigating those locations and will know their locations. Before going to a moratorium without knowing that local vested rights, it is important to see where this is headed. Jamie continued to express her confusion and asked many questions in regard to a potential moratorium and the impacts on a bad crop and the need for an additional grow operation. She expressed that the law allows for multiple licenses for each location for off gown sites and the process of a global licensing authority for approval.
Chairman Martin –It could stop you from opening up a new growth facility.
Quinn – A person can be a caregiver up to 5 people under amendment 30. For a grow operation, we go through a process and whatever this Board puts in place, then say for an example, his current lease expires and the need is to change locations will the moratorium effectively squeeze him out.
Chairman Martin – The permit goes with the land and you cannot transfer that permit to another piece of land somewhere else, rather you have to go through the process and it would be a new application.
Quinn – He would like the Board to take that into consideration. With the new licensing process, many leasers have been reluctant to getting involved until they have more state and local regulations so some additional time would be helpful.
Jamie – In Eagle County, this is confusing because in the unincorporated portions of Eagle County between El Jebel and the Basalt area there are home bound patients trying to figure out how these people are going to get their medicine is concerning as she has seen how their action has affected patients. The Department of Revenue is going to set the prices so the gold rush is ending and there will be a better system for patients and counties. Unincorporated Eagle County patients are having a very difficult time due to the moratorium in place. This Board was voted to represent the people and she would like to have their view represented.
Shannon Winkler, a resident in the city limits of Glenwood Springs. Would you consider the ballot option question for the voters in November referencing Aurora City Council and the ballot question asking voters to ban or not.
Chairman Martin – We are going to hold a workshop to explore that question with staff.
Fred – Amendment 20 voted on in November 2000 authorized the medical use of marijuana with 9,131 yes and 7,572 no votes.

Shannon – She has talked people in general around the city who did not support amendment 20.
Chairman Martin – If this is information and you wish us to have us consider, you can pass that to us.
Shannon – Support the moratorium and requested the Board consider it. The City of Glenwood has nine dispensaries to figure out what action to take.
Tyler Tucker has a Carbondale dispensary and agrees that the proliferation of dispensaries is out of hand. HB 1284 could allow the state to impose a year-long moratorium of new centers, which would take the ease off the County Commissioners shoulders knowing that there will be no further proliferation of centers. Why would there be a need for a moratorium on a county level. This Board seems to be interested in land use, complying with all the zones and codes associated with agricultural/farming use. The mandate to grow 70% effective September 1 will be difficult to comply with that mandate of the state if they are not able to expand their growing operations.
Chairman Martin – One of the issues that everybody needs to understand is the process in doing a zone identification and use. It is also going through a public process and it has to have two public hearings to make sure it's fair. One is with the planning and zoning commission and the other is in front of the Board of County Commissioners. This is how local government works. Land use has to go through a process identified through different zones and the comprehensive plan is one of the documents. That document is underway and the zoning allows certain uses by definition, either by use by right or a layer of review. For this industry, we currently do not have those regulations in place. We need time to give thought to this and we will explore those in a workshop. We will make that decision; we cannot wait for the state to do everything. We still have to have those public hearings and where are we going to allow it. This is a public process and not just a decision made today by this Board. This is for your protection, it's your invested government and where you have the opportunity to participate to make your points.
Commissioner Houpt - It is important to understand that what whatever we put in place is only for unincorporated Garfield County. Every municipality will have their own rules and regulations and many companies could be dealing with two different regulations.
Tyler – If you are mandating a thousand feet in-between grow sites this would be difficult especially in the Town of Carbondale understanding it is a town's trustee decision. Nevertheless it us outside of the local municipality and into the unincorporated counties.
Chairman Martin – The town has the same type of public process that we do in the county, which requires two hearings. Our zoning takes in the entire county. We are not a small municipality so that affects many folks. We are trying to figure out how to have a public hearing of notification without revealing where the location and the person in operation. Those are some of the questions and issues that the Board has to resolve within the next year.
Michael Gurnolde living in unincorporated Eagle County and the zoning has eliminated use therefore the reason he is here in Garfield. He has contacted Garfield County planning and zoning twice and was directed to consult this land use table and told these optional premises locations are under commercial nurseries. Thus, he moved forward and contracted with a location for five years. He has invested quite a sum of money into the build out of this location. So his question is how does he now move forward.
Chairman Martin – If you invested in it, do you have a vested right? That's the determination of the State to make sure that they identify what vested rights are once their law goes into effect. What is prior in use *and how are they going to address vested rights?*
Commissioner Houpt – We have to deal with existing businesses too.
Chairman Martin – You're an existing business, you have investments going on, what rights do you have? That's the question and one we have to figure that out as well. We are trying to keep this fair and equal just like any other business. It will be difficult but we will answer the question. If you move forward, you must understand the risk factor as a businessperson. If you continue then what is your stance to appeal if we should say no, we are not going to recognize your vested rights or on the other hand, if we say we do recognize vested property rights then you're in business.
Deb Quinn - Her office has drafted a moratorium that she would be happy to distribute to the Board to go through step-by-step just to explain what it does.
Commissioner Houpt – Noted the concerns raised about a moratorium and would like to know the impact on current businesses that need to conform with the 70% portion of the legislation and those who need to expand their growth areas. She asked Deb to explain the impact to established businesses as we move forward.
Commissioner Samson - We need to see what you have drafted and discuss it.
Deb passed the draft to the Board and the audience and explained the foundation for a moratorium. The Board has extensive authority to address land use in Garfield County and cited two specific State laws that gives the Board that authority. The cultivation and manufacturing sale of medical marijuana was not contemplated at the time that the uniform land use resolution of 2008 was adopted and there is no language for this industry in the resolution language. Such uses are not currently allowed within any zone district in unincorporated Garfield County. The Code does address the vested rights issue and read from HB1284
Discussion continued on the need for a separate regulation and the areas where the state law is not clear. The County does not approve businesses only a land use location for a business. Cities and municipalities often issue licensees for businesses in order to collect their sales tax directly. The county does not collect sales tax directly therefore we don't issue those types of licenses. Local land use approval as opposed to a business approval is an open question. How it might affect existing operations is difficult to say. Today we do not know the details of every existing operation out there, such as when it opened, whether or not they have been collecting sales tax and the legalities of it aside from this act. In the draft language, it recites the fact that this bill was signed by the Governor and does take effect on July 1, 2010. It recites the fact that counties and municipalities have until July 1, 2011 to determine the issues that we talked about today including whether or not to license or regulate through land use the medical marijuana facilities within this jurisdiction since that is the only thing that is legal in this state. It allows local governments to prohibit those facilities either by resolution or of the governing body or by vote of the elected. It recites a lot of what was heard today and the fact that the Board of County Commissioners consider this action today. There is the ability to regulate from a land use perspective that this county has not undertaken. Mr. Jarman provided information that has taken a number of months to get to today and the process has not been completed. The Board needs to consider whether their current regulations comply or are consistent with this new law. It also gives you the options of taking testimony in public hearings to determine which way you want to go to form a ballot question. It also recites possible litigation concerning prohibitions of

medical marijuana facilities. The litigation started before the law was passed and now the prohibition has been authorized by this law but it does not mean there won't be litigation should the Board choose to go in that direction. The Department of Revenue has not enacted its rules and regulations concerning the licensing procedures. The Board today has been advised there are already facilities within the county that commenced operations prior to the effective date of HB 1284 and added there are nine dispensaries in Glenwood Spring based on the testimony before you today and new facilities might open prior to the various deadlines that are established in HB 1284. A moratorium is something the Board needs to consider as it would prevent new operations from relying on existing zoning and locating areas that would or could be prohibited under subsequent regulations. HB 1284 authorizes a continuation of any moratorium that covers the subject of the legislation that includes both land use regulation as well as the licensing provisions pending enactment of rules by the Department of Revenue. There is a need for the Board of County Commissioners and county staff to take time to fully consider the implications of the regulating or prohibiting medical marijuana facilities within the county before taking permanent action either on licensing or land use. The moratorium is necessary to protect the health, safety, welfare of the citizens to preserve the status quo pending consideration of land use issues and specific recommendations from planning and staff, and pending enactment of rules and regulations by the state under House Bill 10-1284. The potential resolution does not address what is happening today and the Board would not be taking action to shut down anybody pending its decision on how to regulate. However, those businesses that currently exist continue to operate, do so at their own risk. This Board would not be taking any further action other than to say as of today it is not permitted under our land use code. The Board is not going to allow any further operations in the county, any new operations in the county, pending a decision about how to regulate, prohibit or take it to a vote of the citizens to prohibit. The resolution places a 6-month moratorium and requires a confirmatory public hearing on the actual moratorium. During the published public meeting, this Board would give members of the public the opportunity to come forward and say whatever and you could potentially change your mind and not confirm the moratorium. It could be short termed depending on what happens at the public hearing. This moratorium will say from today forward that our land use code does not authorize any of these uses and is only for unincorporated Garfield County.

Commissioner Houpt – For clarification, if we agree to a moratorium today, someone has an existing business, and there were a need to expand because they had a supplier whose growing operation was not good and there was the need for expanding their business, how does this moratorium impact those people?
Chairman Martin – It would say do not expand because then you become an expansion of a non-conforming use in the zone similar to any other we have in place. Testimony would be heard in August, we would set rules and regulations, have public meetings and determine if we are going to allow it or not. The risk individuals have now is setting up a new business until we make a decision. That also goes back to our master plan saying we want the expansion and the commercial development to take place within the municipalities and being true to our comprehensive plan, not on the outside of the city limits. We encourage businesses and commercial development to be inside municipalities.
Commissioner Houpt – But this is a very interesting industry because you have a portion of it that clearly is commercial and a portion that could arguably be agricultural and not all of it belongs inside the city limits.
Chairman Martin – That's one of the issues we have to work out and the reason we have a planning and zoning commission to identify and define what uses are allowed in the different zones.
Commissioner Houpt – This is difficult to vote on since we just received this information. Her concern is that this Board may fully understand the unintended consequences of adopting a moratorium.
Deb – In the resolution on the moratorium there is a confirmatory public hearing to occur on August 2, 2010 at 3:00 p.m.
Fred understood the Board's desire to hold a work session and suggested the public hearing be postponed until September in order to have time for research and the pros and cons. We are suggesting the Board take action before July 1, 2010 to be in compliance with the state.
Deb – To clarify for Commissioner Houpt, Deb explained the language in HB 10-1284 that requires the state to promulgate the rules and regulations for the regulation control, for the cultivation, manufacture, and distribution. "A county, municipality or city and county that has adopted a temporary moratorium regarding the subject matter of this article shall be specifically authorized to extend the moratorium until the effective date of the rules adopted by the Department of Revenue in accordance with this article." This is one of the bases for a moratorium and there other land use authority not as explicit. The effective date is July1, 2010.
Chairman Martin – The planning and zoning commission would be able to go ahead and look at the zone text amendments, the definitions and make recommendations after the public hearing on that process with the moratorium before we put into place our rules and regulations as well as the state.
Commissioner Houpt – If we decided that it made sense to have a moratorium.
Chairman Martin – There are so many answers and risks on both sides of this questions that he thinks we need to put a moratorium in place. A moratorium would allow us to make sure that we are focused in on the positives and negatives make a decision that is fair to both sides. A moratorium would be for 6-months.
Deb – The moratorium would basically say "no one open anything new between now and the date of that hearing, at a minimum."
Commissioner Houpt - It is important because we received this today to have more thought put into this and understands it takes time to have a public hearing. We also want information on unintended consequences of the moratorium and not just land use information.
Fred suggested to hold a work session on Tuesday, August 10 and then have the confirmatory hearing on the third Monday of August.
Commissioner Samson – Suggested Tuesday, September 7.
Jerry Long lives in Rifle. With the Boards concerns of this being handed to you today and to vote on a moratorium could you put the moratorium off until July 1 and give the industry a chance to have a week or two to better deal with the moratorium.
Chairman Martin – Our rules and regulations that we have in place do not even recognize the use in the unincorporated area as it is not defined. There is no zoning and actually, you're not even supposed to be doing it right now. By moratorium, it is giving each side of this issue a voice. If there is a vote that says no we're not going to have it at all then you have legal battle. The workshop would be listening and try to nail down everything. Presently you run the risk of being shut down if we invoke our zoning issues which says we don't even recognize the present operations

Commissioner Houpt - Has there been any direction to independent businesses on doing business in Garfield County?
Fred – We are telling folks who call that we are asking this Board to clarify whether these operations fall in agricultural use. If you look at your zoning map virtually the entire privately land in Garfield County could have these operations. We are sitting here wanting to know is the direction from the Board. At present, we are not telling anybody to go forward and furthermore we are not saying you have a use by right. We haven't written a single letter to anybody saying you have absolutely any vested right. It appears that it could fall within an agricultural use or as a dispensary. We desperately need the Board clarification on this because of the major litigation that hangs in the balance.
Chairman Martin – Additionally, there have not been any written letters saying that they are in violation therefore shut down. This is the gap we are trying to bridge. It's on our shoulders and we need to make a decision.
Jerry - What he is asking today is saying July 1because this lines up with many of the other state deadlines. This would give Jamie an opportunity expand or do the remote location. However, it the Board puts a moratorium on it, they can go to Eagle County or any other county in the state and have her grow as an offsite operation
Chairman Martin – We will do the workshop and if we are going to confirm a moratorium that would be September 7 and go forward at that point. Jamie is still running a risk no matter what, because if she does an expansion right now; she still runs a 50/50 risk that she can be shut down because it is not even allowed now.
Jamie – In the meantime, the model with the amendment has a constitutional protective right to establish a person as primary care giver.
Chairman Martin – You have two diff things going here Jamie. You have land use; which you haven't even applied but is required by the State statute to answer, or the new law when it goes into place. And within that time you have to apply to make sure you are in compliance with the zoning issues. Right now, you are not. If you put a license into the state, stating you are in compliance with the zoning issues you'd be lying. So what we are trying to do is answer that question under the state statute, which gives us a timeline of July 1 to make sure that we do that so that we put our work session into place and consider either a moratorium or adopt state regulations and not deal with it at all; or put it to the people for a vote. This Board needs to hold a work session. A vote of the people would not be until November or even next year. *Jamie* – My question was currently the way the amendment laws is for a caregiver to grow for their patients a maximum of three plants under that currently constitutionally allowed right in the State of Colorado, those patient growth right now, because they are constitutionally allowed. Would they still be considered to gown based on the land use?
Chairman Martin – This has not been defined and it does not line up with the zoning and land use in Garfield County. This is not defined under the adoption of our Unified Land Code so if it's not within the decision metric and identified, it can't be allowed.
Commissioner Houpt – That is the issue unless it is defined.
Jamie – What it sounds like is every single caregiver within the bounds of unincorporated Garfield County is doing something unlawful right now.
Chairman Martin – Yes, because it is not identified by the land use code.
Deb – One caveat, there may be arguments for legal non-conforming uses prior to today should the Board go in the direction it sounds like it is going to go.
Chairman Martin – That goes back to the vested rights on the non-conforming use still using the system that was fair and equal to all other businesses that have the same argument even though the product may be different.
Fred – The house bill is focused not so much on the individual caregiver relationship, the bill is specific. This is meant to deal more on the larger commercial side of these businesses.
Melissa Smith – With the change in the laws and the caregiver's standards, there are some of us out there that have been growing as caregivers. We are zoned outside the city in the AARD and that's where their growing has been operating until now and will remain doing so. We don't have a store front and so there are some of us that are working with that angle as well.
Chairman Martin – There is no longer an AARD zoning, it's called rural and there happens to be identified items that can and cannot be done in rural zoning. That was in the Uniform Adopted Code in January 1, 2009. If you have done it between January 1, 2008 and today, then you may want to look and see if you're still in compliance.
Commissioner Houpt – This is all very gray right now and we are dealing with a constitution amendment that didn't have regulations in place for a while. Therefore, an industry started up that really needed to be better regulated. Now, we as a county really need to step up to the plate and figure out how it is going to be regulated in this County. There is a transition time and she thinks they all need to be patient with each other, communicate and figure out whether there is going to be a voters initiative that comes forward or whether we will be able to incorporate it without a vote of the people in a seamless manner into our land use code, or whether a moratorium makes sense. There are all these new questions.
Chairman Martin – Remember when we say constitutionally guaranteed it is only the State of Colorado's constitution that allows it and there is no protection under the Federal constitution/laws. You would still be in violation of Federal issues.
Motion:
Commissioner Samson – I would move that we pass a resolution establishing a moratorium on new medical marijuana facilities within Garfield County taking special heed of the last two paragraphs as the substance of why we would want to do that, striking at the very end there a confirmatory public hearing on this moratorium with public notice shall be held August 2nd and substitute August 10th at 3:00 p.m.
Chairman Marin – Second. In reference to the workshop, continue that moratorium and review it again on August 10.
Commissioner Samson – The confirmatory hearing to be held on September 7 and the workshop on August 10. We will substitute August 2 for September 7. September 6 is Labor Day, so our meeting would be on September 7.
James Martinson – It was my understanding as of July 1it is going to be a statewide moratorium for any new businesses anyway, so the moratorium starting here now would only affect already existing businesses

and make it a lot harder for them with the new state laws. It's going to be really hard for anyone to stay in business.
Chairman Martin – It gives us the opportunity to revisit it and put our own rules, regulations and zoning issues in place. If we don't do that then we can't do that we have to wait for the and we're not in the opt in program.
Commissioner Houpt – Tell me how do you see the difference and how does ours impact existing businesses right now?
James – We are in Eagle County and have a store. They zoned everything out so we couldn't have our off site grow to do the 70% store, therefore we wanted to come to Garfield County and have our off site grow so that we could comply with the state laws. Now this is looking as though we have a hard time being able to comply with the state laws if we can't get our outside grow.
Chairman Martin – That is part of the process, the definition, classification and zoning that you need to take part in two different levels. One is the workshop with your information and solutions. The other was in the planning and zoning area when they adopt those and forward them to us for final adoption of those rules and regulations. The process takes a lot longer than the time that we are allowed, so that's why we're putting that moratorium in so we can visit and revisit this until we get it right.
James – We have leased some buildings and commercial space in Garfield County.
Chairman Martin – If it's in place, the moratorium is not affecting current operations. However, if you expand, then you run that risk.
James – Most of those currently in operation need to expand.
Chairman Martin – They are going to have to wait until they know what the rules and regulations both with the state and the local governments.
James –I believe in September the state is going to ban or view our 70/30.
Chairman Martin – I understand. By then we'll have either the continuation or the removal of the moratorium.
Commissioner Houpt – I would like to make a comment before the vote. I think staff did an excellent job of pulling this together and I thank you for what you brought. I really am struggling with this moratorium because of the timing of requirements, the state law and our timing requirements in our land use process. I'm not feeling as if they we've vetted that out completely. I am not going to be able to support this moratorium. I'm concerned and do not fully understand all of the unintended consequences. I think it is important that we put some well defining regulations in place. We're able to do that. However, you know as I look at what we have to work with from the state and what's required from our own regulations I just need to put more thought into this moratorium before I support it.
Chairman Martin – Any other comments? Motion on the table is to do the moratorium, revisit it, have the workshop in August, and revisit it on September 7.
In favor: Martin – aye Samson – aye Opposed: Houpt – aye
Chairman Martin - We will put a temporary moratorium in, revisit it through our workshop as well as our September hearing and then we will input at both of those hearings. These will be public meetings so please feel free to come and give information/testimony.

- **Travelers Highlands Public Improvement District Continued Public Meeting**
    1. **Discussion of Administrative Functions of Travelers Highlands Public Improvement District Including the Hiring of Legal Representation and Underwriting of Indebtedness and Discussion of Rules and Regulations – Fred Jarman and Carolyn Dahlgren**

Chairman Martin – This was posted on site by Chairman Martin and verified by road and bridge. It was the form supplied by Mr. Jarman. He officially called to order.
Carolyn informed the Board that the legal staff, county administrator, the building and planning director, Betsy Suerth have spent quite time on this matter. Betsy has an outline so she can update you. Ed has more experience in finance and can tell you about the conversations with the underwriter and bond council. Today she wanted to walk them through her draft number two of the rules with Mr. Hanlon. Betsy has the scope of services for the contract between the PID and the BOCC at which time if you approve the contract then Betsy will become staff to the PID.
Chairman Martin – For clarification to the taxpayers of Garfield County, the PID has the financial responsibility in paying the bills through a contract with the Board of County Commissioners and the general tax dollars will not be used for the staff to do this work for a public improvement district.
Chairman Martin recognized the member of the PID as Mr. Hanlon is representing the majority of 70 – 71% of the owners.
Karl Hanlon – Probably closer to 80% of the owners.
Betsy explained they have a handout that summarization what the activities of the Garfield County staff regarding a PID and she went through the outline explaining under partners that the county is one partner and the PID board had asked for them to enumerate what Garfield County staff has invested. To date it's about $73,000.00 in staff time. Some of the High County Engineering contract approved several months ago, some staff was spent on that, and some of the other technical work done to look at the intersection improvements. Regarding Travelers Highland PID, Garfield County staff has conducted conference calls with the underwriter and bond council to assess the bond and capability of the PID and that analysis and advice from those consultants is pending the review of the PID details. One of the major things they needed to look at was the valuations/assessments and some details of the project budget.
Issues such as bond counsel, setting aside a $25,000 reserve of fund in order to perform the services, backfilling, which would be done to obtain a higher bond rating, the infusion of private money from the oil and gas companies, the gravel pits, the in-kind gravel and other construction materials as well as the improvements for the railroad were among the topics discussed.
Carolyn commented to grow the district may benefit a higher rating. When Betsy gets the map that the GIS department has created, and the assessor's information then Betsy would have a better idea of what they believe the bonding capacity and bond rating might be. There are two different scenarios. Cash for the construction or cash to backfill the bond issue. Those are two different things and as council to the BOCC, she would have to advise them when they are in the BOCC session about the risks to the general fund on
Betsy – For the intersection project, we met with an EnCana representative who will assist in getting all of those stakeholders together. Potentially, there will be a meeting next couple of weeks and discuss their financial participation in the project. Regarding the railroad and Union Pacific of the proposed work that will take place within the railroad right-of-way the PUC has been contacted; their representative reviewed

the design and commented via email that she has no issues. Review of the design by the PUC is pending and a date of July 15 was available for the onsite diagnostic meeting with the PUC, the railroad, CDOT and county staff to discuss the details of the railroad improvements that they have proposed. They are very interested in being part of the project by upgrading their crossing. Thus far, no discussion has occurred with respect to a license. It was recently identified that neither Garfield County or the railroad have a record of a public crossing agreement and that's now being drafted on the Union Pacific side and will be forwarded to the Garfield County Attorney's office.
Carolyn – There may be a permit or a license to do work within the right-of way. It could be two different documents and we are told that the permit to do construction within the right-of-way has a $1,000.00 permit fee associated and to her knowledge, the crossing agreement does not.
Chairman Martin – As the PID he thinks that would be their issue but it would be the county's issue in reference to the application.
Betsy – Depending on who leads out the construction project.
Chairman Martin – The crossing agreements would be with the county, so that's why he would say that crossing permit issue be at least attempted to pay that fee simply because it's their county crossing.
Carolyn - The public crossing agreement is with the BOCC because it is County Road 300. The license or permit to construction within the right-of-way is not necessarily a BOCC item it and it depends upon who ends of doing the construction.
Fred – The $1,000.00 was associated with the license for crossing.
Chairman Martin – That is a county issue.
Betsy – A draft agreement would be presented to the Board. For CDOT there are two access permits that have been issued to Garfield County and the permits expire on August 3rd and 7th respectively unless they are signed by the County. Once signed they have a one year life before construction begins and there are optional extensions beyond.
Don has the permits and in summary, the permits contain many of the same issues we routinely visit in contract issues with CDOT in terms of long-term maintenance, TABOR issues and identification issues. Specific to these permits we need to pay attention to the vehicle counts. One of the permits is the north side of intersection, the Travelers Highlands side and the other is for the south side of the intersection, which is the County Road 300. He noted in the e-mail those vehicle counts and explained if they exceed the 20% at any time, CDOT can but can ask that improvements be made to the intersection under the terms of the permit. One of the issues Don is still looking into is the question of assign ability. Interestingly he was surprised the CDOT regulations on the state highway access do not directly address assignment of a permit prior to construction - it does address assignment after construction through successive landowners or users of the intersection and clearly can be done at that time. The real question in that is prior to construction could the county assign the permit and actually change responsibility for construction of that intersection visa v CDOT. We can always contract with someone to build the intersection yet we could remain primarily responsible to CDOT under the permit and then seek relief from a third part contractor with us if we chose. However, it would be better if we could have an assignment that CDOT would approve and then they have that direct relationship. I think we need to talk to Dan Roussin.
Chairman Martin – Would that be a county function or a PID function?
Don – That depends on the Board however, now it's the county function because the permits are issued in the county's name not the PID.
Betsy – For engineering we have a new updated cost estimate of about $1.42 million using 2010 pricing and add 4% if the construction is not going to happen in 2011.
Carolyn - What facilities are we talking about because when she was amending the draft rules, it makes a very large difference whether you are just talking about the one access to 6 & 24 to serve Travelers Highlands and their vehicle counts versus two different access points, widen of the right-of-way and work in the railroad right-of-way.
Betsy – This does not include a signal, which was a decision she thinks the BOCC made a few weeks ago.
Chairman Martin - Signal on the roadway or the railroad.
Fred – Wanted clarification on this too because they are two very different things.
Betsy – Correct, intersection signal does not include a full-blown intersection signal.
Chairman Martin – That would be the only one between Rifle and DeBeque and there is no infrastructure in place to handle that particular issue. That will cost as much as the improvement.
Betsy confirmed it was not included. This is the option that the BOCC chose several weeks ago and it's just been updated, some pavement changes and some spec changes on the CDOT side of it.
Ed – It was originally $1.
Fred - That was option one and option two was the much beefier deal with the actual hanging lights and everything.
Betsy has not had opportunity to talk to if she had a chance to talk to Bruce about the gas line pipeline with Dan Roussin from CDOT; however she did have a meeting internally with their county engineering department, and there was not a concern.
Chairman Martin – That was the large pipeline that came down the hill across the old Una Bridge. That may be one of the mapping issues we have to prove that it is outside of that right-of-way.
Carolyn – reviewed the red lined and blue lined rules and regulations.
Karl Hanlon – Representing various landowners in Travelers Highlands. The $73,000.00 at the top of page is the ownership group and they would like to see the genesis of that number. It sounded like a large portion of that was related to the costs from High County Engineering study with the BOCC Commission to decide what to do with the intersection. Is this part of the $1.42 million in total costs? That particular scope of work was requested by the BOCC and not the PID.
Commissioner Houpt – It was to the benefit of property owners.
Karl Hanlon – True but you have several pending requests, formation costs that were submitted to you, which were recoverable underneath the statute and some other engineering costs, which will be to the benefit of Travelers Highlands and not for the entire intersection. The same way we are being requested to submit to the PID very detailed information and engineer certifications on those costs; it is appropriate that if the BOCC is going to be submitting bills to the PID for payment that they contain a similar level of details.
Commissioner Houpt – Agreed.

Chairman Martin – The Board of County Commissioners put that in the cost of doing business for the overall intersection and they absorb that as part of their fee or expenditure to that intersection.
Commissioner Houpt – Her understanding that is why that was generated so they could figure out what the county had contributed to this effort to date.
Karl appreciated this clarification.
Chairman Martin – He doesn't think this Board received it in that manner; it is just what they have expended so far for this intersection as a partner.
Betsy – The 1.42 million does have engineering for the project assuming it is going to be a local agency project. That might change and it is minimal at this point.
Carolyn – On the rules, one of which was to turn these rules into by-laws for the operation of the PID board as well as rules and regulations for the district. The other was to make the rules more specific to Title 30 and 32. The draft that Karl gave you as appropriate for a specific district was talked about in all of the service plan that have to come back to the BOCC for approval. This is not how it operates with a PID. There are specific statutes under the PID that say that the county doesn't use and lose its general jurisdiction but if you want conformation of PID board action you don't go to the BOCC, you go to district court. She talked about the BOCC's other powers including land use authority, general police power, etc. Because you are sitting as a totally separate political subdivision not everything you do as the PID has to be approved by the BOCC unless it requires some other BOCC action like land use approval. The other was to be straightforward about the possibility that the Travelers Highland PID will want to be involved with making improvements outside of and inside of the district. Carolyn reviewed and made distinction between what improvements were likely to be made within the development and what we are really talking about that are outside of the development. We are all anticipating that the development is going to be a subset of the larger district or at least that's one way it could work trying to make it more specific to what they are actually doing. These were drafted with the understanding that the district and the development were one and the same because this is the way we started. That is the district has one access point onto 6 & 24. Now we are talking about including other people in the district and we may or may not be talking about changing our definition of development. If the Board is okay with the direction she has taken, which also includes the statutory language to make these by-laws for the PID, which identify the Chairman of the BOCC as ex-officio, the Chairman of PID, which makes the other county officers ex-officio those same officers to the PID, which sets-up meetings for the PID stating in the by-laws that generally the meetings will be after regular BOCC meetings separately agended as we have done then these are by-laws for the PID as well as rules and regulations for the district. She added more statutory references that when the PID deals with financing issues it has to pay attention to the ballot issues that were approved by the district as well as to these rules and the "service plan", which is the development plan.
Karl – You need to add in there this may be approved from time to time, as amended.
Carolyn – In this, she brought these rules, regulations and by-laws into Title 30 and out of Title 32. For instance Title 30 does not allow solid waste and the first draft included the authority for this PID to engage in solid waste disposal. You can do that under Title 32, but you not under Title 30.
Chairman Martin had questions on the reporting process to the Clerk and Recorder on the PID and the officers and asked if it would be recognized as an official PID and allows a bonding issue for the decisions? Does it require insurance or any kind of action for the Board of the PID? Because of the special district and the classification and does it need to have such things as registered with the Clerk and Recorder as an entity making decisions? It is conducting business and spending money as a public improvement district.
Carolyn – That is statutorily handled and really started when this was created.
Chairman Martin –Have we followed through as the PID, registered it as necessary with the Clerk and Recorder, identifying who is making the decisions etc is that required.
Carolyn – to her knowledge, it has been done; but she would have to check specifically. She thinks it was done when the formation happened.
Chairman Martin would like to make sure.
Carolyn – One other somewhat small matter but it could become very important if you issue bonds. That is that you need to direct your secretary ex-officio, the Clerk to the Board to get a PID seal. Because of course, the seal of the PID is not the seal of the BOCC. At the moment, it may not be particularly important but it will be important if you get to bonding.
Chairman Martin – Following that same line, in reference to expenditures and payments to vendors or whatever; have we taken into consideration the ability to do such under the PID and have we moved forward on any kind of ability to pay those bills, or do we have that through contract with the BOCC?
Carolyn – Are you asking about such things as construction contract?
Chairman Martin – No, everyday payment because we have an IGA that the PID can sign it and then it can be approved by the County for payments for that service such as Betsy's in reference to billable hours etc. How are we handling that as the PID?
Carolyn – She specifically included the possibility of a contract in the general contracting language of a contract between the BOCC and the PID. Right now, all we are talking about is a professional services agreement. She did not specifically deal with reimbursement of costs; but the general authority would allow that.
Commissioner Houpt – Realistically if we start billing the PID there's not going to be money to a forward anything; so we need to work out those logistics as well. The Board should figure out what we will do regarding in-kind verses cash toward the project. Since people are looking to the county to invest in part of this project, her sense is the county will want recognition of the services they put into this. So they could look at two scenarios one is that we bill for Betsy's time or other services that are conducted in other departments in the county, or we us that as in-kind and use that as part of the investment that other stakeholders are anticipating the county will make.
Ed – Then we contribute a bond rate.
Commissioner Houpt was thinking if you draw it down you really won't have a bond rate.
Chairman Martin is not suggesting that; he is just saying do they have that in our contract so we would be able to satisfy those expenditures in one way or another. He hasn't seen that and he hasn't seen their IGA or agreement with the Board of County Commissioners.
Carolyn – You're right it should be actually captioned as an IGA; but what they did was give them the standard form professionals agreement and Betsy has a draft scope of work to hand out to you. She stated they were not thinking about cost reimbursement for design or anything else.

Karl agrees that it should be an IGA and the PID would probably like to see this in a contract in terms of dollar amounts, caps, not-to-exceed numbers and those kinds of things.
Chairman Martin sees twofold that it helps the county, it helps again with the PID that it also establishes to the other partners what has been paid out in reference to both sides. Then the partners being the third party will understand what was going on as well and see what the expenditures have been.
Carolyn – Karl in his capacity as representative of the property owners, or certain property owners that estimated a start-up initial year administrative dollar amount of $5,000.00, has either Betsy or Fred looked at how much time they really think it's going to take because some of Betsy's time would be appropriate for the BOCC and some the PID.
Betsy is starting to get a handle on that but she would like to get a little feedback on the scope of services, because that determines how much time will be spent on whatever tasks the PID wants to accomplish through this consulting work.
Commissioner Houpt – At what point are you representing the PID and what point do you represent the BOCC and is it appropriate to have that cross those two?
Karl envisioned in the IGA for these improvements that we have a larger stakeholder group trying to sort out with design. Betsy is going to be the point person. The appropriate thing in the IGA is to reference back to those percentages of time of the total project that she is working on. Then it shakes out on the BOCC section of that is 1/3, the interview companies are 1/3, landowners are 1/3 and for planned owners, how much is the PID. Making this clear would be easier for the underwriters to back into the in-kind services that are being provided from the county in terms of backfilling on bond issuance with in-kind services if they want to look at it at that point. This makes it easier conceptionally to figure out. That's looking at Betsy as more of a project manager and all of us are investing our time and certainly the PID will have a relationship with the county for a portion of her time. The point being to find an easy way to determine how much that dollar figure is and if Betsy is tracking her time, it can be allocated along the same percentages as the investment in the intersection.
Betsy – There is probably a stopping point when the actual deal is done and you begin construction. Then you have to make a decision, the PID and the BOCC need to make a decision again; going back to what Don was saying earlier, whose going to hold the permits and run the project. This is that first piece.
Carolyn – One of Betsy's tasks will be to do the next draft of the PID development and service plan once they have identified the stakeholders for sure and we have a better idea of what's happening.
Chairman Martin – We have those that are committed to the project financially. We don't know how much it's going to be on the PID but we have to have them financially obligated to the project and moving forward.
Carolyn – The potential PID staff needs from you today is whether or not Betsy should go forward with her help representing the BOCC as a lawyer, in getting the agreements with the underwriter and the bond council. Both of them are excited to work on this project and you know they don't get paid until and unless there is a bond issue. They also need to know if you still want them to hire a separate attorney as well as those two positions. If that is the case then you as a PID board needs to decide if you are going to do a formal RFP, if you want somebody to pick up the phone and call six attorneys and find out if anybody wants to represent the PID here locally; or if you think you can handle the business of this PID with just bond council and bond attorney. Other attorneys would be sitting here at your PID meetings, they would be doing any further amendments to your rules, and they would be working with Betsy on the service plan.
red – It seems to him they would be critical in creating the IGA; wouldn't they operate on behalf of the PID as the interface to the county to the BOCC. He thinks that is an initial step.
Carolyn – The BOCC can do that at the moment since there are no identified conflicts of interest to get that IGA written however, in the future, once we get to construction then there certainly are some potential conflicts of interest.
Ed – Can you carve out one attorney on staff for the PID and another for the BOCC?
Don – As long as the board is comfortable with it and we are not going crosswise with the property owners he doesn't' see any reason why they can't structure this exactly that way. At present, you are dealing with three lawyers addressing this issue and one of them can be primarily representing the PID and suggesting Carolyn.
Carolyn believes it would be Patti.
Don – Debbie stayed on the land use issues; Don is working on the permitting and contracting issues for the county commissioners so if the Board is comfortable with that arrangement then we can do it.
Chairman Martin – As long as we can keep again the record straight on billable hours so that the taxpayers do not perceive that there is a conflict that the PID is getting special treatment because of the county attorney doing it. What we can show is the billable hours to the PID that it is a legitimate expense. Personally, he is very comfortable with Don's staff doing that as long as there is some kind of separation and it is identified as a separation working mutually for both.
Don – Carolyn would normally do the IGA and she could still do this as the attorney for the PID. She would draft it and keep track of her hours. Don would review it on behalf of the Board and there would be billing on both sides. If there are issues we would bring them to you.
Chairman Martin – Don would take the lead for the BOCC and Carolyn for the PID.
Karl – The reality at this point is that it doesn't make financial sense to hire other attorneys other than bond council. Karl will continue to monitor the documents going around. He suggests Don does the drafting and Carolyn does the review.
Carolyn – As to Bond Council we have spoken with Kutak Rock and for underwriter George Gluterro. The engagement letters will come to the county attorney's office.
Don – They will go to the PID attorney's office because the financing is the PID.
Chairman Martin – Is that acceptable to this Board to make a request to George K. Baum and Kutak Rock. We have also worked with Sherman Howard.
Commissioner Houpt – I would direct the PID attorney and staff to follow-up on that and secure those documents for our next meeting and forward those to the Board of County Commissioners to review as well as the as the IGA and another meeting on the rules?
Don interjected that Carolyn is now the PID attorney, but you have not appointed officers for the PID yet.
Carolyn – It's statutory the ex officio is the BOCC Chair and the Clerk is the ex-officio secretary to the PID board.

Chairman Martin – The only thing he is looking for is Betsy's follow-up to make sure that we are legitimately listed in Garfield County as a PID and the officers are identified to make sure that has been followed through.
Betsy - To clarify on the billable hours for the PID attorney; is it in-kind at this point I will keep the master running tab?
Chairman Martin – Yes.
Commissioner Houpt – We need to be able to talk with bond council about the strategy or working through the financial challenges that this PID will have. We also have to figure out whether we are growing the PID or not; she doesn't really know the status of that.
Karl – We are waiting in terms of the Strong PUD; we are waiting to see the direction or what the final rules look like in terms of inclusion and they are very interested in where the stakeholders meeting take them. We had a very brief conversation with the gravel pit operators after the stakeholder meeting and there might be some interest. We need to follow up on that and he knows that Fred has some meetings scheduled with the individual stakeholders.
Fred's understanding is that they left that June 9 meeting the first time with the various stakeholders in Rife, there appeared to be three clear divisions. There was the division for the county as one division of the people, the energy companies, and perhaps that included Grand Junction Pipe and Supply as an in-kind contributor, then the remaining group was of a landowner type group. His understand was that each third was going to break away and discuss their approach to it when they came back. Fred was going to get help with energy companies if the Board wanted; they will be discussing this later.
Karl understood they could be a facilitator. The energy companies and the County have been discussing this and Fred plans to organize a facilitated conservation with the landowners.
Fred requested direction from the PID Board.
Commissioner Samson – We were going to come back for a meeting on July 14 at 2:00 p.m. and hammer it out. This is when everyone will come back together, the PID and two other groups.
Karl –That would include the Gravel pit, Strong Subdivision and possibly Grand Junction Pipe.
Fred – Grand Junction Pipe has no obligation to come to the table however, they would benefit.
Chairman Martin – Grand Junction Pipe is considering in-kind contributions.
Chairman Martin – We need Betsy to identify the inclusionary cost. Our goal is trying to get those other partners in to reduce the overall cost to each individual participant.
Karl - If you are looking at an unrated bond, given the scope of this project in total is $1.4 million dollars and it's not a significant number in the bond world. He would encourage the board to keep an open mind about financing mechanisms.
Chairman Martin – Confirmed that Betsy would do this as part of her assignment. We need to establish any other business that we really to take care of today.
Karl – Set another meeting to adopt final rules and regulations. The rules and regulations that Carolyn has drafted need to be in place as soon as possible so you know how you are going to deal with bond council, the underwriters and how you're going to conduct meetings. He thinks that needs to occur before the board; they are separate issues from what is going on July 14.
Chairman Martin asked Betsy regarding the letters of engagement and the other research so we can move
Betsy –The rules and regulations should be in place and the service plan is something that will need to be worked on after you know more clearly who the partners will be.
Carolyn – The Board has meetings on July 6 and July 12. Either one of the dates is when we could continue to discuss the rules, IGA and talk to bond council.
Karl would suggest the 6th. It would be nice to have that in place so they can think about things like the Strong PUD and the gravel pit; then on the 14th have the ability to say here's how you do it if you want to come into this plan.
Carolyn – Clarified with the PID Board if a discussion with George K. Baum and the underwriter would be held on that date via a telephone conference.
Chairman Martin – We need to know if this is acceptable, will he go forward and suggested to wait to talk to him after we have everything in place. This could be done by telephone and if acceptable then those letters need to be exchanged. On July 6, we will discuss the rules and regulations.
Chairman Martin – July 14 is another meeting where we can establish partners, what's going to take place and continue to move forward. I will post the meeting on July 6.

Carolyn – Who is going to post that one?
Don wanted to remind everyone that August 4 is the drop-dead date to get permits signed if the Board of Commissioners is going to accept them. The other issue, before you sign the permits is it possible to have something from the railroad, as this could be critical issue for the Commissioners.
Carolyn – We need to know if the BOCC wishes to enter into an IGA with the PID.
Chairman Martin – The decision of the board is to go ahead and enter into the IGA. We are sending Betsy and Fred on July 14 to represent the County.
Commissioner Houpt – How does the BOCC feel about keeping track of county staff time that's put toward the PID as in-kind instead of billing the PID? It's to put our match toward this project.
All three Commissioners agreed.
COMMISSIONER ISSUES:
Commissioner Reports and Calendars – Commissioner Samson -Tomorrow we have the 10:00 a.m. Human Services Annex opening in Rifle. On the July 23 Wednesday, who is going to Roosevelt, Utah? Ed said all three of the commissioners plus Marvin Stephens and Judy Jordon.
Commissioner Samson – At 11:30 is going to be the cultural heritage project and a meeting in Rifle at 5:30 at the Hampton Inn.
Commissioner Houpt has Rudi Water and Power in the evening on July 24.
Approval of Minutes – None approved.
Commissioner Agenda Items
Colorado River Settlement Discussion/Direction and Representation – Not discussed.
Executive Session:
Carolyn said it was her understanding that they had an executive session left over for this afternoon for personnel issues. She wanted to remind the commissioners that under the open meetings act; if there are

specific county employees, who are going to be talked about, they have the opportunity to be involved in the executive session; they also have the choice of having the session happen in public.
Commissioner Samson – Do you want a motion to go into executive session. So moved.
Commissioner Houpt – Second. In favor: Houpt – nay Martin – aye Samson – aye
Motion to come out of executive session. Commissioner Houpt so moved.
Commissioner Samson – Second. In favor: Houpt – nay Martin – aye Samson – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JULY 12, 2010
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 12, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson being present. Also present were County Manager Ed Green, County Attorney 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 CITIZENS NOT ON THE AGENDA

Ed Rosenberg lives on old Cardiff Bridge Road, CR 156 – This is Garfield County but our road belongs to the city. However, he is requesting assistance from the Commissioners regarding placing utilities while a major water line is being installed.
Chairman Martin – This is a six to eight week project; so they have plenty of time to sit down with the City because they will be tearing up the pipeline to start out with.
Commissioner Samson – Do we sit down with them or do we send them a letter, or do we do both?
Ed –This thing is moving quickly and the first letter they got was to meet at the end of the bridge last week, and the whole road showed up. There are about 8 families there. He said he would pass it on and he agreed that he didn't know why there was still electric…
Ed – And that's when we said it's all there and now we are getting another home major excavation. If it's not going in that electrical conduit line, then let's get telephone or whatever. We would hate to see this whole thing ripped up again. This is twice in a couple of years.
Chairman Martin – Whatever we can do to move it along and make it better for the citizens that are outside the city.
Chairman Martin – It is actually a city street. It was deeded over to the City when we straightened up Midland Avenue and Cardiff Bridge is the City's bridge; which has the footpath, which is a major bike path as well.
Chairman Martin – We will do what we can to coordinate.
Commissioner Houpt – It's always helpful for the community to participate in the process as well. They may not have been receptive to you before; but if your neighbors and you would communicate with the utility companies while we are working with them as well; that would be helpful.
Commissioner Samson – Do we need to direct the staff to write a letter? How do we want to handle this so we don't leave it hanging here?
Commissioner Houpt – Ed could make contact with the City Manager and the commissioners could individuals talk to council members too. But, Ed if you could find out too what the best process is for communicating with the utility companies that would be good. If the city is willing to work with the Board on that.

Silt Request

Chief Levy Burris – Submitted a letter a few months ago and requested a surplus vehicle from the County. Actually directed in the letter if possible, he would like two; he was just reappearing to make that clarification. His understanding is the Board has decided to provide the Town of Silt with at least one vehicle and he knows there are a number of them coming out of service and if possible he would like to reinforce they could use two. Not knowing how the economics or the budget will be in the Town of Silt, it would certainly provide for our patrol fleet for at least the next couple of years.
Chairman Martin – We will make it a priority.
Commissioner Houpt thinks when they had the discussion they thought they were asking for one she believes.
Chief – He does need one, two if possible.

COUNTY MANAGER UPDATE – ED GREEN

A. Presentation of 2009 Audited Financial Statements – Paul Backes, Lisa Dawson and Cathleen Van Roekel

Paul Backes presented the 2009 and explained the process of an audit going into detail. He pointed out There are two things he wanted to point out; in the report, this report is covered under an independent auditor's opinion, which would be referred to as a clean audit opinion. It is the highest level of assurance that an independent auditor can provide.
Paul noted that the financial staff received the highest achievement for excellence and financial reporting from the Government Finance Officers Association and this was the first year in the history of Garfield County. On the financial results C5, which is all your governmental funds combined, you actually added $15 million to your fund balances last year. The majority of that was the oil and gas mitigation fund, but he thinks there is a lot to be commended on how Garfield County has handled their finances. An additional

letter was included that covers various accounting language such as what is the most significant estimate and what challenges did they encounter in the audit. It is a standard letter along with three types of recommendations. These were submitted for your information and consideration. The county took a big step last year in getting the comprehensive annual financial report; in the past the county issued, what is called general-purpose financial statements, which actually are fine for smaller governments. Larger governments tend to do the comprehensive report, he thinks that's what they would expect to see for financial reporting from a county of this size, and he thinks it was a huge step for the county and he was proud to part of that process.

B. Update on Senior Benefit – Lisa Dawson

On June 29, checks were sent to 2,416 seniors in an amount of $163.00. These senior were active registered voters in Garfield County. During July and August, applications will be collected from seniors who are not active registered voters. They must be legal residents who are 65 or older and have lived in Garfield County for 10 or more years. The list of applications will be presented to the BOCC in September and checks will be mailed in October. Applications are being accepted by Senior Programs staff, Judy Martin and Debby Sutherland. Applications will be accepted at the lunches hosted by Garfield County Senior Programs. Applications will also be accepted during August lunches. As of July 8, 2010, 50 applications have been received.

Lisa has received 65 applications who are 65 and older and who have lived in Garfield County for ten or more years but were not active registered voters. Judy Martin is collecting those applications, she will collect them in August and in July and then in December Lisa will come back to the Board; give them a list of those seniors and seek the Boards approval and issue checks to those seniors sometime in October. One of the real reasons for coming to the Board today is that Lisa has received a number of calls from seniors thanking them for the benefit. Lisa wanted the Board to be aware of that.

Commissioner Samson commented that he has received many very, very heartfelt thanks from many of the seniors concerning this. He is impressed that many of them are well informed, they understand what it's all about, and they acknowledge it is a onetime benefit. He commended Lisa and her staff for getting this accomplished.

C. Staff Recommendation to Authorize the Chair to Sign an Agreement with Swanson Services Corporation to Provide Commissary Services for the Garfield County Jail – Jamaica Watts

A request for proposals (RFP) was posted to the Rocky Mountain E-Purchasing System and the Garfield County website on May 26, 2010, and advertised in the Post Independent on May 31, 2010, and June 7, 2010, and in the citizen Telegram on June 3, 2010 and June 10, 2010. Two proposals have been received and both were determined to be responsive to the RFP. Staff is recommending that the contract be awarded to Swanson Services Corporation.

Lou stated they had previous vendor for quite a long time; they had some issues over the years and decided it was time for a couple of reasons, try to keep county policy and rebid process as well as look for alternatives. Swanson came in with more opportunity for them; it is strictly handling the commissary funds, not necessarily a general fund issue. Our commissary is what the inmates can purchase, the commodities in the jail etc. That whole system is driven by inmate funds and other revenue sources.

Commissioner Houpt – I make a motion we approve the award of a contract to Swanson Services Corporation to provide inmate commissary services to the Garfield County jail and authorize the Chair to sign the contract. Commissioner Samson – Second.

Lou wanted to add this is actually a revenue contract in the sense that we are not paying anything for it. It is to determine what amount of revenues we will receive from Swanson for providing the service.

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

D. Request increase in Budget for 1st Floor Remodel Due to Construction and Furniture Changes

Ed – This was estimated at $23,000.00, however in conversation with Richard Alary, they discovered they really budgeted the wrong chair, decided on an upgrade making the increase to $30,000.00.

Commissioner Samson – I would move that the requested increase for the budget on the first floor remodel due to construction and furniture changes be approved for a total of $30,000.00.

Commissioner Houpt – second. In favor: Houpt – aye Samson – aye Opposed: Martin - aye

Chairman Martin stated this is the wrong time to do the chairs and the remodel. He prefers to do with what they have.

Commissioner Houpt – This isn't a cosmetic upgrade; this is a growth issue and a functional issue.

Commissioner Anticipated Grants

Ed –Lisa put the status of the Boards anticipated grants. There is a beginning balance of $1 million; you are at $522,000.00.

Ed listed the positions that would not be filled, a total of 19, which is a savings of $1.3 million.

Board of Equalization

Commissioner Houpt – I make a motion that we go into the Board of Equalization.

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

- **Assessor Report of Total Assessed Value of all Taxable Property**

John wanted to present to the Board the information that he has, but just one copy for the master protest list. The personal property, oil and gas protest list, the personal prop no declaration or late declaration list and the 2010 class abstract. Anyone who would like to have their own copies; he would be happy to e-mail. He thought in the interest of saving cost and paper he would do that. But he would like to pass out his letter to the Board and a spreadsheet that has to do with assessed valuation for oil and gas for the last few years so you can see how the changes in those numbers are affecting the changes in the big numbers about which he is about to give them his letter. John passed out his reports he mentioned, the letter and the spreadsheet. He read letter into the record, which was dated today, July 12, 2010 (on file with the Clerk and Recorder). We have been talking about this for a year and three months. It will not differ much when the final numbers come in.

COUNTY ATTORNEY UPDATE – DON DEFORD

Carolyn Dahlgren – We do not have any executive session material. The only other public item is to let you know that Continental Rifle eminent domain action was completed last week. We will end up owing more money than they had anticipated on that property; however, the dollar amount that the commissioners determined as value was less than the 130% that keys our needs to provide attorney's fees. However,

Continental Rifle's attorney has filed a motion for attorney's fees on a somewhat unusual basis. They will have to update the Board on that later.
Deb – Right. The only executive session item they have for discussion is for legal advice to the Board on the formation of special districts in connection with an item on the agenda.

A. Discussion of Response to Battlement Concerned Citizens Request for 1041 Designation

Deb – Battlement Concerned Citizens provided a letter to the Board; she believes on June 21 requesting designation as an area and activity of State interest for the Battlement Mesa area. Deb provided legal advice to the Board last week; the request from the Battlement Concerned Citizens revolved around the potential oil and gas development in Battlement Mesa. She is requesting that the Board step-up with its 1041 areas and activities of State interest powers to regulate more than the existing special review process might give the Board; the Board under state law has the discretion whether or not to designate areas and activities of State interest, does not have to. This Board has not chosen to designate new communities yet. If the Board does choose to go forward and designate another area of State activity and interest, our land use code has a process for that. The public discussion today is for the Board to determine how to response whether or not it wants to go forward and do any further designations under that state statute.
Discussion was held on the memo and if it would be made public.
Commissioner Houpt – The question today is what action could we take to designate what would benefit Battlement Mesa? This is a public discussion and she thinks they can make certain things public.
Deb – According to the Battlement Concerned Citizens, attorney's position, they believe if this Board designated new communities, as an activity of State interest, that this Board chooses to regulate, that it would fit under that new community provision and the Board could then entertain a permit for development in Battlement Mesa under that 1041 designations. And staff, the attorney's office has disagreed for the reasons set forth in that memo.
Commissioner Houpt –If we make a determination not to designate other powers, or other categories, we owe it to our public to have an explanation as to why they are doing that.
Deb – The fact that Battlement Mesa has existed as a community beginning in 1975 and the development of natural gas was contemplated from the beginning. That it was included as an area of special review that could be permitted by this Board from the beginning. That the fact that it is just now being contemplated for major gas development by Antero, doesn't change its status that has existed since 1975 and then in 1982. Secondly, this Board has chosen not to designate new communities as an activity of State interest from the time it first started entertaining its ability to designate under the 1041 powers of State law. Even if the Board chose to go forward and exercise its discretion can or can't, no reason needs to be given for designating or not. It is doubtful, in her opinion, based upon the statutory language and the law that has been interpreted by our Supreme Court that Battlement Mesa would fit in the category of a new community even if the Board chose to go that direction.
Chairman Martin – That was the conservation he had in Denver last week. Those that helped push through 1041 powers as well as other people that actually use them. They said there is no way they could see Battlement Mesa being a new community even if they became a municipality. Because under the PUD approval process that was contemplated, designed, and discussed openly and in the documents themselves reserving those rights as well as identifying those ten different areas of development within the PUD. They also talked about even if they did 1041 powers, there would probably still be a conflict in which the Oil and Gas Conservation Commissioner could, and most likely would upon protest, supersede the county powers under 1041 powers saying it is an interest of State. So, let's not give false hope to these folks saying 1041 powers are going to be the magic pill to make things happen because its' not. It's going to be a community activity, the review if it ever comes forward on our Special Use Permit, or permitting process we have in place, which was contemplated in 1982 and on through and we need to stick to that path to make sure we get the best out of the situation instead of the worst.
Commissioner Houpt doesn't know if they looked at how they could be classified if incorporated. Whether it would be a new community or whether it's changed to municipality would allow it to have greater authority over what happens. It's very difficult to find a way to make 1041 work for this and as a county outside of this discussion need to talk about our 1041 authority. It doesn't makes sense to have that authority out there and not have it activated.
Deb did not look at the issue of Battlement Mesa becoming its own municipality and thus having its own land use jurisdiction and its own land use regulations. Generally, the 1041 powers do apply; there is an area of designation for mineral resource areas within the State, oil and gas is accepted from that mineral resource area unless the COGCC determines to release it for 1041 regulation. The exception to that exception is if the activity is within another area and activity of State concern that's been designated. That's how Battlement Mesa got to the new communities as an avenue. It's probably the most creative argument that could have been developed for them to try to fit within 1041 and she doesn't know if there is another avenue.
Chairman Martin – That discussion came up because there is activity already and it's within the PUD and that activity is taking place and contemplated. Doing away with it or regulating it even more than the State, Oil and Gas Conservation Commission, would be extremely hard according to those who help author as well as implement 1041 powers.
Commissioner Houpt – The activity that is going on in Battlement Mesa was going on before this County recognized that it was actually within the boarders. So it didn't even go through the county procedures that were necessary to begin that activity. So she is not sure she would throw that one out; but the rest of the situation is very difficult for her to get past in terms of trying to figure out how to make Battlement Mesa fall under 1041 designation. She would say that communities that are incorporated seem to have a greater ability to govern what occurs in their municipalities. We have seen it with all of the communities in the area and across the state. She also believes though that because they have the opportunity to review oil and gas activity through the special use permit process; that's going to add a layer that should be beneficial to the county, county residents and if the application is brought forward by Antero simply because it offers the ability to fine tune any activity that goes on. And it allows the community to become more actively involved in the determination on how that is presented and moves forward. She is not an attorney; she can't challenge our attorney's recommendation, she did a very thorough job on this and she is not seeing any way to fit it into the 1041 process.
Chairman Martin – That was the conservation he had with those who again helped write those to bring them forward to allow them to go into statute. My discussion was with several people in Denver, Pat Ratliff

was one of the first and he went from there to a couple of legislatures and previous legislatures. I just do not want to give a false hope that we can do it. Let's work with what we have and do the best we can.
Commissioner Houpt –There are many people here today that would like to share.
Commissioner Samson – He doesn't always agree with the legal staff; but he does think that Ms. Quinn did do a good job in what she had to say with her brief and that she is representing our best interest. You always have different sides to every story; but he agrees with you and also with John, both of you saying that the special use permit in the future is probably the best way for the community to have a say. He is a little leery after reading what she said in her brief, and what she said today that he doesn't think they want to go down the 1041 designation route. He doesn't think that is the wisest way to handle this particular situation.
Commissioner Houpt thinks they have to talk about 1041 designations in this county coming in after the fact, after a certain activity has occurred, makes it really difficult. But for proper planning they need to identify more designations in this county so they can respond properly in the future.
Chairman Martin asked Ms. Quinn if she had a copy of all the 1041 actions the Board has taken.
Deb – It is in article 14 of the land use code.
Chairman Martin – It is in there and there are five of them. We started out with a list of nine.
Deb has the code; two things; you could vote to release that memo and the second you might want to discuss the ability of the citizens to go directly to the COGCC under the current status of the law.
Public Input:
Bob Arrington – Presented his viewpoint being a member of the Battlement Mesa on the Service Association Board and a member of the Concerned Citizens. The 1041 offers the advantage that raises it up to a state level, the same as the COGCC. He referenced fire safety, roads and this being a residential area. 1041 powers makes a stronger impact than the special use permit process. He read a statement into the record and gave a written handout mostly directed to the gas drilling proposed by Antero Resources in the area. There is more danger of health, safety, property damage, and community welfare being affected by Antero or any other industrial activity down there. They'll have more responsibility to adhere to mitigation; the equation is higher risk equals greater liability. The 1041 rules are to the state level meaning they are binding as Oil and Gas Commission rules. The county has the legal recourse open to them to protect their communities from degrading before it occurs and to make companies responsible, reliable for restoration if it does occur.
Chairman Martin –There are a couple of things you have overlooked, and that happens to be in the special use permit on the public hearing process. Anything that is stipulated, testified to and the rules and regulations placed by this Board on a land use application, cover everything that you wrote about. The special hearing process, which is a public hearing, opens up to testimony and all of the other issues in the twenty-one different meetings that you have had with Antero. If they have obligated themselves to that in a public meeting that is part of the approval process that they must live up to. So we do have those protections already in place right now. That's why going through this exercise and expecting 1041 powers to solve the issues is really a fallacy; I do not believe it will. The special hearing process, the public hearing, the concerns heard and also the stipulations of this Board on Antero is a much better approach then going 1041 powers and putting it in that area. He is the only one that's been sitting on this Board that has gone through 1041 powers and enacting those through the public hearing process. They have to be approved and they can't be in conflict with what land use in Battlement Mesa was contemplated when the PUD was approved. There is a required special use permit on that development and it must come to this Board. Antero will apply for a special use permit and the state will accept it and allow the land use fulfilled.
Commissioner Houpt – State statute gives counties in Colorado land use authority that is very strong. So when we have a public hearing, the testimony, the condition of approval, everything that is recorded in that hearing they are committed to. There is policy as part of the rules that the Oil and Gas Commission adopted that recognizes county land use authority, and as with 1041 as you said it cannot be in operational conflict with the Oil and Gas Commission it is still recognized as part of the Oil and Gas rules that counties have that land use authority. The advantage of having the opportunity to do a special use permit hearing because they can require conditions that we otherwise aren't able to in this county because natural gas development is considered a use by right. In every other location but Battlement Mesa this gives you a great advantage and she would encourage them to be involved and to write us. Be part of the record and make sure that we're representing you well through this process. She actually thinks they might find there is a greater advantage to this than 1041 because 1041 hasn't been tested with oil and gas, the whole process of making determination on oil and gas permitting and drilling, so we probably would be challenged anyway. But this is something that's in place, we have the authority by state statute and it's a true test of how well the new rules will stand up to the partnership that was created through the new rule making process in recognizing county land use authority. Use this special use permitting process to its fullest extent.
Bob – The process of the CDP is under threat right now. If there was a change in the governorship, the candidates have stated openly they will revise the rules of the Oil and Gas Commission. This would put an additional insurance for protection beyond that. If his understanding of the 1041 is correct; most of the rules and regulations are developed through a public hearing process and if there were any violations to the rules and such that too would have a hearing on the case.
Chairman Martin – On 1041 powers once enacted they are there until you actually have to go through the hearing process to repeal them. The rules, regulations, land use, the adopted unified land code has their penalties and is enforceable. Any special use permit or a special review is subject to those reviews at any time and we can enforce those right now under that process. There is nothing new that the county would be receiving under 1041 powers. We have them now and they a little bit stronger than 1041 powers in the performance standards, industrial standards, rules and regulations that we have adopted. It is a matter of should we test those waters and end up in court, because he is sure if they did that the whole state and all of the development would challenge that because we would be the first one that would have any rules, regulations under 1041 powers to actually regulate oil and gas.
Commissioner Houpt - She is just trying to figure out with the information she has received and is not seeing a good way of fitting Battlement Mesa into these 1041 powers. You have raised an important question about looking at 1041 regulations for oil and gas however, it is something that has been talked about in this state for a number of years but never been tested. I am not finding a way to fit Battlement

Mesa into that process. You are not a new community; you've been in place for years. This was an anticipated activity and processes were put in place to determine how that activity would move forward.
Bob – The start of the community has been in place for years; but it's still a work in progress. There's a greater part of it is still to be developed. The 1041 powers would also provide an avenue to help back-up the health impact assessment and the health environment studies to put protections.
Chairman Martin - Under the requirements of the Colorado Health Department and all of the permitting process etc that still has to be met even if it was under 1041 powers. 1041 powers can take years, at least two years before you would get it enacted. The Oil and Gas Conservation Commission would say yes if anyone requests permits and we have our special land use review in place and they would have to come to us. Therefore, this is your best protection.
Bob – One last point; he thinks in the 1041 provision it limits the amount of argument that can be taken before a court.
Ron Galterio with the Battlement Concerned Citizens expressed some difference in the legal opinion of county staff and their legal counsel as to whether or not Battlement Mesa may fit into one of the provisions of House Bill 1041. He was wondering if it would be agreeable with the Board if their legal counsel could work with county's legal counsel to try to identify some areas where they believe that Battlement Mesa would fit into these regulations.
Chairman Martin – We have done that through briefs and exchange of information with Debbie's research. Deb is agreeable to work with their counsel if the Board so directs. What you have put in place thus far is contained in the land use resolution; section 14-103, we have designated the following site selection and construction of arterial highways in our changes in collector highways, that's number one. Number two; areas around arterial highways, interchanges and collector highways; number 3, site selection and construction of rapid or mass transit terminal stations with guide ways. Number 4, areas around rapid or mass transit terminal stations or guide ways. Number 5, site selection for airport or heliport location or expansion. Number 6, areas around an airport or heliport including the outer extremities of the imaginary surfaces for the particular airport or heliport. If the noise impact boundary extends beyond the outer extremities of the imaginary surfaces the imaginary surfaces shall be extended to incorporate the noise impact boundary for purposes of these regulations and C all land, water airspace or portions thereof which are located within these boundaries or surfaces. Finally number 7, efficient utilization of municipal and industrial projects. Those are your areas and under a later provision in the code, Section 14- 302, designations and amendments or revocations of designations of areas or activities with state interest, maybe initiated by the Board of County Commissioners. It's your discretion whether or not to initial any changes to these designations.
Ron – Mr. Driscal and one of his reports or letters here said that although Battlement Mesa was approved by Garfield County in 1980 as a planned unit development; it might seem unlikely to qualify as new community. HB 1041 defines the term new communities to include the establishment of urbanized growth center in unincorporated areas. As the largest unincorporated urban growth center in Garfield County, Battlement Mesa would seem to meet this definition. As Bob stated the PUD was approved for some 24,000 residents and we are only at a little under 5,000 probably right now. There is still great potential for growth and development of Battlement Mesa and they believe it would probably fit the definitions of new communities. Another point the 1041 permitting process could be incorporated or made part of the special use permitting process. It wouldn't necessarily have to take on a life of its own or a separate permitting process. We feel that rules and regulations that were drafted under the 1041 powers could provide a means to address the impacts that might affect the long-term growth and development of Battlement Mesa, which they don't believe the special use permitting process adequately does consider. The authority the 1041 powers could provide the county to regulate all activity within an area, or activity of state interest would broadly expand and enhance the special use permitting process.
Commissioner Houpt – How do you see that different from what we plan on doing with the special use permit process?
Ron – The 1041 powers you could draft regulations that would look at the social, economic health impacts that the health impact project might identify. Things like that that probably are not in the special use permitting process.
Commissioner Houpt – There are counties across the state that have different set-back thresholds than the state does for energy development and have some pretty strong regulations or conditions of approval even that they move forward with, and those aren't under 1041. So with the exception of relying on the state for the health and environmental regulations that are both state and federal laws; she is not sure what they would accomplish with 1041 at this point. Except for challenging any access to this mineral reserve at all, we do know with technology there are many different options now; but at the end of the day what are you hoping to accomplish with 1041?
Ron thinks that one of the primary things they would be hoping to accomplish would be to mitigate impacts at such a large-scale industrial development, which Antero has proposed upon the Battlement Mesa Community. How that would affect the long-term growth and development of the community as far as economic growth; right now their property values are rapidly declining. Part of it is due to the economy; but in a larger/major we all believe it is because of the proposed oil and gas activities by Antero. As an example, he has a neighbor right across the street that bought his home for $230,000.00 about five years ago and he was finally able to sell it, after being on the market for a little over a year. And he sold it for $150,000.00 and there is dozens and dozens of property in Battlement Mesa right now that are up for sale and there is nobody looking to buy in Battlement Mesa any more. Nobody in their right mind would want to move to Battlement Mesa with what is on the horizon for us as far as oil and gas operations go there. He thinks those are things that maybe the 1041 regulations could address.
Commissioner Houpt – In terms of disallowing any development, is that what you are looking at.
Ron – In terms of allowing such a large-scale development like that these regulations could and should be drafted to include other activities that would affect the overall growth and development of Battlement Mesa. Whether gravel pit, amusement park, casino or whatever may come in there. He knows there are land use regulations in place that address some of those things; but he is sure there are things that could come up that could be under 1041 powers.
Commissioner Houpt – Her challenge is we potentially could find a way to move into adopting 1041 regulations, putting them together to disallow energy development in Battlement Mesa; but it would be so easy to challenge because you look at the PUD and it allows for that activity. It not only allows for that

activity but it allows for a special process for moving that activity forward. It's been recognized for the past 30 years plus.
Chairman Martin – Your PUD has internal zoning as well already in reference to your land uses that allow certain activities. It's been defined in certain areas, etc., so the PUD actually created its own zoning and allowed certain things to happen on that approval process that was proposed. So all the issues that you talked about are contained within that PUD regulation as well as enforcement of the industrial standards, the health standards, and also the public hearing process, and we are not achieving anything except if 1041 powers. If your goal is to eliminate natural gas and extraction industry and if that's the number one goal in 1041 powers; that is using it the wrong way. We have to work with the system, the good and the bad and find the right way to do with the least impacted way for those that are affected. He 1041 powers to eliminate oil and gas and extraction industries is not going to work. It will simply be challenged to death and you won't accomplish it in the long run.
Ron realizes that they cannot outright deny oil and gas activity in Battlement Mesa; but they were hoping these would allow them to put enough mitigating regulations in place where it would not impact the long term growth and development of the community. In regards to the existing special use permitting process, they don't have a lot of confidence in that because of the recent Williams pads that were approved. There was one of those pads that was in a zoned residential area that more than likely would not have been approved if it had gone through the proper channels.
Chairman Martin – That was a year after the PUD was finalized in 1981/82. At that point, it did have a review and a special use permit; the expansion of that particular permit based upon technology is what is under challenge. Because that permit allowed that pad to exist there; therefore because of directional drilling it was a conflict between state, and local land use that went abated until self reported by for whatever, 20 plus years. Those are some of the issue they have; that's why the special review process needs to come forward so they can work with the industry, citizens and state to make it work.
Commissioner Houpt – If you would like your attorney to be able to call ours to understand her opinion; that's fine. She has a lot of confidence in the work done by Ms. Quinn and she thinks it could be beneficial to have that discussion. It is critically important that if you decide that it's worthwhile you spend a lot of time focusing on the special use permit opportunity and become involved in that. That's why we have public hearings and public process so that everyone can be involved in determining how things move forward. There is language in place to allow counties to move forward on land use concerns; we are charged with protecting public health, welfare and safety as county commissioners. We certainly have that authority as well and this commission will take it very seriously as they move forward with that process.
Sherry Brandon thinks it is shameful when she thinks the Board hired a company to come and help them do a comprehensive plan in Garfield County. Battlement Mesa is a beautiful place, a beautiful community. What are you going to deal with the 10 pads that are supposed to be here? We need to work around where these pads are. The people in charge of the Comp Plan told us to use our imagination on what it could look like someday. Battlement Mesa, the original PUD stated there should be no heavy industry within the PUD and considers gas industry to be a very heavy industry. We have lived with it for a number of years now; they see the trucks going through ruining their roads. House Bill 1024 might actually keep wells out of their community that we don't have to deal with this. With the directional drilling, they can go for miles and miles. Parachute wants them, why can't they sit down in Parachute and come under our community. She doesn't understand why this is happening when she thinks it should have been made into a new community when Battlement Mesa Company bought this place and then maybe some rules should have been set down. Truly when we moved there they were never told by the realtors or the people that sold their property that there were ten pads there and that someday; do you think we would have moved there if they knew that. It was turned into a retirement community so this is very sad. You have no idea how affected we are and yes how many people are trying to leave. It is going to become a deserted community; it will become a gas patch up there.
Chairman Martin – The PUD has its rules and regulations and they are enforceable.
Commissioner Houpt – Before we make a formal decision it's fair to let the attorney's talk to each other and come back to the Board.
Chairman Martin - This is an emotional situation; we recognize it. The Board will direct staff to contact the Battlement Mesa attorney, explain our points of view and take in the other points then report back to the Board for a final decision within the next month. The Board has one more meeting; he thinks Deb needs to make sure that information is exchanged, researched and brought back. If they could get it on the first meeting in August that would work. At the conclusion after we have an exchange of information from both attorney's etc. and on our last final decision making process unless the Board wishes to make that document public today but it will be public by the decision making time.
Motion:
Commissioner Samson – I would move that we release the document and we instruct our staff to meet with their legal and talk over the points, express their concerns to each other and then our staff report back to us on August 2nd the first Monday, 2010. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Joe Darnell a Battlement Mesa resident requested that when you have one of your next County Commissioner meetings that they come to Battlement Mesa especially when this is on the agenda. I believe that we deserve the right to have more people come. It needs to be well publicized because we have a monthly paper; we do not get the Glenwood Post unless you come up to Rifle.
Commissioner Samson – I appreciate what you say and I have worked very hard to have meetings in Carbondale as well as Rifle. The problem we have is finding a place that would accommodate room wise, but also for our broadcast and recording and so on so forth. That's the problem we have; if we were to go down to the Battlement Mesa rec center, we don't have capabilities as I understand it.
Jean – Well our real problem is recording the sessions. We are able to do that with the new annex because they put in a system that's just like what we have in Glenwood at the Courthouse. You know when we had our first remote meeting in Rifle; it was a nightmare because nothing recorded and I don't know that, the TV can record it but it's not live. When they go to Battlement Mesa, I think this is a good option; this is a lot closer than Glenwood Springs is. Right? And the other thing we have to take into consideration is that with the building and planning issues that are on the agenda; they can't decide to have the meeting here on August 2nd because they are already noticed public hearings. That has to be done well ahead of time in conjunction with the building and planning department.

Chairman Martin – That's a 60 day notice.
Jean – I think they normally need at least 30 to 60 days.
Chairman Martin – More concerned citizens are going to be down in Battlement Mesa and that's what you need to hold the meeting in that area.
Jean –The IT department looked at Battlement Mesa activity center, Parachute Town Hall's small. One of the problems with that is maybe that's a conflict with the meetings.
Chairman Martin – We will look at those possibilities.
Commissioner Houpt – So Mike with respect to your motion that you just had on scheduling this for August 2, we may need to do is schedule it further out.
Commissioner Samson - I'll amend the motion then to the earliest possible date that we could make it work and meet in Battlement Mesa and/or Parachute. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CONSENT AGENDA

qq. Approve Bills
rr. Changes to Prior Warrant Lists
ss. Authorize the Chair to Sign the Resolution of Approval for a Land Use Change Permit for Extraction of Natural Resources (Sand and Gravel) and Development in the 100-Year Floodplain for the Scott Gravel Pit – Applicant; River's Edge LLC – Fred Jarman

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

REGULAR AGENDA

PUBLIC MEETINGS:

- **A. Heartland Companies Proposal for Garfield County Landfill – Dorothea Farris**

Larry Drew president of Heartland and 100% owner of the company were present and explained his background and experience. He provided a PowerPoint presentation
A lengthy discussion was held as to the possibilities of a proposal being installed at the Garfield County Landfill. That is a significant amount of revenue that could be brought in here. One of the options is to locate a machine, like you saw in Utah, to evaporate produced water. It can be located on your facility or probably next store at Williams's facility; either way you will get the residual. If you chose to put the actual equipment it would be his capital cost on your facility and they can work out energy sources then there would obviously be some kind of royalty type payment made because we are using your facility, your infrastructure to process the liquids coming in, using your road; so there is obviously some kind of revenue source. The way they see their technology rolling out is we have met with Colorado air people, and the staff from the Oil and Gas Commission. There might be opportunity for them to take their technology on smaller scale to well fields, to the actual well pad and evaporate flow backwater. They estimate they can reduce 8,400 truckloads of material being transported on your roads. He would like an opportunity to do business with Garfield.
Dorthea Farris said she appreciates the opportunity to present this summarized the benefits. Every conversation we had with all of you had to do with if we are going to support oil and gas industry in a wise and planned four way, which they have agreed they are doing in this part of Colorado. We need to address the issues before we are faced with a crisis with the produced water or the liners or the ponds. Whether its water and air impact. Garfield County has shown an interest in doing that in the past and she thinks that is key. The role of Heartland is to produce and provide the management aspect for the operation, not to talk away anyone's authority at the county. A contract to operate the landfills effective and efficient is Heartlands major focus. Certainly the use of the concentrator that you were able to see in Utah and see how it works. Reusing water and reducing traffic are two of the environmentally sound ways to address this. Management of a facility like this is a key factor to put Garfield County on the map as a leader in a regional way of looking at a new operation. You can do one of four things: keep status quo, request for qualifications for other forms of management, request for proposals RFQ or RFP or because of the use of the concentrator which address two of the major needs at least that you have in Garfield County is sole source request from Heartland for a proposal because they do have the concentrator you saw.
Larry - He is here to say which their experience, their technology, with their vision, they think they can bring something more to the table. They are all over United States and all over the world and are taking this technology to the Middle East, to the Ukraine and to South America. It is a unique technology; they own it and they are also in the landfill business and they can combine it with a unique situation that Garfield County has.
Chairman Martin – We have a couple of steps in between; making sure that our operation is the best possible and we have confidence in our staff to do so. Look at our financial obligations as well as the revenue resource; but the other one is that we actually participate in the grand opening of the facility in South Canyon when it's operational. He would like to see how efficient it is, get the base line study of what you have going now as well as what happens when you are in full operation. Which will also help in the region; you're talking about region, will it have an effect on the region and how everybody approaches it from Rio Blanco, Mesa and what have you.
Larry – They will have all the analytical of the incoming material, the produced water from their Utah study. We will have the analytical from the residual and they will have the analytical of the clean water.
Chairman Martin – That's the issue he took to the state in reference to the new water right that would be created if you were able to find a beneficial use in reference to the, it is not resolved yet we are working on that one. The millions of barrels of water per year throughout the State of Colorado needs to be addressed other than just evaporating it or putting in an injection well. Because water is important in many regions that have energy development as well; but again you are looking at the leach to take care of your land fields etc. He stated they are very interested on the South Canyon project; he would like to see it up close and personal and see how well we can do.
Commissioner Houpt – A question in terms of timing and one of the things he brought forward was a regional vision for the landfills. Will you be further along in being able to define what that could look like once you get the South Canyon project up and running?
Larry – Provided the update and summarized they did not get approved for that $100,000.00 USDA Grant last year for several reasons and he explained grant money is being given to municipalities and non-for profit. Glenwood Springs went to an organization called Big County, a non-for profit organization associated with USDA and a grant writer is taking the lead on applying for that grant money for a similar

type plan. Once they get the application, they will be responsible for the endorsements they're going to finalize it. The timing of that grant application is November of this year or October of this year. They awarded them last year on earth day. If they get the grant money, there is a lot of work to be done, information gathering, input from different cities and counties to do the feasibility studies, so it's probably a year down the road. It's not part of the management plan; that recycling plant really doesn't change anything. You still have your landfills; you still have your compost operations going on. It's diverting stuff from being buried. If you're diverting wood over to Jim's operation or diverting wood for energy in South Canyon, all that stuff is still going on. It's taking the residential garbage and recycling it and getting as much as you can out of it and then a large part, about 50% of the whole waste stream that isn't recycled is made into a fuel pell that can be burned for the evaporation of produced water. Then 15 – 20% goes in the landfill. Originally, and your landfill would still be in existence, you still have your C & D operation going on, you still have wood stuff going on and then you would have another component to it,; the residual from the process and contaminated soil. It would still be a viable project; you would have relatively small transfers stations at each location taking the residential waste to a centralized processing facility at South Canyon. They have all the data; they're now at a point of what next? We have all this data; Doug Oliver, from South Canyon says this is the next logical step. Will you adopt this as region wide as a project to go forward and do this study? No one is signing up for the project; they need the information that the study will generate.
Commissioner Houpt – Addressed his power point about a regional plan.
Dorthea – Today a lot is being diverted to Utah that's not going to be a permit situation. When she talks regional that was the region she was thinking rather than the regional as in that plan that came out of the study.
Larry – It details out the scope of work, equipment issues, consulting, auctions, what they can bring to the table and then all the filler stuff with safety plans. It's not tied to the regional recycling plan; the idea he came up, he has handed that off to Big Country who is going to solicit endorsements for the study from everybody. We are still going to work with them to help them along; but it's not tied to this at all.
Chairman Martin – That would be Big Country - Ty Richardson.
Larry is sure; in conjunction with them, they will be in front of the Board again.

- B. **Moon (Dietrich) Well Update – EnCana, USA – Tony Gorody, COGCC Representative Linda O'Roake, EP Specialist**

Commissioner Houpt stated this was informational but she is sure there will be a discussion. She recused herself as County Commissioner; she has seen this presentation and has participated in this discussion.
Linda O'Roake, EP Specialist Oil and Gas Conservation Commission and Kevin King, Northwest Area Engineer Oil and Gas Commission were present.
Linda gave a power point presentation explaining the presentation that was given to the Oil and Gas Commission last Thursday. His domestic water well turned up with some thermogenic gas impacts that were identified by routine monitoring that EnCana has been conducting of water wells in the area. EnCana self reported that to the Oil and Gas Commission in February 2010. Mr. Miller's water well also had thermogenic gas impact reported to them by Barrett in February 2010. She continued to show a map where the Moon water well was, the Schwartz pad, the West Divide Seep area, Lisa Brackens property, and the Miller water well which is approximately 3 miles away to the north east in Gibson Gulch. The Miller water well is not within the East Mamm Creek notice to operators area. The Moon water well was the original well was the Dietrich water well.
Tony Gorody gave his presentation.
Tina Johnson, Production and Competition Manager works with Tony and was present.
He explained he was going to discuss the forensic evidence regarding the origin of the gases in the Mood 2 well and to discuss the specifics of the soil gas survey and the water sampling that you just heard was performed on behalf of EnCana. He gave the sequence of events on the Moon 2 well and how quarterly sampling was done thereafter. His report was decisive and complex.
Tina Johnson with EnCana presented information on the work on the P3 pad. She gave a power point presentation and the purpose of her being here was to answer any questions about any operation going on the P3 during this period.
Linda – COGCC said their conclusions from the environmental side does appear from everything that EnCana has just presented that there was some sort of release from the Arbaney 315C gas well in November, 2009.
Kevin continued presentation as to what EnCana has to do with the testing.
Linda said they have also asked EnCana to do some step verification actions and they are putting together a list of domestic water wells to be sampled in the area. She verified nothing is going on there because those wells were drilled contemporaneously. They had problems in the past and were remediated about the same time. There is nothing to make them think that anything is going on there. They have asked EnCana to work with Tony and have him evaluate the bradenhead gas from the Schwartz OTE pad and any recent gas data from the west Divide Creek seep monitoring wells to do a similar comparison to what they did with the P3 pad and the Dietrich and Moon wells to see if there has been a new episodic; nothing to indicate that, they just want to explore that and verify. There were two wells reported to the COGCC at about the same time. The investigation that Barrett is conducting is following a similar path as EnCana. When Barrett reported it to the COGCC, they had already been doing some mitigation actions. They are monitoring the Miller well on a monthly basis. They offered to treat the Miller well for bacteria and replace the carbon filters; there is bacterial contribution. No one thinks that is the problem; but treating the bacterial can only improve the quality of the water in that well. Barrett is arranging to get that done. Barrett offered to provide water to the Millers. The topographic map focused more on the Miller area to the northeast of where they have been talking about. There are several well pads within a half mile of the Miller domestic well; these are all Barrett wells.
Commissioner Samson – The reports have been very impressive with what they are doing and you appear to be getting on top of things. There are people who have concerns and you have addressed some of those concerns today. Since you are representing the COGCC, we as a commission have been very involved in this and they wrote a letter to the COGCC a month ago concerning some issues they had and besides what the COGCC is doing here what is your response to the letter?
Linda believes Debbie and Dave Neslin have being involved.

Commissioner Samson had a request, which is to get a response to this as soon as possible. It would be imperative that the research that is occurring is to work very closely with those two individuals and coordinate what is going on.
Linda - Debbie is very well involved in what she is doing here. We are not working in a vacuum isolated from the two of them.
Commissioner Samson asked a time-line that this might be completed.
Linda – We have to get the third part consultant retained; that will take a little while to identify and retain a consultant. She is not totally up on the states procurement requirements; but she suspects it will take a while after they are identified. Then there is a fair amount of data to review; it will take a while to review the data.
Kevin – Fall might be a good estimate.
Chairman Martin – But the monitoring continues and any kind of spikes, any kind of change you will know in the same vein so that we can take immediate action if necessary.
Linda –It takes time to get sample data back, to get it analyzed and time to go through the well construction information.
Commissioner Samson wanted to reemphasis that he is glad to see they have taken this on as a top priority. Because at one time when he did speak directly with Miss Baldwin and Mr. Neslin he felt it wasn't a top priority. It was pushed to the side and he is glad to see that it has come to forefront. If you would take that back to them he would appreciate it, tell them we are very concerned, and if we can get both parties working on the same page that would be very helpful.
Linda – When she hired on in December, one of the things that Debbie Baldwin told her was that it would actually be good to have fresh eyes looking at what's going on in Divide Creek.
Commissioner Samson thinks it would be beneficial for Linda to report to this commission as soon as possible.
Judy Jordon clarified a couple of things that Linda presented. Question she has first is; does she understand correctly that the recent increase in thermogenic methane that you see in the Mood well that has occurred after the NTO was in place.
Linda as she understands Tony's evaluation there was some periodic, a release of some sort of increased gas to that area. It was identified in November 2009 but since it has gone down. And it was not there 2007 and 2008 it was a little spike that they don't know really why.
Judy – That was her next question; what exactly caused that increase?
Linda – They don't know that but that is one of the things they will be evaluating.
Judy – From the commissioners standpoint they have been approached by residents in the area and she has recently received a form 2A location assessment for a location right in the center of where all this activity is occurring. One of the requests that has been made of our commissioners is that they stand to oppose further development in this area. That is something they haven't chosen to do and she thinks that if the mind frame that the NTO is in place, we are deferring to the Oil and Gas Commission. If the NTO is effective, there is no need to impair the development of the resource in that area. In terms of trying to respond to their constituents and their requests that there be a moratorium until there is a better understanding of what's caused these releases, or in this case increases. The question is how do we assure our residents that the continued development, particularly on this pending request she has on her desk now; how do we assure them that we have effective control over this area and there won't be additional releases.
Kevin – From the reviews they have done so far; the problems seems to be residual problems from wells that were drilled prior to the 2004 NTO. The COGCC is talking with working with operators to use these new paths that are being planned for the East Mamm Creek area to gather additional information to further review.
Judy – If we don't know what caused the increase; then how do we know it was residual?
Kevin –Tony has fingerprinted at the most likely cause of the Moon contamination is the Arbaney 315C well, which was drilled in 2004 prior to the NTO.
Linda – The soil gas surveyed the F11E pad, there are like nine wells there that were installed after the NTO; only one of those wells were drilled before the NTO. But nine were drilled and completed after the NTO and the soil gas survey didn't detect any gas releases from that area. To them it tells them that the additional requirements that the NTO put on to the completion of those wells have been effective because both the P3 pad and the F11E pad are very close to the axes of that anticline. She would expect that the materials there might be similar pathways; but they don't see anything out of the F11E pad wells and they believe that is because of the additional cementing, the requirement to bring the cement above any gas shows. They thinks the new completions, as they were put in, have been effective because in her mind, similar geology, similar structure, similar fractures and pathways. If the wells on the F11E pad had been completed the way they were in 2003, 2004 on the P3 pad she would have expected to see some more things there. Gas seeps at the pad, somewhere that it was escaping and they did not see that because they were not completed the same way. They were completed more conservatively as a result of the East Mamm Creek NTO. They fill like new gas wells going in are being installed in a protective manner and as Kevin pointed out additional surface casing interval which is where the water wells are, which is where the problems are being seen; if they do additional logs in that casing interval, maybe run cores in that casing interval, they will know if there is something there.
Kevin – The NTO requires more stringent monitoring and better reporting. If something does go wrong with a newer well, with the NTO, we know it much sooner.
Judy - If she didn't also say that remedial cementing, once you have already monitored and detected a problem may not be effective.
Kevin – that is also addressed in the Antero with the increased cementing…inaudible
Linda - The location you mention seems like a prime one to request additional surface casing in the information logs. Make them look more closely at the surface casing interval before they put the casing.
Chairman Martin – Which gives credence to our question on our letter because it is going back and looking at all the other wells that you have identified 17 of them so far in one area. You need scientific data and fingerprinting to make sure that you have some kind of source that you need to mitigate. And if you don't; you don't need to touch those particular wells.

- **County Attorney Update**

Executive Session

Debbie Quinn is requesting an executive session under the provisions of 246402 4B to provide legal advice on organization and formation of special districts and the Board of County Commissioners role in that.
Chairman Martin – That would be part of the public meeting process under the plans for the metropolitan district?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **Service Plans for RE Metropolitan Districts – Diane Miller**

Purpose
On Thursday July 1, 2010 Matthew Ruhland of the law firm Miller Rosenbluth, LLC submitted three (3) Service Plans for three (3) metropolitan districts on behalf of Carbondale Investments, LLC., the owners of property identified as Rivers Edge Colorado, formerly known as Cattle Creek (Colorado), Sanders Ranch and Bair Chase.
The purpose of this public meeting is to recommend that the Board join in the Clerk's mandatory referral to the Planning Commission, as well as to request the Board authorize special review of the plan(s) and impose additional fees to reimburse the county for direct reasonable costs related to such special review.
Commissioner Samson – I would move we join in the Clerks referral to the planning commission for July 28th for the Rivers Edge three service plans and that it come before us as a commission on August 9th and that we charge the maximum allowable amount for the review of the plan by the commission; in the amount of $4,050.00.
Commissioner Houpt – Did you want us to indicate a hearing date today or did you want us to wait until the 9th?
Chairman Martin – At the hearing after the 9th after we get the report back from the P & Z.
Kathy – That is correct; on August 9th we will hold a public meeting where the public hearing date will be set. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Consider a Request for a Land Use Change Permit for Limited Impact Review for a Storage of Supplies, Machinery, Equipment, or Products on 3.58 Acres of a 958-Acre Site Located at Approximately 11 Miles North of the Town of Parachute, CO on County Road 215 (File No. LIPA 6385) – Applicant; EnCana Oil and Gas (USA) inc. – Molly Orkild-Larson**

Khem Suthiwan and Casey from EnCana 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 Molly Orkild-Larson submitted the following exhibits: Exhibit A – Proof of Publication and mailings; 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 – Letter from Garfield County Road and Bridge Department, dated May 28, 2010; Exhibit H – Letter from Garfield County Vegetation Manager, dated June 28, 2010; Exhibit I – E-mail from Jim Rada, Garfield County Environmental Health, dated June 3, 2010; Exhibit J – E-mail from Dan Roussin, Colorado Department of Transportation, dated June 2, 2010; Exhibit K – Letter from Mountain Cross Engineering, Inc. (consulting engineer), dated June 10, 2010; Exhibit L – Letter from Grand Valley Fire Protection District, dated June 8, 2010 and Exhibit M – Wildlife Impact Assessment and Sensitive Areas Report Middlefork Water Recycling Facility by WestWater Engineering, dated December, 2008. Exhibit N added – Memorandum
Chairman Martin entered Exhibits A – N into the record.
Planner Molly Orkild-Larson explained:
GENERAL PROJECT DESCRIPTION
The Applicant requests approval for a "Lay Down Yard", defined by the Unified Land Use Resolution of 2008, as amended, as a "Storage of Supplies, Machinery, Equipment or Products" in support of natural gas extraction operations in the Parachute region. A storage facility is proposed at North Parachute Ranch, which will minimize the vehicle trips required for supplies. This site has been disturbed and used in the past as a storage yard by another operator. The storage yard is situated in a valley and north of the East Fork of Parachute Creek. The vicinity map illustrates the location of the entire property (958.3 acres). The request, noted in the application narrative, includes approval for a 3.58 acre storage facility operated on a year round basis for storage of supplies and materials used in the gas production industry. The general operations on the site will occur between the hours of 7:00 am to 5:00 pm. On-site storage includes piping, tanks, and staging materials. The unmanned site will not have any permanent structures or provide any permanent potable water or wastewater facilities or service. A portable toilet is present on the parcel and employees will use bottled water.
STAFF RECOMMENDATION
The Applicant has applied for a Land Use Change Permit for Storage of Supplies, Machinery, Equipment, or Products. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit for this specific use. Staff recommends the Board of County Commissioners approve with conditions the request from Applicant for a Land Use Change Permit for the Storage of Supplies, Machinery, Equipment, or Products on a property owned by the Applicant located in Lots 13 and 14 of Section 30, and Lot 3 of Section 31, Township 5 South, Range 95 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.
Site operations shall not emit heat, glare, radiation, dust 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 Colorado Revised Statutes.
All lighting associated with the property shall be directed inward and downward towards the interior of the property.
The Applicant shall provide clarification to the County Vegetation Manager on the seed mix to be used for re-vegetation of the site prior to the issuance of the Land Use Change Permit.
The Applicant shall provide a re-vegetation security in the amount of $8,950 to the County prior to the issuance of the Land Use Change Permit. This amount is based on a surface area disturbance of 3.58 acres at a cost of $2,500 per acre.
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 of this application. It is the responsibility of the Applicant to contact the County, upon successful re-vegetation establishment, to request an inspection for bond release consideration.
The Applicant shall adhere to Section 7.0 (Mitigation Recommendations) identified in the Wildlife Impact and Sensitive Areas Middlefork Water Recycling Facility Report by WestWater Engineering dated December 2008 which are attached as Exhibit A of any land use change permit.
The following recommendations and requests of the Garfield County Road and Bridge Department shall become conditions of approval:
All vehicles hauling equipment or materials for this application shall abide by Garfield County's oversize/overweight permit system.
All vehicles applying for oversize/overweight permits shall have a letter or e-mail from the Applicant stating said vehicles could obtain oversize/overweight permits under their road bond on file with Garfield County Road and Bridge Department.
All vehicles requiring oversize/overweight permits shall apply for them at Garfield County Road and Bridge Department.
The Applicant shall adhere to and implement the Best Management Practice (BMP) for storm water pollution prevention identified in the Supplement Form and Volume 1 – Master Storm water Management Plan North Parachute Ranch by EnCana Oil & Gas Inc. for the site.
The Applicant shall provide site grading contours or grading design parameters shown on the Sediment Control Plan to verify drainage flow patterns and BMPs are congruent for County review. This shall be done prior to the issuance of the Land Use Change Permit.
The Applicant shall verify the applicability of SPCCP to the proposed Storage Yard prior to the issuance of the Land Use Change Permit.
The Applicant shall clarify the fire protection system and either verifies that the existing system meets the requirements or provides a design on how the system will be modified to meet the requirements. This shall be done prior to the issuance of Land Use Change Permit.
Discussion:
Deb – In connection with the recommendations relating to wildlife, it recommends limitation of major work activities on seasonal basis depending on what wildlife might be present, she is wondering if both the applicant and staff have a good sense of what major work activities would need to be curtailed during that timeframe.
Molly – Her understanding was that it would be any kind of any heavy equipment operations.
Deb – Is the applicant okay with that understanding?
Casey – It would be just truck traffic mainly. He doesn't believe any equipment will be run.
Deb – It is her understanding that restriction, right now, because it is only for deer and elk critical winter range; would only be in effect December 1 to April 30 is that right, unless these other birds show up.
Casey stated they could abide by conditions.
Commissioner Houpt – I make a motion to close the public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I make a motion to approve the land use change permit for storage of supplies, machinery, equipment, or products for EnCana Oil and Gas USA Inc., with the recommended findings and conditions including the condition number 18 that was added to the staff report today.
Commissioner Samson – Second.
Chairman Martin – What the last condition?
Commissioner Houpt – It was with respect to lining the concrete washout.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consider a Request for a Land Use Change Permit for a 40 Foot Tall Communication Tower and Equipment Building (File No. LIPA 6339) – The 23.8-Acre Site is Located Approximately ½ mile West of Silt, CO and North of Highway 6 & 24 – Applicant; Scott and Debra Robinson – Thomas Veljic**

Jeff Sherer 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, Posting, and Mail Receipts; Exhibit B – Garfield 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 Power point; Exhibit G – Memo from Jake Mall, Garfield County Road and Bridge, Dated June 1, 2010; Exhibit H – E-mail from Dan Roussin, Colorado Department of Transportation, dated June 1, 2010; Exhibit I – E-mail from Steve Anthony, Garfield County Weed Management, dated June 15, 2010 and Exhibit J – Letter from Garfield County Development Engineer, dated June 15, 2010.
Chairman Martin entered Exhibits A – J into the record.
Planner Tom Veljic explained:
GENERAL PROJECT DESCRIPTION
The property owner requests approval to construct a "Tele-Communications Facility", also defined by the Unified Land Use Resolution of 2008 as "Communications Facility" The proposed site is located between two accessory buildings on a rural acreage parcel. The vicinity map to the left illustrates the general

location of the site west of Silt, CO and north of SR 6 &24. The applicant has provided a vicinity Map in Tab E. The request, noted in the application narrative, includes approval for a Tele-Communications Tower and adjoining equipment building. The narrative states that the new tower and equipment building will be a "stealth" design, constructed as an agricultural silo (for the tower) and agricultural storage building (for the equipment building). Both tower and building elevations are shown in the application in Tab J.

STAFF RECOMMENDATION

The Applicant has applied for a Land Use Change Permit for a new Communications Facility consisting of a "stealth" tower and equipment building. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit for this specific use. Staff recommends the Board of County Commissioners **approve** the request from Scott and Debra Robinson for a Land Use Change Permit for a Communications Facility on Lot 1 of the Antonelli Subdivision Exemption in the SE 1/4 of Section 5, Township 6 South, Range 92 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.

The facility shall be operated so 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.

Site operations shall not emit heat, glare, radiation, dust 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 Colorado Revised Statutes.

All lighting associated with the property shall be directed inward and downward towards the interior of the property.

The applicant shall obtain a new CDOT access permit prior to issuance of the Land Use Change Permit.

Discussion:

Jeff didn't have much to add; Tom's presentation was through. They agree with everything staff said; the only thing they are asking is if they would reconsider recommendation number 8 because the CDOT access permit to allow them to move ahead with their building permit contingent upon that access permit being issued. It will take approximately 45 days to process the application and Dan told them there was really no problem with the applicant; it is just a matter of keeping track of what the land uses are in the area. They would like to move ahead and allow them to submit a building permit.

Tom said they had no issue with that; they can change that to prior to obtaining a final occupancy.

Commissioner Houpt is very impressed with the design of this. We have been through kind of an evolution of what we see come in front of them for different types of towers. This is very tastefully done. She wanted to commend the applicant on what they have done and brought forward.

Chairman Martin – If no other questions; do I have a motion to close the public hearing?

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

Commissioner Houpt – I make a motion to approve a land use change permit through the limited impact review process for a communication facility to include a new 40 foot tower and equipment building on property owned by Scott and Debra Robinson with the staff recommended findings and conditions with the revision to condition number 8 making the obtaining of a new access permit a requirement not prior to the issuance of a land use change permit; but prior to final occupancy reviews.

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

Commissioner Issues:

Commissioner Reports - none

Commissioner Calendars

Chairman Martin tomorrow we have a meeting at 8:00 a.m. in Glenwood Spring for a work session. Commissioner Houpt – From 4:00 to 6:00 they are meeting with the planning commission in Glenwood Springs. Commissioner Samson – Wednesday (July 14) he has the PID meeting at the airport at 2:00 p.m. Commissioner Houpt – The Garfield Policy Advisory Committee meeting at 8:30 a.m. in Rifle and then Human Service Commission and then GNECI in Glenwood and then a Rudi meeting. Commissioner Martin will be north and west of Loma in Garfield County on Wednesday. Commissioner Houpt – ITPR meeting on Thursday in Glenwood. Mike and John will be gone for NACO on Thursday. Burning Mountain Days is this weekend. Commissioner Samson – Tuesday the 20th we have a meeting with Valley View at Valley View Hospital from noon to 2:00 p.m. Commissioner Houpt – on the 23rd, which is a Friday the Crystal River Trail ribbon cutting at 1:30 p.m.

Approval of Minutes - none

Commissioner Agenda Items

Resolution for the Support of Local Administration of Colorado's Human Services System and a Commitment to Excellence – Tresi Houpt

Commissioner Houpt brought this forward; it came as a request from CCI. We are requesting that every county in the state support this effort to honor local administration of Human Services in Colorado and our ongoing commitment to excellence. She thinks that statistics have shown it is much easier to deliver that excellence when you are managing at the local level rather than the state level.

Lynn Renick – The Governor's Child Welfare Action Committee that was put into place two years ago; came out with 29 recommendations, 27 of them were wholeheartedly accepted by the Colorado Counties Inc. as well as the Social Services Director's Association across the state. There were still two that were a little problematic and they felt more research was needed. That was the Centralized Call Center which is still being researched and on the table and then recommendation number 29 which was the potential becoming state supervised and administered rather than being state supervised county administered systems. At least at this point in time that has been taken off the table; it may reappear periodically. Commissioner Houpt heard it could potentially appear in the form of a couple of bills this year.

Lynn understands that the Department of Human Services of Colorado is not wanting to take this forward; but there might still be some legislation. Overall, this process is to say that local counties and communities are very committed to the excellence to child welfare and social services programming. Lynn's group believes that local administered social services programming is more beneficial to the State of Colorado.
Chairman Martin thinks what it really says; after the long battles, they have had with the State of Colorado and the state finally said; you counties if you think you can do better go do it. Well we have done that; we have lived up to that obligation and doing a very fine job. Now the state wants, again didn't do that great a job, wants to take it over so they can supervise us. Unfortunately, that is a step backwards; he thinks they are doing very well, meeting with all of the audits, great staff in place, living within the budget and not going over the budget. He thinks they need to put their foot down and say no to being state supervised. He thinks CCI has done so and he thinks they have proven we can run the program better than the state. We have local concerns; local solutions and we collaborate so much better than just with the state telling us what to do. He supports it wholeheartedly going forward with this resolution.
Commissioner Houpt – I make a motion we adopt the resolution for the support of local administration of Colorado's Human Services System and a commitment to excellence.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt asked Lynn about CBMS, as it seems to be a real issue again. How are we doing in this county?
Lynn – We are struggling; she thinks the staff is doing the very best they can possibly do under very bad circumstances with the slowness of CBMS. She thinks the communication is more and more broken down at this point in time and she knows there has been a couple of meetings she has not attended recently to get the full scope of the issues. When it takes 30 minutes to go from one screen to another, it certainly understandable that people are calling and saying why is it taking so long to get something through. She thinks they are trying to keep up with it and she hasn't heard too much of an outcry because she thinks the staff has done a remarkable job of doing what they need to do. But it continues to be unbelievably problematic.
Chairman Martin – It's reached its critical mass; the input is overwhelming. The program itself was flawed at the beginning and they have worked with it constantly since the inception. We are going to reach the point where it will crash; and what back-ups do we have and the answer is none.
Lynn – The understanding right now is just because of the recession, the economics, and the fact that the workloads have gone up, in Garfield County in excess of 30% and food systems and family Medicaid and then over 100% in TANF; the capacity was not built on a statewide basis to take this level of increase workload.
Carolyn – Does the Clerk need to send the resolution to CCI?
Commissioner Houpt – Yes

Work Shop: Land Use

Chairman Martin – For 37 years we used the standard in reference of testing of a well and in 2009 that changed. It is a water pump test for four hours on a pump test; this is a land use issue. They tested a well and the viability of a well by all the engineers and everything else for a 4-hour pump test. Then you said okay how much water is it going to produce and how is the recovery rate. 2009, with the new adoption, we went to 24 hour pump test; to give you an idea of what we did to our water supply, on an average well of 20 gallons per minute, that will be 120 gallons in an hour. And then 480 gallons in the 4 hour pump test; you take the same well and you pump out in 24 hours 28,800 gallons, on the average you are pumping out 24 days worth of water in 24 hours. He thinks it is excessive; it also affects other property owners. Depleting a water table to that degree is not constructive. He knows that one of the wells he has pumps out a gallon and a half an hour and you deplete the water system, which it has on a pump test. It takes out 5 or 6 families that have learned to live with one or two gallons per hour in their cistern. It is understanding that and the survival; he thinks they need to revise their testing program for a 24 hour pump test back to a four hour pump test. That's one of those work sessions we need on land use. We need to work on land use issues that have come up more than once. The new requirement, by the way, a local pumper doesn't have the reading capability. It is an out of county person, company that has to come and do a 24 hour pump test. That is an added expense and instead of a couple of hundred bucks, you are looking at several thousand dollars to do this test now. It's a hardship and not something that we designed easier to the user and more understanding of what is happening. He stated they need to make that an issue.

BOCC Calendar for Meetings and Recording

Commissioner Samson thinks they really need to decide and set-up the calendar for their meetings. He would like to have them meeting, for the present time until they can get facilities in Battlement or wherever it may be, but he thinks they need to set-up a schedule at least once a month; meeting in either Carbondale, or Rife, or some other place than Glenwood. He thinks they need to set a schedule for that.
Chairman Martin asked Abe if to have a transportable system that will accommodate Jean and everyone else for recording. A few other issues, Paul and Jim that we could take to the locations we are talking about. Battlement Mesa, Parachute without any concerns. Is there such a system we can either purchase or can we put it together. So we won't have this problem in selecting the only place that has IT approval; but we can take it with us in any situation.
Abe Dress – That system does not exist in the county right now; but it can be made. We were first talking about having these remote meetings; he was before the Board with a couple of potential system they could get. Then we opted to go this route with the Sheriffs annex; they put a hold on that. That was around $12 to $20 thousand depending on what they wanted in that system. What that would provide would be amplification and recording for the Clerk and Recorder; it would not set-up channel 12. Paul wouldn't be able to do his recordings.
Abe – He would be able to; like what he did at DHS, he did a camcorder and later broadcast it.
Commissioner Houpt – The request has been made if Antero comes forward with a special use permit for drilling; we hold that hearing in Battlement Mesa. Which she thinks is a reasonable request.
Chairman Martin thinks they just can't limit it to one activity. He thinks they have to have the capability of traveling throughout Garfield County setting up a remote location because of the different issues that may or may not come up. As well as meeting in New Castle, Parachute, Battlement Mesa; those are the issues they can set up and take with us, meeting all the requirements. He thinks they should put something together and say how much it is going to cost us and that becomes a priority for information flow.

Commissioner Samson – This is what he wants to happen. He wants Abe to come back to this Board, hopefully in a couple of week, and show us a system that will fulfill all the requirements that the County Clerk needs. It will take care of what we need to do so we can purchase this. As far as he is concerned, they can purchase it out of the commissioner's fund or general fund.
Commissioner Houpt – When it comes in front of us we can look at that.
Commissioner Samson would like Abe to come back with that as soon as possible. But until then, this will take a while, realistically 3 months for that; 2 months?
Abe – Probably can make it happen in a month from the time he gets the triggered pulled to purchase. So give him a few weeks to find companies that can produce this and then from the time you say yes this one.
Commissioner Houpt – So when you finish your research, or when you think you will finish it; will you put yourself on the agenda under Ed's time and as soon as possible?
Chairman Martin – Mr. Samson; I would think you would need to sit down with administration and land use and see how far out they are scheduled and then go ahead and do a proposed schedule of location and dates and propose that to the Board for consideration. For the rest of the year and you would have that in writing, then they could use that for press, land use issues etc. so we would have that schedule in advance. Planning and zoning wouldn't have to scramble at the very end; but at least have that out until the end of the year to see if it will work for us.
Commissioner Samson – Agreed. Is there any way we can have a meeting out of Glenwood for the month of August?
Chairman Martin – It depends upon the noticed public hearings and that would be again with the building and planning department; because they have to do a 30 day notice outside of our regular schedule. You would have to get with Fred and if possible, we could go ahead and entertain that.
Commissioner Samson – Agreed. Next, we need to address this.

AGNC

Chairman Martin – That was our position in reference to our position we took with AGNC in supporting the intervention to oil and gas and coal. That was legislation that took place earlier in the year in Denver to retool coal fire power plants without all of the input from both sides.
Commissioner Houpt asked Mike if he read the letter; is it just requesting that those counties came forward receive an audience to be able to discuss this.
Commissioner Samson – That was his understanding
Commissioner Houpt – If that's what it says then she can support it.
Commissioner Samson - Let's just recess; because we will be here until 4:00 and after the ribbon cutting.
Commissioner Houpt – Let's do it before the ribbon cutting; she only needs a few minutes to read.
Commissioner Samson – Via electronic and US Mail; this will be a petition that will be filed with the Colorado Air Quality Control Commission; known as AQCC; sorry it was filed by the Associates Governments of Northwest Colorado. And the Board of County Commissioners of Moffat County, Routt County and Rio Blanco County.
Commissioner Houpt – If you make a motion with the changes that she has proposed; we can give that to the legal department.

Motion:

Commissioner Samson – I move that we pass this with our support and then instruct our legal counsel, Ms. Dahlgren, to take the electronic version, which he has and will forward to her, make the necessary changes and then follow directions it has on there where to send so on so forth.
Carolyn – This goes under Mr. Martin's signature.
Commissioner Samson – Yes.
Chairman Martin – On our letterhead; make sure that it is unique because it is not a carbon copy of everyone else in associated governments. Then we will make those changes and send them electronically.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

AUGUST 2, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting began at 8:00 a.m. in Glenwood Springs on August 2, 2010 with Chairman John Martin and Commissioners Mike Samson and Commissioner 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.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Lisa Warder - Assessor's office – Lisa explained the 2009 classification of property for Mr. Robertson, a case before the BAA. Formerly it was classified as residential, then agricultural; however, upon inspection of the property it is actually commercial.

Motion

Therefore, Don said we are asking the Board to authorize County Attorney to sign the stipulation of reflecting an alteration in actual value from approximately $1.2 million current set at to approximately $640,000.00 keeping in mind the property has been reclassified as well.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

GARFIELD COUNTY FAIR

Commissioner Samson asked for the TV and the people watching that, as we know the Garfield County Fair and Rodeo, Parade and everything that is going to be going on and I just wanted to hit highlights of what is happening this week for entertainment or advertisement. On Wednesday, August 4 starting at 7:00

P.M. there is the kids rodeo and barbeque cook off; on Thursday, August 5 there is hitch bumping which Ms. Houpt and myself will be participating in; then the Pro Bull Riders will be Thursdays night at 7:00 P.M.; on Friday there is a 5:00 P.M. talent show following by 6:00 P.M. wine tasting; and then the Colorado Pro Rodeo Association Rodeo at 7:00 P.M.; on Saturday at 10:00 A.M. will be the County Parade, the 4-H Livestock sale at 1:00 P.M. and Oyster Fry at 5:00 P.M., Ball Drop at 6:30 P.M. and a Demolition Derby at 7:00 P.M. The Commissioner's Cookie Jar is on Friday, at noon.

Westfest – Commissioner Houpt said the week after is Westfest.

Next Monday, Commissioner Samson will go over the schedule of events.

COUNTY MANAGER UPDATE: ED GREEN

H. DEFIANCE THRIFT STORE/LIFT-UP USE OF COUNTY LANDFILL

Mike Powell submitted a letter for consideration requesting the county allow Defiance Thrift Store to utilize the county landfill the same as the arrangement made with Lift-Up. Mike explained the purpose of his request to establish a clothing-recycling program eliminating several thousand of pounds being taken to the County Landfill. Lift-Up pays $1.00 per load and he was asking the same for Defiance.

Motion

Commissioner Houpt made a motion that we formally create a non-profit structure for those organizations that are utilizing the landfill that is tailored around the structure we have been using for the others.

Ed – The concern I have is volume. Theirs is a trailer and it is predictable. Habitat for Humanity could be a dump truck.

Ed – Do you want a $1.00 regardless of the size?

Chairman Martin – I think that we need to look at the load and then structure the dumpers or the trailer as one price, larger is larger in price. Currently it is by pound.

Ed thinks we did it like ½ price.

Chairman Martin – Prefers to make sure we know the structure is for Habitat and the present structure for Lift-Up, compare the two, and then work together on that formula so that we can give relief to both.

Commissioner Houpt – I do not want us to set up a structure that will create an incentive for people using Defiance/Lift-Up and Habitat as their landfill to by-pass our fees. We need to be careful about that as well.

Chairman Martin – There is also the issue of the other stores that have similar problems but are for profit. Mike as asked to work with Ed and one of the Commissioners, look at the formulas, and see what would work.

Ed – There is nothing needs to be done, just agree a $1.00 per load on the trailer and the issue is Habitat for Humanity and whether we change our approach for them.

Commissioner Houpt – Adding Defiance to the mix forces a discussion so that we have an equitable equation when looking at charging people.

Ed - Mike is only increasing the amount of trailer loads.

Commissioner Houpt – Make sure we have a system in place that is working for Habitat. She would like to have all three services reviewed; Mike is hoping it is a decrease. We could call Defiance an extension of Lift-Up and take all their stuff in the Lift-Up trailer.

Chairman Martin would like to explore this issue, extend that courtesy to Defiance, and move forward.

Commissioner Houpt – My motion included Habitat and what we need to do is make sure that we have a system in place that is working for Habitat. All three services need to be reviewed and rely on staff to come up an equitable equation. What is in place may be acceptable.

Chairman Martin – In the meantime I think we can allow a few loads to go out the same as Lift-Up.

Commissioner Houpt added this to her motion.

Commissioner Houpt restated her motion, that we have the staff look at the structure for charging non-profits using the landfill to make sure that we have structures in place that support their efforts and that we roll the Defiance Thrift Store into the same program that Lift-Up currently holds and we take a look at the equation that is in place for Habitat and in the meantime we allow Defiance to bring loads to the landfill until we make a final determination. Commissioner Samson – Second.

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

K. **CONSIDERATION AND APPROVAL OF SINGLE ENTRY POINT CASE MANAGEMENT AND UTILIZATION REVIEW FOR MEDICAID HOME AND COMMUNITY BASED SERVICES WAIVER AND LONG TERM HOME HEALTH CLIENTS AND APPLICANTS – DIANE WATKINS AND LINDA BYERS**

Diane Watkins and Linda Byers submitted the contract with the attached addenda, exhibits, documents incorporated by reference under the terms and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado state law, fiscal rules and state controller polices in the not to exceed amount of $515,439.00. Diana explained this if for the 9-county SEP contract.

Commissioner Houpt – So moved. Commissioner Samson – Second.

Commissioner Houpt – It was a good update to go through this proposal, it is extensive. How is this process working for this region?

Linda explained that it is working well and we have people stationed close to the areas where they are serving. There have been no problems at all. It is important that the case managers are living in the areas they are serving and are familiar with the areas and their client population. They have added in pay for performance criteria or expectations, they are not calling it that name but they have added in extra criteria and it's mostly around tracking trends, critical incident trends and also trends for complaints so they are basically asking us for more information.

Commissioner Houpt – It is a very important program.

Chairman Martin – Did not see many major changes.

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

L. **2011 LOVA BUDGET REQUEST – LARRY DRAGON**

Larry provided an update on the trails in the County and submitted the update and 2011-budget request for the Lower Valley Trail saying how much he appreciated the county's portion of the Conservation Trust fund. The South Canyon Trail's request is for approximately $190,000 for Phase 3 of the project.

Phase 1 was completed in 2008; construction on Phase 2 will begin this summer and the most ambitious, lengthy, and expensive segment to date is the complete the connection from Glenwood Springs to South Canyon Road. The total project cost is estimated at $4,000,000 and an anticipated GoCo Legacy Grant is expected. With the $4,000,000, it requires $1,200,000 in matching funds. Thus far, we have been awarded

an Enhancement Grant through CDOT and they are anticipating this will be a grant for 2011 and additionally for $411,500 in 2012 and 2014, which will be used for Phase 3. Additionally, Larry is requested $53,710 in operational funds, including the rent at the Henry Building of $3,710.
Theresa Wagenman questioned the additional $5,000 and Larry justified it as an increase in salary and loss of contributions of approximately $10,000 for LoVa operations from New Castle, Silt and Parachute due to budget shortfalls as well as lost of contributions from the Aspen Environmental Foundation as they have decided that our work is not in their geographic area. The City of Glenwood provides significant funding in the amount of $15,000 per year.
Commissioner Houpt – We did not give an increase to our staff so she is trying to justify that increase for his salary. She inquired as to other sources of fundraising.
Larry stated - The Rifle Community Foundation used to give us funds and this year they gave us less.
Chairman Martin – I believe we should put a small amount aside every year but it depends upon how much we receive.
Larry said they have always supported these funds for other trails including the West Elk Trail just like we have supported the Crystal and Rio Grande Trails.
Ed – We had about $114,000 in reserve but we spent it.
Chairman Martin – Yes, it was for unanticipated expenditures.
Ed - Projected the Conservation Trust would be $190,000 in 2010.
Commissioner Houpt agreed to keep a small portion aside for unanticipated expenditures.
Motion
Commissioner Houpt made a motion that we approve an allocation of $175,000 to LoVa from the Conversation Trust Fund project thinking this money has been used well for leveraging additional funding for the project. Commissioner Samson - Second.
Chairman Martin noted that if there is no other need for the reserve funds, Larry should come back and he would still be eligible for a request out of that contingency throughout the year. That is open to everyone.
Don – Question about the motion, is that an allocation out of this year's budget or next year.
Commissioner Houpt – It is for the 2011 budget.
Don – So, is that subject then to final budget approval?
Commissioner Houpt – Yes.
In favor: Houpt – aye Martin – aye Samson – aye
Operational funds motion:
Chairman Martin – Operational funds for $53,710.
Larry stated his increase is 2% to 3% for the last 5-years. However, the biggest reason is we have loss significant operational funding and it is difficult to get from foundations and other granting institutions that we come to the County and City primarily for those expenses. People want to give money for brick and mortar and see the results. We have lost over $6,000 last year and another $7,000 the year before from the Aspen Foundation. It is up to the Board of Directors as to whether he receives a raise.
Commissioner Houpt – I cannot justify the increase for staff's salary since we did not give county employees an increase. Operational funds are hard to come by and people want to give money for brick and mortar.
Commissioner Samson – Agreed with Commisioner Houpt that we must be fair and equitable as there were not raises given across the Board and we have to stay there.
Commissioner Houpt – They have lost more than they are asking to keep it status quo.
Chairman Martin – This is subject to next year's budget appropriations.
Commissioner Houpt - The Human Services funding this year for 2011 did not meet anyone's full request and respect the great work he is doing.
Chairman Martin – At this point it is just a budgetary request to be considered.
Motion
Commissioner Houpt made a motion that we include the $53,710 in the budget and review the additional request through the budget process and in the meantime ask that Mr. Dragon move forward and continue to look for additional funding for operations. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Larry announced the groundbreaking would be held shortly at the South Canyon Bridge. He will email the Board when this is to occur.

M. **PORTABLE RECORDING EQUIPMENT PROPOSALS – ABRAM DRESS**
Abe submitted the estimate for the portable recording system and the description of the equipment necessary that came to a total of $3,527.00. It is a portable PA system that requires 8 mics for a crowd. The company is Audio Video Experts out of Grand Junction, Colorado.
On July 12, a request was made for a portable system that the clerk needs to record. 3 valid quotes and Audio Video Experts. This will allow us to have a box with recording equipment and record. Audio and not video. If there is video it would cost a great deal more money.
Abe explained the portable unit and how it would work at various locations. It is just audio and not visual. There is a solution to tie into video but you would pay a great deal more money. Additional price for video would be $4,000 to $5,000 and Paul Vandre at the public television would need some type of camera and not something he would want us to produce. This would belong to Paul and it would not be County supported.
Motion
Commissioner Samson made a motion that we award to Audio Video Experts for a price not to exceed $3,527.00 for the equipment for a portable PA system. Commissioner Houpt - Second.
In favor: Houpt – aye Martin – aye Samson – aye
The public hearing will be scheduled in Battlement Mesa in September at the earliest time. The Planning Department definitely needs to be engaged.
Discussion continued regarding the schedule of meetings, which will be held in early January.
N. **CITY OF RIFLE EASEMENTS FOR HUMAN SERVICE AND SHERIFF ANNEX – RANDY WITHEE**
Randy submitted the 3 "grant of easements" for the City of Rifle for the Human Services and Sheriff's annex set forth in the line extension agreements between the City of Rifle and Garfield County. These

easements are for the waterline and utility easements. Randy requested authorization for the Chairman to sign the documents as presented.
Carolyn pointed out there are in three different places but it allows them to use these easements. It gives the City of Rifle an interest in the County's property. This form of easement is a new form wider than usual but this is what the City public works department wants. Should the Board need to relocate this for whatever reason, unless you negotiate something different with the City in the future, you would have to pay to do the relocation. This gives the City a true real estate interest in your property.
Chairman Martin – If we do not do it, we would not have utilities to run the building.
Carolyn answered Commissioner Samson's concern saying this is a new form of easement and the City of Rifle did not require such a wide a grant of easement. It has been new in the last few years.
Don added that the City's position on provision of utilities is they would still provide utilities but only to the property line and then the County would be responsible after that if the City did not have this easement.
Motion
Commissioner Samson made a motion that we approve the water line and grant the easements for the City of Rifle for the Human Services, Sheriff Office annex as set forth by the line extension agreements between the City and Garfield County for the water easement at the Human Service Annex, the utility easement at the Human Service Annex corner of 14th Street and Railroad Avenue and the water line easement at the Sheriff's Annex and authorize the Chairman to sign the grant of easements as presented.
Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson – aye

O. **COLORADO WEST REQUEST FOR SUPPORT OF HOSPITAL OPERATIONS**

Ed had a meeting with other county managers at which time and they provided the sheet included in the board's packet of information. It describes the uninsured patient days in 2009 that they experience for those patients in Garfield County. The request was made for a fair share amount contribution of $47,600 to cover the cost of uninsured patient days in Garfield County. This was discussed in executive session but there was never any public action taken.
Motion
Commissioner Houpt made a motion that we approve an allocation to Colorado West Psychiatric Hospital for our fair share amount as indicated on the table that we received in an amount not to exceed $47,600 for fiscal year 2010 and these funds would come out of the Commissioner discretionary funds. Commissioner Samson- Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson asked Theresa Wagenman if this would be part of our budget for 2011.
Theresa – This will be included in the Human Services department budget.

P. **OLSSON ENGINEERING CONTRACT**

- **PROFESSIONAL SERVICE CONTRACT AMENDMENT #4 (2010 EXTENSION)**

Brian – We are cleaning up some of the contacts and completing the runway project.
Brian listed all the releases to contracts and amendments that are recorded in the records of the Clerk and Recorder of Garfield County. The engineer finds it necessary and desirable to enter into this Amendment No. 4 to the Original Contact for the purpose of extending the term of the Original Contract and noted that this was approved by the Sponsor at the regularly scheduled public meeting held on December 21, 2009. There is no dollar amount attached it is just the extension of the professional services contract, which allows us to do the release to contracts on an individual basis.
Motion
Commissioner Houpt made a motion that we approve Amendment No. 4 the 2010 extension of professional services contract with Olsson Associates for the fiscal year 2010. Commissioner Samson Second.
Carolyn informed the Board they were actually authorized to sign all of these documents back on December 21, 2009 however, it has been so long that we wanted to renew these and it took time to figure out the dollar amounts and this is the purpose for bringing them back to you.
In favor: Houpt – aye Martin – aye Samson – aye

- **RELEASE TO CONTRACT #12, AMENDMENT #2**

Brian – This is Amendment No. 2 for Contract #12 addressing the issues we had with our permanent VOR that was not funded to the tune of $2.2 million dollars so we had to get a temporary VOR and we didn't have instrument approaches for a temporary VOR location so this is the amendment to include the engineering for the temporary VOR location and then also for the land acquisition going all the way to court hearing on the valuation hearing and it took additional time and preparation from Olsson and Associates to handle. This is the document to get that in the lease to contract No. 12 for an amount of $63,545.
Carolyn once more informed the Board they approved the change order on December 21, 2009 but we did not have the documents. This includes both money that was spent and work that was done in 2009 and 2010. There will be more money next week to deal with Continental Rifle condemnation.
Motion
Commissioner Houpt made a motion to approve Amendment No. 2 the 2009 change order in 2010 renewal to release to Contract #12 for Olsson and Associates and the Board of County Commissioners in an amount not to exceed $63,545 and authorize the Chair to sign. Commissioner Samson - Second
In favor: Houpt – aye Martin – aye Samson – aye

- **RELEASE TO CONTRACT #13, AMENDMENT #1**

Brian – This was for engineering and service for the actual work Amendment No. 1 to release to Contract No. 13 again for Olsson for the construction work and close out phases of the project that they are doing right now. We also ran into the extra work of the rock blasting bedrock, etc. This is a carryover from last year, which is in this year's budget in the amount of $701,078.59.
Carolyn explained that the Sponsor and Engineer agree to a renewal of RTC No. 13 ("Amendment No. 1. (2010 Renewal)") through calendar year 2010 for the scope of work and services.
Motion
Commissioner Houpt made a motion a motion to approve Amendment No. 1 the 2010 renewal to release to Contract #13 to Olsson and Associates and the Board of County Commissioners in the amount not to exceed $701,078.59 and authorize the Chair to sign. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – The dust is down.
Brian stated they finished two days earlier with the major dirt work and top soil is on. They are paving the runway and have the black top down. We are about a week ahead of schedule. We have our funding for the

permanent VOR, the funding request for the $1.8 that we were short on the bedrock has been approved, and we are waiting final signature from the Airport District office. We should be able to change order back in all the stuff we took out so I will be back next week. The concrete wall is completed and the Airport Logo should be here next week.
Commissioner Houpt – There was a request when we met with the Rifle City Council to do a mural and there was a great suggestion having horses running across the wall with a jet flying over it.
Brian – We have discussed this and at this point with painting a wall and the Logo, we decided we would address this next year and that is something once people actually visualize what was up there. We may want to change that.
Commissioner Houpt – It may be bidding contest, as it would be nice to have something on the wall.
Brian – Our economic development firms said that would be very good advertising for the County but we want to make certain it is the right thing so we have about 6-months to a year to look at it and then we will present it to the Board for your direction on what to do. Right now, it will be a wall with a Garfield County Airport Logo and we will have it lighted from the base upward but it will have the blinders so it will not interfere with the airport functions. The permit has been secured with Building and Planning.

Carolyn – These documents did go to Olsson and Associates last week on the assumption that you would be likely to approve it, we expect the signature back today, and then we will give it to the Clerk.

CCI - COUNTIES HELPING COUNTIES – CUSTER COUNTY
A request was made by Custer County to CCI "Counties Helping Counties" program for assistance to comply with ADA standards for the Hasen House, an historic building being used in conjunction with the Custer Courthouse in the amount of $14,650 for several projects.
Chairman Martin brought this request forward stating after many attempts through the state, DOLA, historic preservation and Congressman Salazar there has been no funds available to assist. Therefore, since the county has assisted other counties survive hard times, he would like to move forward and grant the funds.
Discussion:
Commissioner Houpt – We have donated retired vehicles in the past and suggested granting the $2950 for installing the chairs, which has been a need for a couple of years and writing a letter of support for any funds to encourage other funders for the concrete ramps since they have a wooden ramp to meet the need at this time.
Commissioner Samson – Made two points: Presently there is the concept that the County is spending too much money now and secondly it is tough hot to give to people for a worthy cause. He did not have a problem giving the entire $14,650.00 for the Custer County Courthouse in Westcliffe (Hansen Haus).
Commissioner Houpt – I would suggest that we as one county not take on this whole project. The idea of "Counties Helping Counties" program is that different counties come together. That is why I'm suggesting we give them $2950 to install the two stair chairs that they have but no funds to install.
Commissioner Samson – Since Custer County has requested funds from many sources without results, out of the 62 counties only Weld and Garfield are in good financial condition to assist.

Chairman Martin - It has been 2.5 years since they have been in the process of trying to get this done, that is why I bring it forward. They are in dire straits. I think it is karma and doing something positive now will return to Garfield County in the end beyond the $14,000 that we are looking at in this request.
Ed – As to a DOLA grant, if they did not apply for it in August, I doubt they will receive a DOLA grant. There will not be another cycle.
Motion
Commissioner Samson made a motion that we grant the request from Custer County for $14,650.00 for the "Counties Helping Counties" project ADA concrete ramps at their Health and Human Services Center and the installation of two stair chairs for their use of that. Commissioner Houpt – Second
Don – Is this subject to an execution of a standard IGA agreement?
Martin – Yes, they would be willing to go ahead and entertain that. The Chair is Jim Austin and I believe he will respond directly to you.
Ed – This is from your unanticipated grant fund.
Chairman Martin – I am willing to tally on that as well by the end of this month to make sure.
Commissioner Samson – The reason I do this and I understand Tresi and appreciate what you are saying; there are two trends of thought, is we are doing well, it's the first of August and if I remember we still have $500,000 so we are doing well.
Ed – You are about at $460,000 or $470,000.
Commissioner Samson – So I feel good about that, however we need to make sure that we do not have other counties knocking on our door continually.
Chairman Martin – We may and we have to take it very cautiously, straight-forward and be very selective.
Commissioner Samson – Our foremost thing is that we have to take care of the people of our county. I don't think it would be wise of us to say we're only going to help those people. There is wisdom in what you said or goodwill and 10 years from now, Garfield County might be the one saying…. I remember as a small child in this county when the county didn't have squat and they were hurting.
Commissioner Houpt – The only concern I have is that we have made the decision not to spend certain monies because we are planning for a budget that will carry us through a recession and it's the taxpayer's money that we're working. The taxpayers of Garfield County and I have been a long time supporter of Counties Helping Counties, I think it is important. I think it is a mistake to pay for full projects for counties when we are tightening our belts and we're telling people that we cannot give increases or pay for certain projects because we are hovering down so we can make it through the recession and you are right, we are very healthy, we are healthier than any other county in this state but we are because we're been very conservative about how we have spent the large amount of revenue that we have received in the past few years.
Commissioner Samson – Point well taken.
Commissioner Houpt – I just want you to understand why I will not be able to support this full funding.
Chairman Martin – Understood.
In favor: Martin – aye Samson – aye Opposed – Houpt – aye

Chairman Martin – We will notify the Chair through a letter and a standard agreement and go from there.
Ed – With those two items you approved today, you are $423,000.

I. MOUNTAIN FAMILY HEALTH CENTER – DOLA CONTRACT APPROVAL

The CDBG (Block Grant) was submitted in the Board's packet of information.
Ed – This has been approved and now we need to execute the document.
Annette – Things are proceeding and this is another step in the process.
Carolyn Dahlgren – The Land Use and Agreement that we brought to you last time around anticipated this document but we did not have it. The draft agreement that was before the Board had alternate language depending upon whether we had this or not. Since that was not executed, we can now make a clear reference to this Exhibit D, Scope of Services and hold Mountain Family to all the requirements that are placed upon you as well as them. One thing to point out on Page 3 of 4 in Exhibit B, there is a 5-year period of time in which you cannot change the use or the planned use of the property which would be the building and the lease so that land lease that Jim Neu and I hammered out makes reference to this use restriction. Otherwise, it's the standard DOLA contract with all the weirdness that they always have – about how you are an independent contractor.
Commissioner Houpt – So you need approval of the DOLA contract.

Motion

Commissioner Houpt made a motion $450,000 and approve that contract and authorize the Chair to sign the contract. Commissioner Samson - Second.
Chairman Martin – I wish it didn't cone with all the strings attached you understand there is a list of page after page of all the strings attached to federal money. You know my stance on federal money strings attached. I think it is a worthwhile project.
Annette – We are fully aware prepared to deal with all the requirements of all of the grants that we have received.
Chairman Martin – The accounting process and also the approval from the office and budget management is extraordinary and I want you to know that and they have no sense of humor or flexibility. That is on the strings that are attached to that. In favor: Houpt – aye Samson – aye Opposed: Martin – aye For that reason.

K. UPDATE ON MARKETING FILM – DALE HANCOCK

Dale Hancock provided the Board with a one-page summary of the airings of the two segments that we were involved in the production of for economic development this year - The Economic Report and The Art of Living. The Economic Report ran 20 times in the markets of Washington, DC, Phoenix, San Francisco, nationally and in New York. Many other cities were part of those markets. Similarly, the Art of Living, showing on the handout, the dates and the last ran in the New York Albany Market on July 29 and there will 36 more airings of the Art of Living between now and the end of the year.
Dale said there have not been any solid hits as far any companies expressing yet, but we have it on our website and it is property so it will an active marketing tool for the County to use for economic development.
Chairman Martin – Very few companies are looking to expand.
Commissioner Houpt – The Art of Living will be in this area.
Ed – Yes, we will put it on.
Dale – We will also have a change in hosts in the economic report, apparently Mr. Gumball moved on to some things and Fred Thompson will be the replacement. He has a fair amount of name and face recognition outside the sports world.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Commissioner Samson gave kudos to Lou's staff and the Rifle police department for the capture of the fugitive in Rifle on Sunday morning. This cooperation makes people feel a lot safer.
Lou explained how they were tracking the story since once word of the escape was received and they were traveling north. It is important that people in this community understand the call was made to the Rifle Police Department was actually initiated by a Garfield County Deputy. The deputy saw this vehicle in Rulison sneaking around a closed business, looking suspicious, during the course of running the plate and trying to obtain the information, putting together a plan to stop this gentlemen, we found he was associated with the escape. Eventually, he entered the City of Rifle they initiated the traffic stop. The offender fired one shot at the front of the vehicle. The guy was in the Arizona prison for murder. This is an example of excellent training and preparation. I-70 is heavily traveled and our deputies are experienced.

Example of "Counties Helping Counties" – recently the Sheriff's Office participated in an event held by the Hell Angels; we do not bill each other. We also help other fire districts and work together very well locally to help others. Dog – replacing one that was retired. Mutual aid assistance – Martin

Model Traffic Code – Lou gave a 6-month report stating things were working well, a few glitches were corrected, we are running full scale and tracking revenues with good statistics.
Commissioner Samson reported the Battlement Mesa residents are pleased with Lou's enforcement.

Q. **AGNC UPDATE – AARON DIAZ**

No show.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – SEARCH & RESCUE, HUBBARD MESA AND CR 100.

Commissioner Houpt made a motion to go into an Executive Session to discuss the Search & Rescue agreement and the other three items listed under the County Attorney's time.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson made a motion to come out of Executive Session.
Commissioner Houpt Second. In favor: Houpt – aye Martin – aye Samson – aye

Action Taken:

CONSIDERATION/APPROVAL OF ALTERED SEARCH AND RESCUE AGREEMENT AND CAPP MOU

Lou submitted the update on the Search and Rescue contract regarding the comment from Mike Alsdorf related to CTSI coverage during training events. CAPP provides $10 million in liability and $100 million in coverage for a worker's compensation claim.

Don – In discussion with our insurance carrier there was one suggested change to the agreement as well as the request that we execute the specific MOU with the Colorado Causality and Property Pool so in your packet you will see a revised agreement that is altered to provide that there is no liability coverage from the CAPP pool should there be out of state operations requested by the sheriff. Don is comfortable with that because if that occurs and it is possible that it would, then we would cover the liability through a separate agreement with the requesting entity. Mr. Alsdorf had a few questions regarding the MOU and the coverage of worker's compensation and Pati resolved those issues through her response.
Commisioner Houpt – If there is an out of state agreement that needs to be made, can those be made after the fact?
Lou – For state search and rescue mutual aid, we execute some type of agreement of understanding.
Mike – To my knowledge the team itself has never been requested out of state, we have had some factions of the team requested for example dogs and handlers that have been requested to go into other states to assist.
Chairman Martin – A mutual aid agreement and a scope of services outlined to cover the request and an IGA signed.
Lou – If they are just requesting an individual that has special skills then it could be an individual doing that on their own or GSAR now being a separate entity we would have to work out something specifically.
Don – There are a number of scenarios and Lou just spoke of some and Mike was talking about a specific skill requested, it could go through the individual or GSAR for which they would need to have their own coverage. If it goes to the Sheriff's Department then it would the sheriff's responsibility and ultimately this Board's in that circumstance those types of emergency, usually the requesting entity will have a standard mutual aid agreement ready to go. If you think about the Katrina situation where people came from all over the country, FEMA has standard agreements that they use when that type of request is being made.
Lou – It depends upon where the request is made, if is through the Sherriff's Office looking for a mutual aid assistance then we would follow procedure, however it is just a call for Mike who is an awesome tracker, Mike would do that individually or through GSAR and whatever liability insurance they have.
Commissioner Houpt – How do you make a determination when it goes through the Sheriff's Office and when it doesn't?
Lou – It depends on who is asking and who they are calling. Lou explained the procedure.
Mike – We do have dog handlers and a SAR, which is Colorado Search Dogs and many times that organization will cover those people that fits that organization request. Mike belongs to Rocky Mountain Trackers a similar organization and we are covered under their umbrella when we go out of state. We would correspond with the Sheriff's office to keep them informed.

Motion

Don – What I am looking for from the Board today is authorization for the Chair to execute both the Search and Rescue Agreement and the attached Memorandum of Understanding. Then Mr. Alsdorf and the Sheriff will sign for their parties and we will have an agreement that we can use now and in the future.
Commissioner Houpt – so moved. Commissioner Samson - Second
In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION/APPROVAL OF BLM RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT TO COUNTY RE: HUBBARD MESA

Don stated we have discussed this permit in the past and it is now in final form, this is a permit for BLM that will cover County Road 244 as it runs generally in the area of Favre Reservoir to the JQS trail. The record should reflect that two years ago the County by deed acquired a short stretch of right of way from the Potter family that runs from JQS trail to the terminus of the road that is subject of this permit, so if you accept this permit there will be a continuous right of way available to the public. It is a 30-year permit and a new permit, we are not subject to any of the actions or requirements that were originally in place for the permit related to Williams who actually constructed this, I believe. Subject to the standard federal environmental and regulatory requirements, a whole litany of those, but I will say as a general proposition the County Road and Bridge Department operates pursuant to those standards in any event, so it is not as if there were a new set of requirements. There is a reporting requirement for road and bridge and the engineering department on an annual maintenance plan that I have made those departments aware of several months ago in correspondence. It does not require any additional maintenance it simply requires that our plan be submitted to BLM. The only significant legal issue other than the standard requirements of the federal agencies that you should be aware of since it is a permit, it is not a right in the real estate, it is subject to revocation for violation of the terms, it could be, and it is subject to non-renewal at the end of the term. That is a possibility I need to advise you of, so with that said,

Motion

I think we are in a position where if the Board wants to proceed under these terms you should authorize the Chair to execute the permit with BLM for County road 244 Hubbard Mesa Road as it is presented in your packet.
Commissioner Samson so moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CONSIDERATION/APPROVAL OF GRADE CROSSING IMPROVEMENT AGREEMENT AND LICENSE FOR CORRIDOR CROSSING – RE: C. R. 100 INTERSECTIONS - RFTA AND TOWN OF CARBONDALE

Don – The intersection of CR 100 and CR 99, the intersection of Main Street and Snowmass Drive at the eastern edge of Carbondale is a RFTA bike pedestrian path and needs safety improvements. They have obtained a grant for that purpose and are prepared to go forward with improvements. The Board has previously indicated that it is amenable to participate in this to the extent of allowing use of our rights of way to do the construction and undertake continued maintenance of the county roads after construction as part of the county road system. One point of contention is the potential requirement from RFTA that you execute a license agreement. The last proposal we have from RFTA had a construction agreement with Carbondale and it requires execution of a separate license agreement by Garfield County. Legal staff has not been able to locate any specific deeded right of way at this juncture nor any specific permit from the previous railroad operations, which is not surprising as it has been at this location for well over 100 years. Don continued to explain the access plan and comprehensive plan for this corridor and locate a specific exemption from any requirements for permitting in those documents. In the final draft of the access plan extensive discussion was held on the need to obtain PUC approval from public road/railroad corridor

intersections but only for private crossings as it relates to the approval from the RFTA or RTA. We have had this same discussion relative to County Road 100, the need to obtain review and some position from the PUC on that corridor. In this case, the PUC has considered this matter.

Request for Direction

Don - I need direction from the Board on this because you have represented to Carbondale and RFTA that you want to move forward with this. I need to know if you want to move forward subject to RFTA's licensing requirement or if you want to develop some other agreements such as a simply 3-party construction agreement that would not involve licensing.

Motion

Commissioner Houpt – I would like to do the 3-party agreement without the licensing agreement and so formally I will make a motion that staff move forward with Carbondale and RFTA to enter into an IGA for the construction of the trail across this area and make sure the licensing requirement is left out of that IGA and not be a part of this discussion. We certainly are committed to moving this forward.

Commissioner Samson – Second, I think that is the best way to go.

Chairman Martin – There is a good example of that, the 4 crossings that the RFTA trail went across 4 different public right of ways within Garfield County between Glenwood Springs and Carbondale already without a license agreement and I think the license agreement just opens up a Pandora's box for future issues. In favor: Houpt – aye Martin – aye Samson – aye

Don will relay this direction to Carbondale and RFTA so that they can respond.

EXECUTIVE SESSION – TWO CODE ENFORCEMENT ISSUES CONCERNING THE RUDD MATTER AND THE H LAZY F MATTER, DISCUSS A PERSONNEL MATTER, DISCUSS THE CONCEPT OF LICENSING FOR MUSIC AT THE FAIRGORND AND AS PART OF WESTFEST; DISCUSS THE PROPERTY AS IT UNDERLIES THE VALLEY VIEW HOSPITAL AND POTENTIAL NEGOTATION WITH VALLEY VIEW HOSPITAL. DEB – DISCUSS AND PROVIDE ADVICE CONCERNING NOTIFICAITON OF SERVICE PLAN APPROVAL COMING UP AS IT RELATES TO THE RIVER EDGE DEVELOPMENT KNOWN AS CATTLE CREEK. UPDATE AND RECEIVE DIRECTION ON THE COUNTY ROAD 306 PROPERTY ACQUISTION RELATED TO BOSLEY.

Commissioner Houpt made a motion to go into an Executive Session to discuss the aforementioned items Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

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

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

Action Taken:

H Lazy F

Don said the first item concerns code enforcement litigation generally described as the H Lazy F code enforcement action, the Board has been advised of a proposed settlement in that matter and the Board needs to consider that matter and public action and either approve as discussed regarding that settlement or give us other direction.

Commissioner Houpt made a motion that we approve the proposed settlement for H Lazy F as presented by our legal staff. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

County Road 306

The second item concerns CR 306, this is specifically limited to the area immediately adjacent to the Intersection with CR 300 and CR 306, and we have to be clear about this, as there are a number of issues with this road. This does not involve the area further south along the Dutton/Dixon property; this is in the northern extremity of CR 306. Don needs to request action from the Board regarding the construction schedule for this item and it was originally contemplated near budget for this year. We are working on property acquisition issues and you need to consider whether that project should move this year or should we defer until 2011.

Chairman Martin – I think because of constraints, construction and timing availability I think we should just put this on hold and discuss it next year.

Don said this is actually on their scheduled projects for this year.

Commissioner Samson – I would move that we defer discussion at next year, 2011 the further improvements, etc CR 306, northern extremities. Commissioner Houpt – 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
e. Request Board authorization for the Chair to sign an Amended Final Plat for Lot 5, Los Adobes Subdivision. This application was approved by the Director of Building and Planning through an Administrative Review. Applicant is Lisa Harriman – Kathy Eastley
f. Request Board authorization for the Chair to sign a resolution extending the Preliminary Plan for TCI Lane Ranch PUD for one year, with a new expiration date of September 8, 2011 – Kathy Eastley
g. Authorization for the Chair to sign an application for a Title II Project RAC grant application – Tamra Allen
h. Authorize the Chair to sign the Resolution for Encana Oil and Gas (USA), Inc. (LIPA 6385), for a Limited Impact Review for a Storage: Supplies, Machinery, Equipment or Products – Molly Orkild-Larson

Commissioner Samson made a motion to approve the Consent Agenda items a – h.

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

COMMENTS FROM CITIZENS NOT ON THE AGENDA

HB 1038 Energy Efficiency - GNECI

Betty Scranton expressed grave concerns about HB10-3828 as it applies to Garfield County regarding the issue regarding GNECI, the energy efficiency bill. She explained her concerns and requested the County Commissioners be spoke persons for her and others. She elaborated on discussions with Mr. Scranton, the sponsor of the bill. She brought several other concerned citizens to the meeting.

Chairman Martin responded to Betty's concerns explaining the different opinions both for and against the particular "opt in clause" and how this would affect mortgage loans. Locally within Garfield County, we were deferred to look at the state program, which you are talking about under that bill and I do not believe the state has not answered all the questions they need to for financial intuitions yet; therefore, everything is on hold now.
Commissioner Samson – Not only that but from what I understand your big federal institutions such as Freddie Mack, Fannie Mae etc have major lawsuits pending on this.
Commissioner Houpt – They do for the county-by-county programs were structured they do. It is not the state.
Commissioner Samson – The state is involved in some lawsuits.
Chairman Martin – It's an intervention and an attempt to work out the different working agreements before they go forward; it is not an actual lawsuit presently. There are powerful lobbyists on both sides arguing that issue. The state is attempting to produce green power. It is a very emotional and polarizing bit of legislation and you need to keep in touch with and watch every day.
Betty Scranton – Our governor said he was going to bring us kicking and screaming into the 21st century with regard to green energy and I don't know about you guys, but I don't want anybody dragging me anywhere nor do I want to drag anyone anywhere. The audience concurred.
Sharon Yost – A Garfield County resident and expressed her concerns about this energy bill and would ask the BOCC to not to pass this if it comes to voting on it. She is against a separate district that is not answerable to anybody and that the voters did not know about it or have a say in it.
Chairman Martin – If a bonding issue came forward over state or local bonding issues it would be a question on the ballot to go into a debt under Tabor. That is one of the conditions of that legislation is telling the citizens. Now if the citizens themselves if they join would be part of the district as an individual, not the entire county not the entire city or neighborhood. Each individual would be a special improvement district amongst themselves, just to themselves, they would use part of their mortgage payments to pay for the improvements, and that is the way that was set up.
Commissioner Houpt – Each individual would have the option to join of whether to join or not and so those people who did not join would not be tied to the bonding that would be in place.
Chairman Martin – That is part of the debate as well because they cannot do a bonding issue unless the county actually is part of the district so therefore everybody is tied to it and that's part of the debate that goes back and forth.

CONSIDER A REQUEST TO EXTEND THE CONDITIONAL APPROVAL OF A SPECIAL USE PERMIT FOR "EXTRACTION, PROCESSING, STORAGE, AND, MATERIAL HANDLING OF A NATURAL RESOURCE" FOR GRAVEL EXTRACTION. THE SITE IS OWNED BY SPECIALTY RESTAURANT CORPORATION AND LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF COUNTY ROAD 300 AND STATE HIGHWAY 6 – KATHY EASTLEY

Tim Thulson on behalf of Specialty Restaurants and Stockton Restaurant Corporation, Deb Quinn and Kathy Eastley were present.

Kathy submitted the following exhibits for the record: Exhibit A – Garfield County Unified Land Use Code of 2008; Exhibit B - Garfield County Zoning Regulations of 1978, as amended; Exhibit C – Email request dated July 7, 2000 from Tim Thulson requesting the extension; Exhibit D – Staff Memorandum and Exhibit E – Resolution 2009-52.

The Board of County Commissioners (the Board) conditionally approved a request for "Extraction, Processing, Storage and Material Handling of a Natural Resource" to allow gravel extraction operation to occur on a 130.5-acre portion of a 1,200-acre property. The approval was granted at a public hearing held on Monday July 13, 2009. The conditions of approval adopted by the Board include: 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.
The conditions of approval have not yet been satisfied therefore issuance of the Special Use Permit has not occurred.
A request for extension was received on July 7, 2010 from the lessee's representative, see Exhibit C. Pursuant to §4-103 G.8.b. of the Unified Land Use Resolution of 2008, as amended:
Expiration of Approval. Unless otherwise provided by these Regulations or stated in action approving a land use change application, the decision to approve or conditionally approve the land use change shall be valid for a period of one year, to complete all conditions of approval.
Major Impact Review. The Board's decision to approve or conditionally approve a land use change application by Major Impact Review shall be effective for a period of one year. Prior to expiration of the original Major Impact Review approval, the applicant may request an extension of one year to complete conditions of approval.
The Board has the authority to grant an extension for one year
STAFF RECOMMENDATION
Staff recommends that the Board grant a 1-year extension to conditional approval granted by Resolution No. 2009-52 for the RTZ Gravel Pit. The conditional approval shall expire if the Special Use Permit is not issues by July13, 2011.
Tim Thulson said this is still an on-going issue.
Motion
Commissioner Houpt made a motion that we approve a one-year extension approval and expire July 13, 2011 as recommended by staff. Commissioner Samson - Second
In favor: Houpt – aye Martin – aye Samson – aye

APPLICATION FOR NEW LIQUOR LICENSE. THE APPLICANT IS COLORADO NATURE RANCH, LP DBA KESSLER CANYON RANCH LOCATED AT 0655 COUNTY ROAD 209 DEBEQUE. REQUEST IS FOR ISSUANCE OF A HOTEL AND RESTAURANT LICENSE WITH OPTIONAL PREMISES – JEAN ALBERICO

Representative and General Manager for Kessler Canyon Ranch, Colorado Nature Ranch, Gregg Harte, Jean Alberico and Deb Quinn were present.

This is an application for a retail liquor license with optional premises located at 0655 County Road 209 in DeBeque. The fee of $1,625.00 to the state has been received and the county payment. Jean explained the postion and no petitions were filed against the license being issued. She completed a background check on the applicants and found all comply with the rules regarding having a liquor license.

Board Action Requested:

The Board needs to set the neighborhood boundaries and the date for the public hearing. This site is located north of DeBeque and Jean explained the location was on CR 209.

Commissioner Houpt agreed to do a site inspection with Jean or Kathi as Jean explained there was the potential for another liquor license in a similar area called High Lonesome Ranch. The date of August 18 was determined.

Boundary Discussion:

Kessler Canyon owns 24,000 acres mostly in the canyons.

Chairman Martin was thinking the neighborhood should be from the Cowboy Chapel to each end. Chevron owns one residence up one-way and a dozen to 18 families the other way.

Gregg said that 3 or 4 of their staff members stay in those Chevron houses on adjacent property.

Chairman Martin suggested the neighborhood run from CR 204 County Line, Cowboy Chapel to the west, which would be end of CR 209 and all the way to the end of CR 204. This would take in everyone.

Don – Do you want to include all of CR 211 and CR 207.

Chairman Martin – Start at the intersection on CR 204 and CR 203. That is the Cowboy Chapel at the Y and then go west.

The public hearing was scheduled for September 7, 2010 on Tuesday.

Chairman Martin stated Gregg would need to go to all these people with petitions for and against and get as many signatures as possible.

Motion

Commissioner Samson made a motion to identify as the neighborhood for the liquor license application on Colorado Nature Ranch doing business as Kessler Canyon Ranch be from the Intersection of CR 204, CR 203 and CR 211 and include CR 204, CR 203 and CR 211 to include up through and ending to CR 211, CR 209, CR 204, CR 207 and CR 232 and that would be defined as the neighborhood and set the public hearing for September 7, 2010. Commissioner Houpt – Second. Chairman Martin – This is a neighbor of approximately 50 miles. In favor: Houpt – aye Martin – aye Samson – aye

CONSIDER A REQUEST FOR "MATERIAL HANDLING" TO PERMIT A CENTRAL DISTRIBUTION POINT (CDP) #2 TO METER AND DISTRIBUTE NATURAL GAS FROM WELL PADS TO A PIPELINE. THE SITE IS LOCATED IN 9 MILE NORTHWEST OF THE TOWN OF PARACHUTE OFF CR 215 AT GARDEN GULCH. APPLICANTS ARE CHEVRON (USA), INC. AS PROPERTY OWNER AND BERRY PETROLEUM COMPANY AS LESSEE – KATHY EASTLEY

Kathy Eastley and Bryan Brown from Berry Petroleum were present.

Deb reviewed the notification requirements with Greg Shaner for the proposed request and determined they were timely and accurate. She informed the Board they were entitled to proceed with the public hearing.

Chairman Martin swore in the speakers.

Kathy submitted the following exhibits into the record: Exhibit A – 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 report; Exhibit G – Staff presentation; Exhibit H – Email dated July 1, 2010 from Judy Jordan, Oil and Gas Liaison; Exhibit I - Email dated July 12, 2010 from Jim Rada, Garfield County Environmental Health; Exhibit J –Letter dated July 14, 2010 from Chris Hale, PE – Mountain Cross Engineering – on behalf of Garfield County; and Exhibit K – Memo dated July 27, 2010 from Steve Anthony, Vegetation Manager.

Chairman Martin entered Exhibits A – K into the record.

Molly explained the general project description saying that a request for Material Handling has been submitted to allow approximately 15,000 square feet of disturbance on a 5,507-acre site. The facility would be used as the central delivery point where natural gas from individual pads would be transported into a main sales line. The facility itself would consist of piping, control valves, meters, and in-line separator, and a 100bbl blow-down tank to store small amount of petroleum by-products resulting from pipeline maintenance or 'pigging' operations.

This is a critical component to Berry's operations as it enables produced natural gas to be brought to market. The site is located 9 miles northwest of the Town of Parachute. The Garden Gulch area has significant oil & gas activity as seen in the map, above right, which contains well pads and pipelines in the vicinity of the site. The zoning of the area is predominantly Resource, with public lands as indicated on the map, left.

STAFF DISCUSSION

The facility will consist of a graded pad to contain metering, control valves, a separator, and a storage tank on approximately 1/3 of an acre. The minimal disturbance at the un-manned facility will exist for a limited period of time with adequate reclamation planned at the end of the use.

The sole concern identified by the referral agencies was related to the remediation of soil in the event of a spill. Staff is recommending a condition of approval that would alleviate this concern.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **approve** the request for a Land Use Change Permit for Material Handling to allow for the Central Delivery Point #2 Project on property owned by Chevron (USA) Inc. and operated by Berry Petroleum Company, with the following conditions:

42. 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.
43. Prior to issuance of the Land Use Change Permit the Applicant shall obtain all required federal, state and local permits including, but not limited to, any required COGCC permit and any air emission permits that may be required from CDPHE.
44. Operation of the facility must be in accordance with all Federal, State and Local regulations and permits governing the operation of this facility.
45. Industrial activities shall be required to comply with the following standards:

(1) The volume of the sound generated shall be so operated that the volume of sound inherently and recurrently generated does not exceed the COGCC requirements;

(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;

(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) 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.

46. The Applicant shall comply with COGCC rules regarding the concentration of Total Petroleum Hydrocarbons (TPH) as they relate to the remediation of soil in the event of a spill.

Discussion:

Commissioner Houpt asked a question on revegetation and in response, Kathy stated that Steve Anthony said it does not meet the required area; it is not large enough for additional security.

Motions

Commissioner Samson made a motion to close the public hearing. Commisioner Houpt – Second.

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

Commissioner Samson made a motion that we approve the request for the material handling permit for a central distribution point (CDP #2) to distribute natural gas from well pads to a pipeline for Chevron USA Inc and Berry Petroleum Company as lessee. Commisioner Houpt - Second

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

(CONTINUED FROM 6-21-2010 - CONSIDER A REQUEST FOR A REVISION TO CONDITION 8 OF RESOLUTION 2008-49 FOR A SPECIAL USE PERMIT AMENDMENT TO ALLOW A TEMPORARY WATER AND WASTE WATER SYSTEMS FOR 5 YEARS FOR ENCANA'S EMPLOYEE OFFICE LOCATED APPROXIMATELY 3 MILES NORTH OF THE TOWN OF PARACHUTE OFF OF COUNTY ROAD 215 ADJACENT TO AMERICAN SODA'S PARKING LOT (FILE NO. SUAA 6206). THE APPLICANT IS AMERICAN SODA, LLP. – MOLLY ORKILD-LARSON

Rinada Bush with EnCana and David Gresso, Molly Orkild-Larson and Deb Quinn 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 Molly Orkild-Larson submitted the following exhibits: Exhibit A – Proof of Publication, Posting and Mailings; Exhibit B - Garfield County Unified Land Use Regulations of 2008, as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Application; Exhibit E – Staff memorandum; Exhibit F - Staff Powerpoint; Exhibit G – Resolution No. 2008-49 Approving the EnCana Oil and Gas (USA) Inc. Temporary Offices; Exhibit H – Letter from Garfield County Road and Bridge dated April 19, 2010; Exhibit I – Letter from Grand Valley Fire Protection District dated May 5, 2010; Exhibit J – E-mail from Jim Rada, Garfield County Environmental Health, dated April 26, 2010; Exhibit K – E-mail, from Dan Roussin, Colorado Department of Transportation, dated April 23, 2010; Exhibit L – Letter from Artesian Water Services, dated May 4, 2010; Exhibit M – Letter from Mountain West Oil and Field, dated May 3, 2010; Exhibit N – Letter from Solvay Chemicals, dated May 20, 2010 and Exhibit O – Garfield County ISDS (vault) Permit, dated June 23, 2009.

Chairman Martin entered Exhibits A – O into the record.

Planner Molly Orkild-Larson explained that EnCana Oil and Gas (USA), Inc. is requesting a modification to condition no. eight (8) of the Resolution 2008-49 (see Exhibit G), to allow an approved temporary employee office to continue the use of temporary potable water and wastewater systems for an additional five (5) years. The applicant's office building has been functioning without complaints, American Soda is content with EnCana to continue to use the existing water, and wastewater systems that are presently in place (see Exhibit N). The applicant proposes to continue the "vault and haul" service as it exists as approved under Resolution 2008-49. The question to be resolved in this permit is what is "temporary" what is "permanent". The applicant proposes an additional five-year period in order to continue oil and gas work while seeking further office accommodations. Molly went over Temporary vs. permanent according to the county's land uses.

Temporary versus permanent was discussed prior to this hearing and she explained the Board's finding was that temporary use had to become permanent within a one year or be removed. Oxy and Chevron were used as examples and it did address oil and gas. The applicant had indicated they have pursued permanent water and wastewater and have been unsuccessful but they made an attempt. Therefore, to allow a facility to operate for a 5-year period is not considered temporary as per our definition but staff would be in favor to allow the applicant to remain one more year to continue their operations and secure other office accommodations and at the end of this year, the applicant would need to vacate the premises. The staff's recommendation is to have the Board approve the request for a land use change permit through the SUP amended process.

Staff is recommending amending condition eight (8) to read as follows: The temporary employee office shall use the vault and haul system for potable water and wastewater for one (1) more year commencing at the date of the resolution.

Applicant:

David – They occupy the bottom floor of the lower leg of the F shaped building and the base of the leg. Out of the 30,000 sq ft, EnCana occupies 20,000 of that building and then the roughly 2200 sq ft temporary office, which is out on the very north end of our parking lot.

Commissioner Houpt – Have you talked to American Soda about hooking into their system to make a more permanent water and wastewater system.

David – That was not an option with American Soda as per not drilling a well or burying a vault on their property. It is not part of our lease; we have an amended lease for that area that was tied to temporary use and a surface vault.

David – There is some good news. Recently in the middle of July, we were approved to restart and refresh that program of looking for a new office. We would like to request a little bit more time because we are looking for between 40,000 and 50,000 sq ft, very specialized office and I have been searching throughout Garfield County and there is nothing that will fit our needs that is already existing, so we all know in reality we've just completed our needs analysis and reviewed the ones we did last time when we shut down the new office project. I expect in the next week or two to turn this over to our office services group to start looking for property and a vendor and we actually have already contacted the vendors we talked to last time. Realistically, the best I could do is 18 months from within a couple of weeks. The stretch would be 36 months. We feel the building environment is now to the shorter time frame but we cannot promise that because we have permitting supplies, weather etc.
Commissioner Samson – When you say Western Colorado for your new office, where are you looking at property?
David – We have targeted geographical area from Rifle to DeBeque, we would prefer to stay centered around County Road 215.
Commissioner Samson – I would prefer you to stay in Garfield County.
David – Out leaders would like us to stay very close to where we are right now because that is really the geographic hub of our operations. We thought we were right in the arrangement with the Sulfate but it ended up not being enough space. We have outgrew that building in 2008 and we had a lease that we had to let get out of term and go year to year and we have done a lot of work to get to where we are now and when we moth balled this project in fall of 2008, it was very easy to restart it again a couple of weeks ago. We are ready to go for a building now.
Commissioner Samson – You are asking us for the very least a year and a half and you want to have 2-year extensions.
David – We feel to not have to come back here and ask for or tell you we are going to have to move that building and we do not know what to do with these people, we would like to give you a report every whenever and let's get the 3-years and we will actively search and can report to the Board every quarter on where we are in the process and as soon as we cut a deal it's going to be in the news because we will be building a new building. I cannot do this in a year.
Commissioner Houpt – Understands you cannot do it in one year and we were stretching it when we did 2-years last time. I think 3-years for temporary facilities but I understand that once you find your land and get the permitting etc it would take a year to build. David – I'm being optimistic; we are not too concerned because last time it took us just a couple of weeks to get about 5 sites to start in our review process. It will not be very different this time, then we need to award a contract, we have a basic design from last time however, we have to go to engineering and permitting.
Commissioner Samson – Once you find your land I think you will find plenty of people around here that will build that for you.
David – Agree, but hate to promise to 18 months.
Chairman Martin – Have we had any reports of any kind of spill or failure?
Molly – No.
Chairman Martin - Do we still have an active contract in place in reference to the vendor providing services for both water and wastewater service?
Molly – Yes
Chairman Martin – So we look at that as an active system without failure or incident, also look at some of the other folks that live that way for 30-years, vault and haul, storage etc and sometimes even more.
Commissioner Houpt – And we looked at one year and those regulations are in place for good reason and I appreciate the quality of the facility that we have in place and that is why we are willing to go beyond what our rules and regulations say.
Chairman Martin – They would be willing to go forward a one year extension on review of the potential of another year and then go from there if there's an incident or violation, a spill, a failure…. That is my opinion and I think we can go ahead and review this once a year to make sure and get a report from the Environmental Officer as well and the property owners continuing to allow to continue that way, either support or not because we have not heard from American Soda of Sulfate to the lease and if they object to vault and haul, then ....
Molly – They were happy with how it is currently.
Chairman Martin – I am looking at the property owner as well and lack of contract seems to support that it can continue. Not that it's just EnCana or not anybody else, I am just saying if there was a failure or a breakdown, then we need to address it immediately.
David – I would like to offer as we hit milestones in this process we could inform the planning department where we are in the process so before a year comes up we can give quarterly updates.

Motions

Commissioner Samson made a motion to close the public hearing. Commisioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Samson made a motion that we approve the request for a land use change permit through the SUP to amend Condition 8 if Resolution 2008-49 for American Soda LLC with the following revised condition, amend that to read the temporary employee housing shall use the vault and haul system for potable water and wastewater for one more year commencing at the date of the Resolution……
Chairman Martin – It is not temporary housing it is just office.
Commissioner Houpt – And with that do you want to add an extension to that, I think they need 2-years.
Chairman Maritn – With the satisfactory review of the first year.
Commissioner Samson – I thought that was where we were headed is that we would go one year but the motion would also read quarterly updates and at the end of the year they would come before us and we would review and go forward from there.
Chairman Martin – So you could have an extension of one year again.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

COMMISSIONER ISSUES:

August 3 – Board of Equalization at 1:00 p.m. One hearing**.**
August 3 – Diane DeGette – Wilderness Bill – 10 A.M.

COMMISSIONER REPORTS

Commissioner Samson - CCI – Thursday August 3 in Montrose for the Western Regional Meeting.

Commissioner Houpt - GNECI meeting on August 4.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

AUGUST 9, 2010
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 9, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Mike Samson being 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 CITIZENS NOT ON THE AGENDA

Reduction of fees for permit requested – Kirk Leintz

Kirk Leintz came before the Board regarding a variance and a permit. The fee was $1024.40 and Kirk and his wife are requesting a reduction or fund due to economic hardship having closed their business and are no longer able to continue construction on a garage.

Chairman Martin explained the history, which was originally a code enforcement issues, court etc. Plan were reviewed 3 times, expired permit and the Leintz's started over. Now 1 ½ years later, same plans, reviewed the 3rd time, 4 surveys and $1024.40 in fees.

Commissioner Houpt – We need more information from staff. There is 1/2" encroachment for a garage setback.

Kirk – This started 2 years ago, and then Chis Chappelle issued a stop order citing no posted permit for the house and garage. Actually, this started in 1999. Originally, they used a 1998 survey that was too old, repeated the survey – it was wrong. Survey showed 8" into the setback and the overhand was 11". It has been a nightmare explaining the tragedy occurring in his family as well as illness. The court judge said, "Get a variance and you'll be fine." Efforts were stonewalled, stacks of paperwork and legal issues. The 1 ½ weeks before the trial was scheduled, Andy Schwaller reviewed, initially accepted and then rejected the paperwork Kirk submitted. Andy informed Kirk that there was the possibility of $1000 fine or $100 per day if he was found in non-compliance. The Assessor's valuation on their home increased $35,000 and now the new permit fee is $1000.40. Kirk received the variance ½" with overhang 2 ½". Today he is requesting either a reduction or waiver of the fees.

Chairman Martin agreed with Commissioner Houpt that more information was needed from staff in order to make a decision and after the Board would contact Kirk Leintz.

COUNTY MANAGER UPDATE – ED GREEN

- **A. "Permission to Enter" Langstaff Property Adjacent to Landfill; Methane Monitoring – Marvin Stephens**

Marvin – We have a methane issue at the county landfill and it adjoins the Langstaff property to the east side of the landfill. They need to drill a monitoring well to put 3 gas (LFG) probes in the borehole to determine the levels. The Langstaff's do not have an issue with Road and Bridge being on their land to accomplish the task. They have been in contact with the Langstaff and they don't have an issue with them being on the property and drilling. However, they did want something put together and Marvin would like to get it accomplished as quickly as he can.

Carolyn – This form of an agreement; permission to enter, is not an agreement that any Colorado court has ever analyzed. The form is a typical document that is used in the oil and gas industry where as you know the person who owns the minerals has essentially an easement right to get their minerals, and when this document shows permission to enter that the landowner has said I know you are going to come and get your minerals, here are the conditions under which you are going to come onto my land to get your minerals. In this case, there is not a mineral ownership. She can tell them for sure that the BOCC will and its contractors, its employees will not be trespassing. She cannot tell them 100% whether a court would deem this to be an easement or more like a permit, or a license. But for sure you have permission to be on this persons land for the limited purposes of that document, and that document says it lasts for the life of the land fill. From Marvin's perspective from her conversations with him and his conversations with his contractor, you have what you need. But it's not captioned in easement and she can't tell them that a court would call it an easement. A court would probably say it's a permit or license to use for a period of time.

Marvin – Through the discussion with the Langstaff, they want us to get in there and do what we need to do.

Motion

Commissioner Samson - I'm going to make a motion that we approve the permission to enter with the Langstaff property adjacent to the landfill for methane monitoring. And along with that, that we draft a letter to Alberta, thanking her for the opportunity to do this and not asking the county for any monetary funds to do so. I think that is awesome that she's willing to do that and I think we as a board need to send a letter to her and all three of us sign it.

Marvin – When we first put the landfill out there, you know they didn't want a landfill coming next to their property and I can't blame them. I wouldn't want a landfill next to my place either. But every issue we have ever had they've been more than willing to met with us and make things happen. They've been awfully good neighbors, so that would be pretty nice if you guys did that.

Commissioner Houpt – Second.

Carolyn – Just wanted to make sure that you all knew there are several owners in this. The land is actually all owned by trusts, so Alberta is one of the folks.

Commissioner Samson – She's the one we have been negotiating with.

Marvin – And her husband and his brother.

Commissioner Houpt – But you can provide all the names.
Marvin – Yes, I think they're in this document. I'm in kind of a hurry to get this done and accomplished John, when can I get your signature?
Commissioner Houpt – We have to vote on it.
In favor: Houpt – aye Martin – aye Samson – Aye
Marvin will get John's signature and then he will have the notary in his office and take to Langstaff.
Chairman Martin asked if Marvin had the original.
Marvin didn't believe he had the original.
Carolyn – Let's call this the original.

- **B. 2011 Holiday Calendar – Katherine Ross**

December 31, 2010 – New Year's Day 2011
February 21 – Presidents Day
May 30 – Memorial Day
July 4 – Independence Day
September 5 – Labor Day
November 11 – Veterans' Day
November 24/25 – Thanksgiving & Day after
December 26 – Christmas
December 27 – Day after Christmas
Note: Monday, January 2, 2012 – New Year's Day for 2012

Katherine - The way the holidays fall in 2011, we will be short one as she explained the chart in the Board's packet.
Commissioner Houpt made her suggestion for Martin Luther King Day for a holiday since it is recognized nationally.
Discussion:
Katherine brought up issues of the health care anticipating a 5-7% increase and eventually a 17-19%. She is gathering data and looking at market salaries with a proposal to move the pay structure by 1% and the potential of a performance increase between 2 – 2 ½%.
Motion:
Commissioner Houpt – Martin Luther King Day is a day that celebrates all sectors of our population. It's a civil rights issue to celebrate the freedoms that were brought forward in the last century. It recognizes all people, all religions and she thinks it is an important national holiday that we recognize. I've made this motion several times in the eight years that she has served as County Commissioner and I'm going to make a motion right now and this isn't the final motion on holidays; but I am going to make a motion right now that we add Martin Luther King Day to our regular holiday calendar as a county.
Chairman Martin – Is there a second? I can second for discussion.
Commissioner Houpt – Well you have heard my opinion on this and I have talked to numerous governments, counties, and municipalities, and we are a rarity.
Chairman Martin – How that really came about is because the employees were asked how many holidays they want to identify those holidays. And they actually took a vote on the 10 holidays or the 9 holidays that we have had. Maybe we should just ask them again if they would like…
Commissioner Samson – I didn't think about that but that is a possibility.
Chairman Martin – That was an advisory from the employees of the county not to include Martin Luther King at one time. So if we would like to send that back and ask them through our…
Commissioner Houpt – Well, they were asked do you want Christmas, or Memorial Day or
Chairman Martin – Identify the holidays.
Commissioner Houpt – Or did you want Martin Luther King Day; so I am not suggesting in my motion that we delete a holiday. I'm suggesting that we add Martin Luther King Day.
Commissioner Samson – So in essence what that would be, if you want that on a permanent basis, if the calendar was as such; because I know calendar years change. Because a holiday is on different days; that would be giving 11 days on a permanent basis.
Commissioner Houpt – We have 9 nine right now; why would it be 11?
Commissioner Samson – I know but next year when it's different.
Ed – Normally there is 10.
Chairman Martin – Normally there is 10.
Commissioner Samson – It depends on the make-up of the calendar; that's why I'm saying if it was different than some years that you get 11 instead of 10.
Commissioner Houpt – I am.
Commissioner Samson – And I'm not going to quibble about that; but I guess what I'm saying is, and I don't know and maybe that's the best way to approach this would be to ask the employees themselves of how they feel. Would more people like having Easter holiday in March or April because it bounces around? Then maybe having another day in January where they have had three days in November and two days in December.
Commissioner Houpt – There are many holidays that we don't recognize that are celebrated by other religions and I'm a little uncomfortable with the notion of, I mean we do have a Christmas holiday, we always observe the Christmas holiday. I think at some point this Board needs to decide whether they want to add Martin Luther King to the slate. We've got as I said and I will read it again. We've got Memorial Day, Labor Day, Presidents Day, Independence Day, Veterans Day; Martin Luther King is grouped in with those days. It's a federal holiday; the others are typical days that people add to their calendar for holidays; but this is a nationally recognized holiday as are those other days. I'm going to call for the question; we could sit here all day and debate this.
Chairman Martin – Yeah there are many different debates; you threw in Presidents Day, which should be two holidays instead of one. That's a different argument.
In favor: Houpt – aye Martin – nay Samson – nay
Motion:
Commissioner Samson – Now I'll make a motion that we instruct the staff to take a survey of all employees and ask them what they would like to see in a way of an extra holiday for 2011.
Commissioner Houpt – I'm not going to second that.
Katherine – It does cause; one of the reasons we come early is well there is actually two main reasons we come early. One for budgetary planning so they have to plan a date somewhere but also employees, we have many employees who plan this far ahead and plan to use that time.
Commissioner Samson – I understand that but I think we still need to go ahead and get their…

Commissioner Houpt – I want to say that my motion was not because I thought that we should add an extra day to the calendar. It's because there's a specific day that we haven't honored in the past that I think we have to honor. So with the budget that we have; I'm not suggesting that we are adding arbitrary to the benefit. I'm saying that we're missing an important holiday on our calendar and that's why I made that motion.
Commissioner Samson – And I understand that; but by passing that motion, some years it would change it from ten to eleven days. So what I'm asking is that we survey, and I think you can do that very quickly, get it back to us by the next meeting and I don't think that is going to mess up anybody's budget. But I could be wrong, so that's my motion.
Katherine – So do a quick survey?
Commissioner Samson – A quick survey of all employees as to what; you know and make it fair and equitable in your questioning; you know where would they like. I'm sure there is going to be very few, if any employees that are going to say we don't want another day off.
Ed – Do you want it limited to MLK, Easter and Colorado Day, or do you want to make it more.
Commissioner Samson – You know, and maybe put those three and put another one other. If there is a bunch of 50 people out there and get together and say; we really think we want Constitution Day, September 17th. I don't know whatever. Then so be it.
Katherine – So those four; MLK, Colorado Day and Election Day.
Commissioner Houpt – Well if we vote on this.
Commissioner Samson – But I think they need to have another.
Katherine – Yeah I got other.
Chairman Martin – So that's your motion to go ahead and do that survey with those items that are outlined.
Marvin – I was wondering if maybe a floating holiday.
Chairman Martin – We've done that in the past.
Commissioner Samson – That's a possibility
Chairman Martin - That would be other or you could put other/floating; but you'd have to identify which one….
Commissioner Samson – And you know that might be the best way then if somebody wants to take Martin Luther King Day off or Easter or June 22nd for whatever, his birthday. That wouldn't be a hassle for HR would it to have a floating holiday.
Ed – You had better talk to the finance.
Katherine – Finance.
Chairman Martin – I think we need to do a second before we go any farther. Second for discussion.
Commissioner Houpt – I just want to say that I think the point that I was making is being lost with this solution. I'm not suggesting that we need to add to the benefits of our staff. I think we are very generous; we have a budget that we need to be very careful. I wanted to honor a day that I believe is honored, well that I know is honored across the country that we don't honor. And I'm not going to vote for this motion because I'm not asking for a floating holiday. That wasn't her point.
Chairman Martin – Understand.
Commissioner Samson – The motion is not to ask for a holiday Tresi, a floating holiday, the motions intent is to ask for the employees input on what they would like to do for a holiday.
Commissioner Houpt – Well, you are giving them the option of a floating day which is another paid day off and that's not what this discussion is supposed to be about, but that's my comment.
Commissioner Samson – Would not be giving Martin Luther King as a holiday giving them another paid holiday off?
Commissioner Houpt – It's an honored holiday just like all these other holidays that we are recognizing as a county. It's a different discussion.
Commissioner Samson – I see nothing wrong when asking the employees input on the matter.
Commissioner Houpt – I think you're opening it up to the point where you're saying hey this Board has decided that we're going to give you another floating day. Do you want that to be a floating day or do you want us to tell you which day that's going to be
Commissioner Samson – I call for the question.
Commissioner Houpt – And I know what I would say if I were doing
Chairman Martin – All those in favor of the vote.
Commissioner Houpt – I was interrupted on that.
Chairman Martin – That's alright I'll let you finish.
Commissioner Houpt – That's the way it's going to come across in the survey.
Chairman Martin – All those in favor?
All in Favor: Houpt – nay Martin – aye – Samson – aye
Chairman Martin – It will pass and they'll go forward and ask the employees if they wish to observe another holiday.
Katherine – Okay so for 2011, I'm going to do a quick survey and then come back to you next week with that. Asking them if they want Martin Luther King, Colorado Day, Election Day or a floating day.

C. Consideration of Intergovernmental Agreement with Conservation Districts – Steven Anthony

Steve explained how they partner with the conservation districts on the cooperative noxious weed cost sharing. The budget amount is $37,000 with 3 conservation districts.

Motion:

Commissioner Samson – I would move that we approve the intergovernmental agreement with the conservation districts concerning the, well do we need to list all three?
Ed didn't think so it's bundled.
Commissioner Samson – I guess there are four; is it four IGA's?
Steve – I think you could state it the Garfield/Pitkin association of conservation district; it would encompass the three of them if you want to do it that way.
Commissioner Samson – Okay, so moved.
Commissioner Houpt – Second.
Chairman Martin – Mr. DeFord did you have any issue with this form?
Don – Well Pati, have you reviewed this?
Pati – Yes, I have and we have no legal issues.
Chairman Martin – Thank you very much any other discussion on this item?

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

- **F. Discussion of Congresswoman DeGette's Wilderness Bill – Tresi Houpt**

Discussion and emails including a summary of key points involving the response from the previous meeting on August 3, 2010 for the Assignation Ridge included in DeGette Wilderness Bill; 1) Gas facilities and pipelines per BLM are not on the section of property mentioned by Chairman Martin; 2) Mountain Bikers are concerned on the possible closure of the northern end of the trail; 3) Several encouraged the Board to support the bill proposed by DeGette; 4) Ranchers are concerned but support the closing of the northern section; 5) DOW is concerned about displacing wildlife.

Suzy Ellison – Spoke in support of Ms. DeGette proposal explaining there are numerous areas in the Carbondale area that she uses for trails. She is a biker, backpacker and hiker. Assignation Ridge is very special and once a road is in – it's in and hard to restore a wilderness area.

Bob Millet supports Ms. DeGette's Wilderness Bill and its portion in Garfield County. He was very impressed with her presentation last week and the thoroughness that she has become involved. It is only a small portion that is in Garfield County - a total of 1,600 acres. Areas like this are what brings people to Western Colorado on vacations.

John Currier – He would like to see the park north of Thompson Creek pulled out. This area is certainly not a roadless area. There are amazing jeep trails, motorcycles and mountain biker's trails. He would prefer some alternative other than the Wilderness Bill being proposed by DeGette.

Commissioner Houpt – What would that alternative be?

John Currier – I'm not 100% sure of the alternatives.

Chairman Martin – Presently, it's in an ACEC, which is an environmental concern and heightened level of enforcement. That's been the biggest issue in this area because of the banded trails; the enforcement of the wilderness is not there. You would have the same activities taking place even though it is in a designated area without added staff and enforcement. No designation is going to take care of it.

Commissioner Houpt – But there are many banded trails.

Chairman Martin has been on a lot of them on horseback and jeep and everything else.

John Currier – He certainly wouldn't characterize any of the jeep trails or the trails that are in there for many years that are banded trails

Todd Fugot – A Carbondale resident and business owner and represents the Roaring Fork Mountain Bike Association. I agree with Chairman Martin and they are requesting consideration. There is an existing mountain bike trail there and our association would like to see that remain open. They are looking to pursue that as a companion designation, which would mean there would be no drilling, no motorized and mountain bikes would be allowed into that area under exception. At present, we have 55,000 uses over the last 12 months. By making this non-accessible, it would push more traffic on the Red Mountain and Prince Creek Trail system. He is not opposed to the closure in the winter for wildlife and closure signs would be appropriate. His association likes this area because it is so close to the town of Carbondale and you can access it without using vehicle traffic and taking parking spaces. Otherwise, they support DeGette's remaining wilderness in the Thompson Creek area and are requesting the road south and closing the Pound Creek area.

Commissioner Houpt – You have met with Ms. DeGette and her staff and so you probably know the huge area that she is taking out of her proposal for mountain bikers. There is a trail called the Broderick Creek Tall Pines and that's a significant concession. Letters have been received from ranchers noting the disturbance of bikers and four wheelers and the impact on grazing. Some valid concerns have been raised with keeping this trail open. One of the main concerns is the number of uses on the Red Hill area and others close to town. She is listening to people on both sides and not certain how to reconcile the conflicts.

I am having a hard time with the notion that there aren't a lot of resources out there for mountain biking.

Jim P – Also represents the Roaring Fork Mountain Bike Association down valley. He hopes they can focus on local management and not stop the "Big W" on this one area of concern.

Commissioner Houpt – Congresswoman DeGette met with all user groups she didn't come saying that she was going to close off the Broderick Creek. The Pound Creek Trail is another trail that goes off but it is closed under the proposed wilderness designation. Ms. DeGette spent a lot of time obtaining feedback from ranchers, BLM.

Robert Comey – A RFTA manager for trails. He spent time in the area that is infested with thistle and closing this area would put constraints on weed management. It is important to provide mountain biking to this area and encouraged the Commissioners to keep the options open. The flip side of that is how do you effective weed management.

Chairman Martin – With a wilderness designation it is limited to four wheeler and spaying for weeds.

Susie Ellison– Wilderness is a unique American concept and would like to see a higher degree of protection.

Commissioner Houpt – She is actually going to ask that this be rescheduled for next week's meeting and give the biking association time to talk to Ms. DeGette's office about parallel protections. This is an important piece of property and many concessions have been made. At some point, they have to recognize that we all give up something to protect lands for the future. The Board can reschedule this for next week's morning session and give you all an opportunity to better understand Ms. DeGette's perspective. I could not support their notion of leaving this area open for public use. She asked that the other commissioners agree to put this on the agenda for the next meeting.

Commissioner Samson agrees and recognized the work Commissioner Houpt and Diane DeGette have done on the proposal. This is your district and he received many emails. It is a passionate issue. Plans would be made between now and next meeting for him to go and look at the area. He also plans to and he is talk more with the Division of Wildlife obtaining information because the impression he has is they do not want this to be designated as wilderness rather a conservation area.

Robert Comey thought DOW supported this designation.

Commissioner Houpt thought the same thing.

Chairman Martin – DOW is split, which brings up the point that he has discussed with Ms. DeGette for over 10 years now, there is an overall state 900,000 acres of wilderness and a single bill is the wrong approach. Taking the approach that you have 21,000 acres out of 890,000 acres you are trying to preserve. I do not support the bill. He suggested a conversation with Congressman Salazar on his bill, which was passed and supported. We need to have people involved in a public hearings on this and to say we are going to support the overall wilderness bill because we support a section of it is wrong.

Commissioner Houpt – Ms. DeGette has vetted this area over the last 10 years.
Chairman Martin – We need to take this area and discuss it alone and that has been his main issue of the past 10 years in discussions with Ms. DeGette. He would suggest this be discussed with the local users groups, the citizens, etc. and allow it to stand on its own as a designation.
Commissioner Houpt – It is currently 1100, she has taken out the Roan Plateau. This is coming up in front of committee in September. So in the letter she would propose we move forward.
Chairman Martin – No, it needs to stand on its own if it has any merit as a wilderness designation, or as multiple use designation, or ACEC, or as conservation. Everybody here has a passion about this area and we need to talk about this area. The overall support of a wilderness bill that is too massive.
Commissioner Houpt – This is the Wilderness Bill that is going to move forward; all we are doing is supporting or not supporting what's in our county; that's what the discussion is here today.
Chairman Martin – The National Association of Counties have taken a position on wilderness bills, which is if they are not totally supported from the grass roots up, they are not supporting it. The Public Lands of Colorado have the same position. The chairman does not support this bill.
Commissioner Houpt – The reason is he was told by a staff person of Salazar's that if they supported DeGette's bill, Salazar's John's bill wouldn't pass and that's not the case.
Chairman Martin – John Salazar's bill was the grass roots up whereas Diana DeGette's bill is the top down by special interest, not with public input. This needs to be continually discussed over the period of years to come up with a true solution. Just recently on august 3, is the first time in 10 years Mr. DeGette came to Garfield County to present her bill yet I have talked to her about that particular issue 10 times over 10 years in Washington DC on the large area she has included.
Robert Comey does not agree with Chairman Martin as he feels she had spoken to constituents and user groups statewide.
Chairman Martin – Her appearance on August 3 was the first time she has appeared before this Board in reference to this bill. This needs to be overall public discussion and that is the way to build consensus.
Bob Millet – Ms. DeGette has not discussed this with groups that are involved over the proposed area.
Robert Comey – As a member of the Carbondale Parks and Recreation Commission and as a stakeholder, they have never been contacted on this bill.
Commissioner Houpt – But your Town Council has been contacted.
Chairman Martin – Today at this meeting, we do not have snowmobilers, four-wheel drive club as well as some of the grazers and hunters. There are many positives; but there are also issues that haven't even been discussed yet.
Todd Fugot – After meeting with Ms. DeGette we never received a follow-up and the first thing they saw was the article in the paper. This prompted their interest and asked what her position was after she met with them. This is why we are here today and might be why four wheelers are not here.
Commissioner Samson – This has been a continuous issue and asked what happened to the letter inviting John Salazar to come and speak to us about wilderness?
Commissioner Houpt – A letter was supposed to go out.
Ed wasn't aware a letter was supposed to go to him. This was when he was gone and Dale Hancock was handling the meeting.
Commissioner Samson – That was the motion. We need to go forward and give direction.
Commissioner Houpt – Let's have it for the three of our signatures; it's a letter inviting Representative Salazar to a meeting to discuss the Thompson Divide concerns.
Commissioner Samson suggested Ed meet with Dale.
Commissioner Houpt – If you look at the minutes, you can get a good idea of what we wanted in the letter.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Ed – Agenda item is contract negotiations with NACO and their subcontractor CGI.
Don has three items: To provide legal advice and receive direction of legal staff which may also require public action. Carolyn needs to provide the Board with advice concerning the contract and use of property for solar energy, Item 1-A listed for public discussion. Provide legal advice concerning the collection and refund of sales tax as impacted by the Noble Energy case and discuss a code enforcement matter on the Rudd property. On the latter two items, the last one the Assessor's office has staff present and on the sales tax, he has members of the Finance Department and the Treasurer who need to talk to the Board.
Commissioner Houpt – I make a motion we go into executive session to discuss the items mentioned by our legal staff. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – Aye
Chairman Martin – Motion to come out of executive session. Commissioner Samson – So moved.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – Aye

No action taken.

CONSENT AGENDA

tt. Approve Bills
uu. Changes to Prior Warrant Lists
vv. Authorize the Chair to Sign IGA for Provision of Professional Services: Design of Environmental and Health Monitoring Study – Carolyn Dahlgren and Jim Rada
ww. Authorize the Chair to Sign the Land Use change Permit for a Professional Office – Applicant; OXY USA WTP, LP – Fred Jarman
xx. Authorize the Chair to Sign the Resolution of Approval for a One Year Extension to Meet the Conditions of Approval for the RTZ Gravel Pit – Applicants; Specialty Restaurant Corporation and Stockton Restaurant Corporation as Property Owners and RTZ Industrial LLC as Lessee – Kathy Eastley
yy. Authorize the Chair to Sign the Resolution and Land Use Change Permit for "Material Handling" related to the Central Delivery Point #2 Facility Located in the Vicinity of Garden Gulch – Applicants; Chevron (USA), Inc. as property owner and Berry Petroleum Company as Lessee – Kathy Eastley

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

New Employee – Jim Hackett – Procurement/Purchasing Director

Lisa Dawson introduced Jim Hackett who is the new purchasing director saying he has fourteen years of background in procurement and was a graduate from the Air Force Academy in Colorado Springs, worked for the Federal Government and private sector doing Federal procurements.

Jim came here from Alexander, VA and it was a big change. It is a dream come true to come to Colorado and looks forward to working with everyone.

- **A. Legal Review and Approval of the Solar Farm Ground Lease for the Garfield County Airport Property – Mark Boyer and Brian Condie**

Mark Boyer, Brian Condie and Carolyn Dahlgren were present.
Carolyn – The document you have in your packet is a first draft and pointed out a few issues being the county is the third party trustee escrow agent serving as the solar host; the operators build, operate and maintain the facility; and customers of Holy Cross Electric have individual owners of the panels and want to buy in. There are a couple of important issues; the first one there is a third party trustee escrow agent involved. The documents are from CEC and signed by Alpine Bank, which do not make the financial relationships to the county lease. Today she is requested more time to meet with CEC, determine more details and make sure there is consistency with FAA. One question for the board, rather than providing a performance bond and a payment bond, two letters of credit, or one letter of credit in a specific dollar amount rather a proof of a construction loan, which would include all of their signed construction.
Brian confirmed these are the major ones. There is an issue which is there is no other place to relocate the solar array if necessary beyond the 20 years. They are requesting a 20 + 20 year consideration.
Carolyn - The FAA makes the county say they will have this as part of the agreement. They want us to make sure we would relocate them. CEC knows they understand the county's annual appropriation. They understand this is always subject to financial considerations.
Commissioner Houpt – Does FAA have a threshold period; there's the 20 year period that Brian is saying it is not in our plan in the next 20 years to do anything with that property. Is that a local decision or is that a requirement by the FAA?
Brian – We have the master plan that goes out for 20 years. There is more than enough at the current build-out space for large hangars for the 20 years. After that time if someone wants to build a hangar there, it would cost them approximately $1 million to get the site ready, unlikely and un-feasible. The FAA says this solar array can be used for aviation purposes and you must allow it because they are giving the county airport 95% of the money to run the airport.
Chairman Martin – It's still a risk because we can't guarantee it for 40 years. If that should come up, expansion should happen; it's subject to the lease and subject to how we use it.
Brian – We have to operate the airfield as an airport.
Carolyn – What is the next director needs this spot for county purposes?
Brian – If in 20 years there is 100,000 aircraft operations, find it necessary to put in a FAA tower, which FAA would pay for, site investigation is done and FAA decides where the solar farm is currently located is the best spot.
Commissioner Houpt – FAA determines where that site is.
Brian – Yes.
Chairman Martin – FAA is federal money and there are strings attached with those funds.
Brian – The County can guarantee the spot for 20 years, however, if someone does come in and wants to build a hanger in that same location, site is unavailable, they could file a part 13 complaint against the airport. At that point, the FAA would say you need to correct this and make it available for aviation use, or you lose your funding for the next 10 years.
Carolyn – Even if we believe the airport is moving out toward this property, we cannot refuse to allow another 10-year lease. The term of renewals are only related to whether or not the facility is in good shape. If not, there is a period of time in which the operator has to get the facility in good shape and then extend it; however we could draft that in the lease because the master plan is the controlling document.
Commissioner Houpt - If you were asking people to upgrade or improve something in order to renew a lease; they wouldn't want to invest that money unless they had some kind of guarantee.
Brian – They want the guarantee that we would relocate them the same as we guarantee to relocate hangers; it is an aviation related purpose. The question is how do we guarantee that 40 years. 39 years is when they recover their cost and is it a benefit to the community if there is a need to relocate them, How do we give them some kind of assurance we won't kick them out as required by the FAA. They still are required to meet our statutes; we can't commit future funds.
Paul Spencer – Clarification, it does not cover the potential of a FAA tower.
Brian – If a private entity wants a space that has been rented out; then they would be responsible to relocate them during that lease.
Carolyn – The other option is to buy then out.
Paul – The lease covers that portion and he understands this would be used for aviation providing power to the airport.
Brian - If FAA deems it for aviation because we are purchasing power, then we are okay. He will ask FAA.
Chairman Martin – Gave an example of Denver International Airport powering their petroleum farm with solar and suggested looking into this concept.
Chairman Martin – The lease goes back to your financing and how many people are going to be in that particular issue, what phase you are going to be in, how much in collateral you have to raise to sell the next phase etc.
Carolyn – Are you far enough along in the negotiations with the potential escrow agent that you would know that institutions attitude about being subject to the lease and especially that the BOCC has final authority over who will be on their property.
Mark Boyer doesn't think it would be an issue at all and gave an example of the operation and maintenance. He would like the BOCC's approval.
Carolyn – This will require a public hearing.
Chairman Martin – The hot seat is this with this 3-member board.
Mark Boyer – I need to look at again in the escrow agreement and the timing and possibly have more time to go through the public hearing process to have that person appointed possibly 30 to 60 days.
Carolyn – As long as the BOCC's authority over the airport property is recognized, it sounds like we can work out the details. The third issue that CEC requested is this, does it make sense to not require letters of credit for both performance and payment or performance of payment bonds rather allow the company to come to the Board with the proof that they have a construction contract stating they have escrow funds to build the thing. This is not really security it is only a type of proof of fund ability build it. They are asking if you would let them prove to the Board, they have the financing for each phase of the facility rather than

have to come with a letter of credit each time they plan to build a wave of panels. The Board needs to know they can't predict how big each one of these waves of panels will be therefore, it is difficult for them to obtain a letter of credit for each phase. They would have the construction financing in place for each phase prior to construction.
Commissioner Samson – Legally, do you feel that is good enough?
Carolyn – Yes, it's a business decision however, it does require some more work from the airport director.
Mark Boyer - There are a couple of things about the business that might be helpful in providing some security. The bulk of the cost associated with building a solar array is material purchasing. The way the solar industry works is it is not an industry that really works on credit; you pre-pay for those 60 days later when they are ready for shipment. In this instance, the materials are 70% of cost.
Carolyn – CEC could show the county proof that they have purchased the materials.
Mark – Agreed.
Commissioner Houpt – We have been creative in different application too with this so I am comfortable with allowing this type of process.
Paul Spencer – The other thing is they do want to forgo the bonding process due to the expense.
Mark – Either a letter of credit or bonding.
Commissioner Houpt – The concern is we do not want land torn up and left without construction.
Carolyn – That's true and the bank is not promising to hand over any money to the BOCC to finish the project. The arrangement CEC is talking about just shows they have the money to do what they say they are going to do and there is not guarantee. The County would not have access to money if they do not build.
Ed – This has worked in the past when the Commissioners wanted to encourage Rifle Air to get their building up.
Chairman Martin – The risk is on the Board of County Commissioners to pick up the pieces should CEC fail or abandons the project.
Carolyn – In this instance, it's the trustee who would move in.
Chairman Martin – If there was no trustee the only thing we would have is salvage rights.
Mark Boyer – It would be abandonment under the terms of the lease.
Carolyn – In terms of going forward to finish the documents is the Board okay with including this option of in lieu of a performance bond or letter of credit that you would allow more a creative approach.
Direction
Chairman Martin – Carolyn, see what you can come up with and bring it back.
Commissioner Houpt – It needs to be outlined in the papers that come back to the Board next week, so the Board understand the process that will be followed and have a comfort level that CEC is not going to get part way through and walk away.
Chairman Martin – Put it on paper and see if we can accept it and go from there and if not we will revert to a letter of credit.

- **B. Staffing Request for County Treasurer – Georgia Chamberlain**

Georgia Chamberlain presented. Georgia is requesting additional funds in the 2010 budget and will put forward a request for additional funds in the 2011 budget. These request stem from the need of a succession plan for replacing retiring Chief Deputy Treasurer/ Public Trustee, increase in workload, new legislation, keeping the Rifle office fully staffed 5-days a week and challenges with the software conversion. Georgia provided the complete report for the request in the Board's packet. The treasurer is the banker for the county and in these hard economic times, we need better reporting and statistics from her office that can help the Board and the finance department in making better decisions on how the county should move forward.
Chairman Martin – Georgia is aware of the personal policy regarding shadowing a retiring person up to several months. Today the request is for an additional $25,000 for 2010 and to hire a Clerk III. I do have some funds left in the professional services budget.
Motion:
Commissioner Houpt – I make a motion we approve the treasurers request to and you will bring us a budget supplement later, to utilize professional services for the duration of 2010 in the amount of $25,000.00, authorize the treasure to advertise for an additional Clerk III position immediately, hire that person when found and authorize a future budget supplement to come forward to cover that position for 2010 if they are hired during that time period. Commissioner Samson –I'll second the motion.
Chairman Martin – It is actually creating a new position for this year.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – We don't need to do anything with the succession plan. That is a department issue.
Chairman Martin – That is a personnel policy, which starts the process and then Georgia has the person selected and shadow for several months.

- **C. Access Roaring Fork After School Program – Steve Kaufman**

Steve Kaufman, Ken Haptonstall, Superintendent of RE16; Judy Haptonstall for the Roaring Fork School District; Frank Breslin, Mayor of New Castle; Matt Steckler, City Council of Glenwood Springs; Keith Lambert, Mayor of City of Rifle; Ed Green and Don DeFord were present.
Steve presented the Board with several letters of support for this program and explained he was requesting the release of funds previously approved for 2010 of $63,000.
Ken Haptonstall – Superintendent RE-16 has worked with Steve on this program, he's excited and would like the Board's support. We have very few programs after school for their kids.
Commissioner Houpt – There was a recommendation that the money be given directly to the school districts.
Ken – Leveraging the total package that Roaring Fork Access has would be much more beneficial; Steve has access to more dollars. In response to Commissioner Samson's question, we lost 184 students last year so it's difficult to estimate the impact for this school year. Some have said the oil and gas industry is ramping up. The housing on Battlement Mesa looks empty to him. We have had a drop of 284 kids in two years, which amounted to approximately $2 million.
Judy Haptonstall – Thanked the Board for the support they have given Access Roaring Fork. Carbondale and Glenwood Middle are benefitting from the programs and is appreciative of the Board's support for RE-2 and Parachute. This will make a huge difference for kids.

Frank Breslin explained his involvement with junior achievement on their career days. Meeting with Steve and seeing his strategic vision of how to implement this program makes him proud of the public schools. He and the entire council are supportive of Access Roaring Fork.
Matt Steckler – City Councilor Glenwood Springs. Conversations have been held with Steve for his program in Glenwood Springs and the progress is admirable. He urged the Board to support and City Council will try to do the same with their limited funds.
Keith Lambert – Mayor City of Rifle. As a retired schoolteacher for years and very involved with kids, the more the better. There is more likelihood of kids graduating when they have program like this to attend. The City of Rifle took a vote last Wednesday and unanimously supported Steve's program and would like to see the County support him.
Commissioner Samson – A concern was discussed in previous meetings as to a business plan. It there a model for this program.
Steve – At a previous meeting, this was presented as well budget figures into 2014.
Commissioner Samson – That was for RE-1.
Steve – This is for Garfield County. He continued to explain how the program was advancing, federal grant funds, the significance of increased performance and efficiency in school. There is a lot of support out there for this program because it's about helping people help themselves. The mayors have taken a risk and plan to put this program for budget consideration for 2011. There is potentially of dollars to be given to twenty organizations and since we are a rural community, he believes this program has a chance of receiving some funds. He is looking for models for future delivery of funds. If we get the planning dollars then he has 50 people lined up to be on both the planning and execution pieces. Representatives of all of the major health and human services organizations will be involved in the planning and execution of the program. We do need a comprehensive youth plan for the region. If we do not receive the $500,000 in funds, then it will provide them with an opportunity to submit a plan to the Federal Government. He has spoken before Health and Human Services in Rifle and they seem excited about that opportunity to come an hour a week.
Commissioner Houpt – In talking about Carbondale being the hub and spending time in the other school districts planning, is it for 2010.
Steve – Yes, I have been the districts and they are ready to move forward for 2010; the conversation starts again for 2011.
Chairman Martin – If he's met his obligation, it's already been approved on funds, he is requesting the release of those funds.
Don – I understood there was to be a scope of services that included a business plan to go with the 95,000.00 and suggested the Board address this issue. Steve did submit a plan but the Board did not accept it and asked for additional information.
Commissioner Houpt asked Steve to resubmit his plan.

Motion:

Commissioner Houpt –I'll make a motion that we release the additional funds of $63,000.00 that was budgeted for Access Roaring Fork for 2010 and authorize the staff to amend the contract that's in place to include the $63,000.00 and the scope of services and business plan that Access roaring Fork will resubmit to the county.
Chairman Martin – In your motion you're accepting the business plan and the scope of services.
Commissioner Houpt – Yes. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Steve, find other funding I like the program but think we're taking funds that are supposed to go for county government and moving to education. My opinion is that education needs to be funding this program. The funding needs to come from a different source.
Steve – I'll agree to look for other funding when you agree to sit down and have lunch with me one day.
Don – Ed, will you or your office or will contract administration be the contact point for Mr. Kaufman?
Ed – Yes, Contract Administration.

- **D. Discussion and Approval of a Resolution to Close the Motor Vehicle, Vital Records and Clerk to the Board Departments in the County Clerk's Office on Election Day, November 2, 2010 Because Staff Members Need to Work as Election Staff that Day – Jean Alberico**

Jean explained why her office needs to close on Election Day.
Commissioner Samson –I would move that we approve the resolution to close the motor vehicle, vital records and Clerk to the Board departments in the Clerk's office on Election Day, which is November 2, 1010. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

PUBLIC HEARINGS:

- **Special Events Liquor Permit for "Wild West Days' Fundraiser Sponsored by St. Stephens Catholic School at the Gus Darien Riding Arena on Saturday, September 25, 2010 – Applicant; Representative Paul Gieselman – Jean Alberico**

Jean submitted the notice that was posted on Thursday, July 29, 2010 off County Road 100 on the fences of the arena.
Chairman Martin – We will accept and put into the record and swore in the speakers.
Tory Davidson and Paul Gieselman were present.
Jean received a complete application from St. Stevens Catholic School requesting the Board grant a special events liquor permit for the fundraiser that will be held on September 25 at the Gus Darien Arena off County Road 100 in Carbondale. They want to serve alcohol from 11:00 a.m. to 3:00 p.m. and it is there Wild West Days. Jean thinks this is the second year to have this fundraiser. All proper documentation is here, she has a letter from the Town of Carbondale saying they have use of the arena for that day and all the other documentation required by the Department of Revenue. They have submitted plans for controlled access points; she has checked their identification and explained this was a family activity. Jean verified that no complaints or comments were filed against the event.
Chairman Martin asked if the sheriff's office was aware of the event and would they station anyone there for security.
Tory – We have made him aware of the event, but have not discussed an on-duty officer.
Chairman Martin asked if there were any complaints from the sheriff's office.
The applicant explained they will bring the western influence to the community and expose their children to the community so the young people can take an opportunity to do some busting, chase the calves,

mechanical bull, bounce house, horseback riding and wagon rides. We will be serving Mexican food, BBQ, and some alcohol. The purpose of the event is to expose kids to the rodeo lifestyle and have a fund family event.

Motions

Commissioner Houpt – I make a motion to close the public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve the special events liquor permit for Wild West Days fundraiser sponsored by St. Stevens Catholic School a the Gus Darien Riding Arena on Saturday, September 25, 2010. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Executive Session:

Don – Would like to proceed; discuss legal advice concerning sales tax collection and refunds as well as the NACO contract Ed alluded to. He has items for the 1:15 executive session as well for land use.
Chairman Martin – Do you wish to discuss those; do or can we do at 1:15?
Don thinks they will need to do at 1:15; the legal advice relates to three items that are agenda right now.
Commissioner Houpt – I make a motion we go into executive session to discuss the items mentioned by our County Attorney. Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Motion to come out of executive session. Commissioner Samson – So moved.
Chairman Martin – Second. In favor – Houpt – absent Samson – Aye Martin - Aye
No action was taken.
Don – Still need to provide legal advice on the upcoming matter concerning the develop agreement with Spring Valley Ranch and the ballot issues on medical marijuana.
Chairman Martin suggested to do it now and asked for a motion to go into executive session.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Motion to come out of executive session. Commissioner Samson – So moved.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **Request the Board Set the Public Hearing Date for the RE South, RE North, and RE East Service Plans. The Service Plans are Related to the Proposed Formation of Three Metropolitan Districts for Properties Located on Highway 82 at Cattle Creek, Midway between the City of Glenwood Springs and the Town of Carbondale – Kathy Eastley**

Kathy Eastley, Don DeFord and Rocky Sheppard were present.

Background

On Thursday July 1, 2010 Matthew Ruhland of the law firm Miller Rosenbluth, LLC submitted three (3) Service Plans for three (3) metropolitan districts on behalf of Carbondale Investments, LLC., the owners of property identified as Rivers Edge Colorado, formerly known as Cattle Creek (Colorado), Sanders Ranch and Bair Chase. On Wednesday July 28, 2010, the Planning Commission reviewed the three service plans and forwarded a unanimous recommendation of disapproval of the three plans. This recommendation was forwarded in the form of a Resolution, which listed the findings to support the recommendation of disapproval. This recommendation was submitted to the Board on July 30, 2010, by delivery to the Clerk and Recorder. The Board of County Commissioners (the Board) is required to set the public hearing date for the service plans at least 10 days after the date of the Planning Commission recommendation.
The purpose of this public meeting is to establish the public hearing date for Board consideration of the service plans. Pursuant to statutory requirements the Board must hold the public hearing within 30 days of this meeting, therefore Staff recommends that the Board set the public hearing for Tuesday, September 7, 2010 commencing at 1:15 p.m.
Staff is requesting authorization to act on behalf of the Board in completing the notice requirements and proceeded to list those for the Board and staff has worked with the applicant in determining the interested parties required to be noticed and those will be noticed.
In addition to setting the public hearing, staff is requesting the Board establish procedures for that hearing. Specifically, require submittal of the Applicant's Powerpoint presentation and any additional information to be presented in the hearing by 5:00 p.m. September 1, 2010. Kathy justified the request.
Chairman Martin asked Rocky if he was able to comply with the September 1 deadline and he had no problem.
Commissioner Samson – I would move that we set the public hearing date for the RE South, RE North and RE service plans on Tuesday, September 7, 2010 and that the public noticing done by staff and also the additional request of the applicants presentation additional information to be presented in the hearing be given to the staff by 5:00 p.m. September 1, 2010. Commissioner Houpt – Second.
Chairman Martin – That included at least a minimum of seven referrals as well.
In favor: Houpt – aye Martin – aye Samson – aye

- **Consider a Resolution Submitting to the Registered Electors of Garfield County the Question of Prohibiting Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana Infused Products Manufacturers' Licenses within the Unincorporated Boundaries of Garfield County – (to be continued to August 10, 2010, immediately following the workshop on medical marijuana issues) – Deborah Quinn**

Deb Quinn presented the request for the Board to continue this meeting until after the work session scheduled for Tuesday, August 10 so the Board could take public action. There is a deadline of August 24 for the Clerk to have an agreement for items to be on the ballot.
Commissioner Houpt requested all of the materials be brought back to the Board for this discussion, especially if we are planning to adopt a resolution immediately following that work session.
Deb – Clarified we will be discussing the adoption of a resolution and the possibility of approval.
Chairman Martin – We will continue this until tomorrow at 8:00 a.m.

PUBLIC HEARINGS:

- **Consider Approval and Authorization of the Chairman to Sign the Final Plat Application for Phase I, Subdivision Improvements Agreement and Development Agreement Establishing Vested Property rights for Spring Valley Ranch PUD – Applicant; Spring Valley Holdings, LLC – Fred Jarman**

Fred Jarman, Michael Gamba and Doreen Harriet 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 Fred Jarman 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 and Exhibit D – Application.
Chairman Martin entered Exhibits A – D into the record.
Planner Fred Jarman explained The Board of County Commissioners approved the Springs Valley Ranch Planned Unit Development (PUD) and preliminary plan on December 7, 2008, which is memorialized in Resolutions 2008-55 (corrected and amended in Resolution 2010-38) and Resolution 2008-56, respectively. The BOCC awarded the applicant a 1-year extension to file the final plat, which they have done within that timeframe. Based upon review, staff recommends the BOCC sign the final plat for Phase I and Fred described what was included in this request.
Deb explained the development agreement, the timeframe and if there is a variance from this, which would require an amendment, then they will have to come back and ask for a new development agreement to reflect the amendments. Just to clarify that the Boards hands are not being tied.
Chairman Martin – This particular piece of property has been under scrutiny of developments since the early 60's. He thought at one time there was supposed to be about 20,000 people.
Michael stated that everything was presented well by your staff and they respectfully request approval of the final plat and development agreement as revised by the County Attorney's office. The applicant has agreed to all the changes; he believes the signed documents are on the way here via FedEx and it should be here tomorrow.
Commissioner Houpt – Do you have a copy of the easement grant that has the LaGiglia's signature on it?
Michael – Yes, he gave to Jean for the record.
Lou Lagiglia – Commented on the conditions in order to meet the easement. He and his wife Donnalyne went into lengthy discussion resulting in a dispute over the previous agreements with the former developers.
Doreen Harriett explained her position and her understanding of the issues.
After determination was decided on the length of time needed to handle this, a motion was made.
Motion
Commissioner Houpt – I'll make a motion we continue this hearing to September 7th.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Issues:

a. Approval of Minutes

None

b. Commissioner Agenda Items

1. Discussion and Direction to the County Clerk serving as the Clerk to the Board Concerning the Format the Board wants to use for Keeping Records of the Board Meetings.

The official record of the County Commissioners minutes was discussed.
Jean presented copies of the responsibilities of the Clerk and Record and several examples of formats from Don DeFord. Today, Jean is requesting action regarding what the Board considers the official record of the meetings pointing out that her assistants keep a full transcript of the meeting, which amounts to many pages. In March, the Board provided Jean with direction that rather than a verbatim transcript being submitted to the Commissioners as minutes, it would contain the agenda item, summary of the discussion, the motion made and any discussion after the motion would be verbatim. If there was a disagreement on the floor, those points would be included as verbatim.
Jean informed the Board that since 2002 the Clerk has been keeping a full packet of information including notices and exhibits. These are available upon request. Additionally, Jean reported that the IT Department and Paul Vandre of the Public TV station have been discussing a method to capture the information of the meetings in a more permanent basis and ways to make the meetings available on-line. The Board decided several years ago that the minutes should be posted on the website; however, the lengthy minutes have been difficult for the Board and Jean to proof and make corrections. At the same time, Jean stated that the full notes are available for departments and legal as well as the public upon request. These are done quickly upon request. Since the Board has begun having work sessions, many times verbatim transcripts o have been requested adding an additional loan on her staff. Using the annotation provided when recording the staff makes headings and it is easily accessible to transcribe a particular portion of the minutes.
Today, Jean is also requesting a timeframe when "draft minutes" should be placed on the website.
Additionally, Jean stated that during the legislative session 2009 and 2010 it was approved that the Clerk's are no longer required to keep the written pages of the Board of County Commissioner minutes in a bound book printed on special paper as has been done since the County was formed in 1883. A visual text is acceptable.
Regarding the cassette tapes and CD's, Jean is concerned that a better method for preserving these needs to implemented.
Commissioner Houpt favored the audio tape versus the written text.
Don pointed out that it is necessary for his office to know literally know what is said in meetings when a letter is required or in testimony of an applicant. At times when an affidavit is required, it must indicate the action taken on an issue such as a road vacation or testimony of an applicant. Therefore, he would need a written record and the manner in which they are currently prepared would be the legal preference. He also stated that to his knowledge there is nothing requiring the Board to approve the minutes.
Chairman Martin – The minutes need to be approved as a responsibility of this Board and his preference would be to have the minutes in written form.
Commissioner Samson questioned the problem with audio/visual recordings and confirmed if errors were found in the written text, audio could be used to clarify an issue. If an error is brought to the attention, the audio could be checked for accuracy and changed in the written text.
Jean mentioned that due to the additional work sessions the Board is holding her staff has a heavier workload and requested a month leeway to prepare a draft of the minutes, and then submit then to the Board.

The Board gave direction to Jean that if they have not submitted changes to the written text, Jean would be permitted to put a clearly marked "draft" of the minutes after a period of 3-weeks if no corrections were submitted and place them on the website.
Commissioner Houpt agreed with this concept.
John Colson clarified the way the minutes would be posted and stated he didn't hear a final decision about what is the formal record.
Chairman Martin – Written. John Colson is wondering; he didn't hear a final decision about what is the formal record.
Chairman Martin – Written, saying you can use it as an electronic version, you can do microfiche on it, you can photograph it and you can do many things whereas audio has limitations and you can only listen.
Commissioner Houpt – We haven't formalized that until we adopt a resolution. She still thinks it should be audio; but…
Commissioner Samson – I have an idea it will be written.
Commissioner Houpt has an idea it will be written because those two; but we did not vote on it.
Chairman Martin likes the written form because it does transcribe to different things from different medias.
Commissioner Houpt – We haven't formalized that until we adopt a resolution. She still thinks it should be audio but…
Commissioner Samson – I have an idea it will be written.
Commissioner Houpt has an idea it will be written because of Samson and Martin; but clarified we didn't vote on it. She appreciated Don's point and does feel better about written knowing they can amend those. As she goes through the minutes, she had noticed some misinterpretation of things said.
Don was directed to draft a resolution to be brought to the Board with the language discussed today.

Application for the Fair Board
Chairman Martin – We have received a request for appointment to the County Fairboard and currently there are not openings.
Commissioner Houpt suggested this be given to Dale.
No action was taken.
Commissioner Calendars and Commissioner Reports
Commissioner Samson – For the viewing audience we have West Fest going on and he believes there are concerts all day, Friday, Saturday and Sunday through the evenings. Do we have anything else as a Board for the next two weeks? We have our work session that is only on medical marijuana tomorrow. Is there anything else the rest of the week other than West Fest?
Commissioner Houpt – There is the Garfield policy advisory committee and Human Service Commission meeting in Rifle that she is going to on Wednesday. GNEC meeting is on Wednesday however, she will need to check. She has oil and gas commission meetings on Thursday and Friday of this week.
Chairman Martin – There is a meeting tonight at 7:00 p.m. at New Castle Community Center on the Comp Plan.
Commissioner Houpt – No, it is on Williams drilling and she planned to attend.
Commissioner Samson – What is the topic?
Chairman Martin – Believes it is Prather Springs.
Chair Martin – It is an informational meeting.
Commissioner Samson - Why would they have a meeting in New Castle about Williams Productions.
Jean stated if there are more than one attended, it needs to be posted.
Commissioner Samson stated that he would not be attending. Jean – No because there are still two going.
Commissioner Houpt will not go either because Chairman Martin will stop by and give them a report.
Commissioner Samson – Is there anything for the third week; the county picnic is on the 19th.
Jean and Tresi are making a site visit to Kessler Canyon on the 18th regarding the liquor license.
Commissioner Houpt has a Rudi Water and Power meeting that night as well. There is a health care policy meeting at the Community Center in Glenwood on the 16th in the evening at 6:30 p.m.
Commissioner Samson – There are the planning meetings on the 16th, 17th, and 18th one in Glenwood, one in Rifle and then one in Glenwood again. When does that Comprehensive Plan come before us; is that on our agenda.
Don – They adopt it, but they certify it to you. He was not certain of the date when this would be completed.
Chairman Martin – Let's continue our meeting until tomorrow morning 8:00 a.m.

RECESS

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

August 16, 2010
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 16, 2010 with Chairman John Martin and Commissioner Tresi Houpt being present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deb Quinn and Marian Clayton Deputy to the Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
- **A. 2011 Holiday Calendar – Katherine Ross**

Responses were based along two different perspectives:
1. Either recognizing a person or event associated with the day

2. The preferred day to have a day off (i.e., school closure days)

Katherine explained:
Payroll cost per holiday = $92,000.00 – Floating holidays = use it or lose it; and additional administrative work for payroll – Relative to the County, election day is November 1st not the 2nd – Total number of employees = 478. Number responding = 250. Percent responding = 52% - The federal and state governments recognizes: New Years, Martin Luther King, President's, Memorial, Independence, Labor, Columbus, Veterans', Thanksgiving and Christmas (Colorado Day is not recognized as a holiday)
Martin Luther King = 30 votes – Colorado Day = 32, Election Day – Floating = 178 – Other days New Years Eve, one was whatever, Columbus day. There were two small groups that came in after the deadline and they basically went according to this pattern. She also provided them with some notes to consider. The responses seem to be based on two different perspectives; one was recognizing a person or event associated with the day. Or, just a preferred day off, such as it's a day the school is out so their kids are at home. Floating holidays are usually used by the Sheriff Office.
Commissioner Samson – It looks like, overwhelmingly, a floating day which he figured would happen.
Commissioner Houpt – Of course; when you pose a question in a memo that has no connection with the discussion we were having, you will have people choose a day that will float. It is not the issue she raised the other day. The issue she raised the other day was that there is a holiday that is a Federal holiday that was brought into existence during President Regan's term and it is Martin Luther King's day that recognizes some really important events in this country. As a county, we are one of the few governments that doesn't recognize this day as a holiday. Her point was; because we recognize presidents day, memorial day, veterans day, she thought it was important to recognize Martin Luther King's day. She was not recommending that they look at their county benefits package; which is what you are doing when you add a floating day because that's a paid day off. She would rather; her point was this was an important day to recognize. If we are talking adding another PDA to peoples benefit package, she thinks that is a discussion that needs to happen when they talk about cost of living increases and the employees benefit packages. She thinks that by sending out this survey, and she said this last week, you have brought in a totally different discussion and she is not going to be able to support a floating holiday today; because she would rather save that money to do a cost of living increase. She thinks they are looking at two different things and she is sorry that they proceeded in this manner.
Commissioner Samson is sorry she feels that way. He thinks the main reason they brought it before us was because they said they had 11 and they were wondering if we wanted to make it 10 for this coming year of 2011.
Commissioner Houpt – that's not why it was brought before us; it's brought before us every year.
Commissioner Samson said that's not what he heard her say (Katherine). Do we want to make it 10 days for 2011? Is that not what she brought before us?
Commissioner Houpt – Every year holidays are brought before us to approve.
Commissioner Samson – Right and she said do we want to give the employees 10 days for 2011 and we said yes. Then proceeded as to when the day would be. Then we got into that discussion and then it came up that let's let the employees have a say in this. They have had their say.
Commissioner Houpt thinks that he has missed her point completely and we have discussed this for so long she thinks you can probably just call for the question. But she is not going to be supporting something that just changes the benefits package without looking at the whole picture because she thinks it is more valuable to put that money toward increases.
Commissioner Samson – Once again, the question was, do you want to give the employees 10 days. Now if we decide to give them a floating holiday, he is assuming it would only be for the year 2011, and thus they would get 10 days for that year like they have got in the past.
Commissioner Houpt – You are kind of spinning the discussion; because what we have historically looked at, and they have looked at the document that personnel brought in front of us. Historically we have looked at the holidays we recognize, and that is why she brought up Martin Luther King Day. It wasn't in response to the number of days. If she didn't think Martin Luther King Day was really important she would have said let's just go with the holidays that we have because of the way the days fall out.
Commissioner Samson understands what Commissioner Houpt is saying; but what have the employees said. There's only….
Commissioner Houpt - Of course; if you get that kind of generic memo, your going to say well I can have another paid day off, another floating holiday. But they weren't sitting in this room listing to the discussion about the importance of recognizing certain federal holidays.
Commissioner Samson thinks she would be surprised how many employees listen to our discussion and know what we are talking about, and most of them he thinks knew exactly what this was about. With that being said I would move that we give for the 2011 holiday calendar a floating holiday of the employees choosing based on the information that 178 out of 250 chose that as the day they would like to have for 2011.
Chairman Martin – Second. I do understand Tresi's point of view. I think there are some other holidays that are important as well that we should recognize; but we don't. Your point is not lost.
In favor: Houpt – nay Martin – aye Samson – aye

- **B. EAB Update – Jeff Simonson**

Jeff presented to the Board the Minutes (Draft) from their Thursday, August 5, 2010 meeting. Judy reported on the work session with the BOCC from July 13th. They discussed three elements of EAB's mission, including public education, conflict resolution and advising of the BOCC. The perspective was that the BOCC expects them to listen and potentially offer recommendations, but not necessarily take action to resolve conflicts. The BOCC did not direct any changes to the mission of the EAB. A discussion ensued about the lack of attendance at that meeting by the industry. Judy said the operators met earlier that afternoon stating they did not intend to participate in the EAB in the foreseeable future. Some members expressed dismay and suggested perhaps the EAB should take positions on issues and if those are counter to industry interest then they will return. It was suggested they rotate the meetings to different locations in the County. Members recommended using a county public information person to coordinate notices of the meeting locations. It was also suggested the location be coordinated with the topic of educational presentation that month. Potential venues: New Castle Community Center and Silt and Battlement Mesa – Town Halls/Fire station. Regarding New Business: Board discussed educational presentations and agreed they should be given at each EAB meeting. Judy has a list of topic requested by the EAB members from

previous meetings. The board added the following: Disposal of wastewater/injection wells; Seismic exploration by "Aguilla" and Blow out preventers/control. There was a discussion about the need to recruit additional citizen representatives. They gave the Board a member update. Cary Baird (Chevron) stated that Piceance Basin had an erosional event (sloughing off shale due to heavy rains) which shut down private roads and closed access to well pads. Chevron decided to close the wells "remotely" until they can clear roads and assess damages if any. They hope to be up and running by August 6th. Cary said they donated $20,000.00 to Western Colorado Conservation Core based in Grand Junction. She also asked Michael DeBerry to explain Chevron's "Stop Work Order" program in which any worker has the authority to stop operations if they observe a situation they believe is unsafe. Antero has one rig operating south of New Castle near Jolley Mesa and two work over rigs. They recently met with Silt and New Castle regarding their truck routes. They are drilling two exploratory wells north of Hwy 6. Antero donated to the Silt Hey Day, bought livestock to donate to Silt Fire station and donated to the "Kiss and Squeal" program. Antero recently held a community meeting in Silt to communicate their development plans north of Hwy 6. Antero has been meeting with the COGCC, DEPHE and others regarding odor complaints by Battlement Mesa residents. Judy shared a copy of the "Environmentally Friendly Practices Scorecard', which was published by the Houston Advanced Research Center. It will be placed on the GarCo website for public viewing.
Commissioner Samson asked if the direction they gave last time help?
Jeff – It did and it helped them focus more and they had a lightly attended meeting. They had several members of the public but did not have any final comment. The main discussion focused around two things. One was the lack of attendance that night and they can look back in retrospect and realize they didn't have much on the agenda. They only had two operators that attended two citizen reps, two community reps and the county rep. The second thing was they definitely wanted to continue on and focus more on the educational component and hoping that will continue to create interest in the community and also operators.
Commissioner Samson – Have you been in contact with the operators?
Jeff has with a couple of them; he thinks they have a wait and see attitude to see how things progress. Judy has several education items that she is ready to start putting on and hopefully that will help them. He continues to try to make contact with the operators that are remising and also the citizens. They still have to get Silt to fill in another person for their community.
Commissioner Samson appreciates him extending the hand and fellowship in working with the industry and he encourages him to do that. It is a vital piece of this information. He hopes they can get more citizens from those respective districts seated as soon as possible. He forwarded on to Judy some people that were interested in serving.
Commissioner Houpt – What areas are you missing?
Jeff – Dry Hollow; he asked Judy to help.
Judy Jordon will e-mail all the names later; but they are looking at the unibridge areas, everything is to the west. The DeBeque area, north of DeBeque, they lost Katherine Vidal, Battlement Mesa they just had a member resign because work demands were too heavy. They lost Rulison.
Commissioner Houpt can think of some folks. Are all of the community reps good except Silt.
Judy – Actually Silt appointed someone. She actually had a letter drafted to send to Glenwood and she will send that out the door now. Glenwood needs a representative.
Commissioner Houpt knows that Carbondale has two.

- **C. South Canyon Trail Phase II construction Bid Recommendation – Jamaica Watts – Jeff Nelson**

An invitation for Bids (IFB) was posted to the Rocky Mountain E-purchasing system on July 8, 2010 and in the Post Independent on July 8, 2010. The bid opening was held on July 29, 2010 and one company has submitted a bid. Staff is recommending the Board award a contract to Heyl Construction, Inc. in an amount not-to-exceed $689,591.00.
Commissioner Houpt was surprised.
Jamaica thinks it had a lot to do with CDOT and the approvals with them.
Commissioner Houpt – I make a motion we award to Heyl Construction Inc. in an not-to-exceed $689,591.00 for the construction of South Canyon Trail Phase II.
Commissioner Samson – Second.
Don to Jeff; there was a question on liquidated damages, has that issue been resolved?
Jeff – Yes there are liquidated damages on the contract and the issue has been resolved. It will be applicable.
Don – The packet information indicates that there are other partners in the project; CDOT, Glenwood, LoVa and state trails. Do we have agreement in place for that funding?
Jeff will have Larry Dragon come up; but the CDOT funding, all the agreements, the license agreement, the IGA are in place.
Larry Dragon – As is the grant that the county applied for with the State Parks Trails Program. He doesn't know if they have agreement with LoVa; but if they haven't sent it it's in the mail. The $89,000.00 they received from the City of Glenwood Springs; whether they have an agreement or not it will be in the boards hands, if it isn't already.
Don – The available funds, under the agreements that Larry has just described, appears to exceed fairly substantially the anticipated cost for the project. Is there some understanding for proportional payment for the projects and we might not have to expend all of the available funds.
Larry – What they have done in the past and he would hope what they are doing now is, as the money is being spent the first monies that are spent are all the grant monies from CDOT and State Trails. They require matches so some of the other cash available from the county would go toward the match. So they spend all the grant money first. The last money they spend is the county money which could allow it to be rolled over to Phase III, the next project. Which is what they did last time.
Don – Thank you very much he just wanted the record description, the status to the project.
In favor: Houpt – aye Martin – aye Samson – aye

- **D. South Canyon Trail Phase II construction Management Bid Recommendation – Jamaica Watts**

A request for Proposals (RFP) was posted to the Rocky Mountain E-purchasing system on July 16, 2010 and in the Post Independent on July 19, 2010 and July 26, 2010 in the Citizen Telegram on July 22, 2010 and July 29, 2010. The deadline to submit a proposal was August 3, 2010 and as of that date and time, six proposals had been received. Two proposals were determined to be non-responsive to the RFP. Staff is recommending the Board approve the award to Schmueser Gordon Meyer, Inc. in an amount not-to-exceed $85,662.00.
Commissioner Houpt – I'll make a motion we award to Schmueser Gordon Meyer, Inc. in the amount not-to-exceed $85,662.00 to provide construction observation and engineering services for Phase II of the South Canyon Trail.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Solar Panels – Riding Arena – Randy Withee**

A request for proposal (RFP) was posted to the Rocky Mountain E-purchasing system entitled "Finance, Design, Build, Install, and Operate a Solar pan array". Four proposals were reviewed and three of the four met the intent of the solicitation. Staff is recommending the Board authorize staff to proceed with negotiations with Sol Energy regarding the installation, operation, and financial benefits of the solar panel array on the riding arena at the Garfield County Fairgrounds.
Randy – They are not here to award a contract yet. It is basically to ask the Boards permission to enter negotiations. They based their decision on what financial benefits would be to the county.
Commissioner Samson asked Randy to explain; did the companies like Sol Energy, Lighthouse, did they come up with the potential financial benefits and they stated what they thought and– then you reviewed and concurred.
Randy – Yes. He and Jeff Dickenson with CLEER went through the proposals and developed a spreadsheet to compare apple to apples. Right now it looks like Sol Energy is the best for the county.
Commissioner Houpt – I'll make a motion to authorize that you can….
Randy – With Ed and Carolyn and probably Jean would review their proposal.
Carolyn – Have they asked for any changes in that massive and wonderful document?
Randy – That's where we are now; have a sit down with them and see if they have any questions.
Commissioner Houpt – I'll make a motion that we authorize staff to proceed with negotiations with Sol Energy regarding the installation, operations, and financial benefits of the solar panel array on the riding arena at the fairgrounds.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **F. Notice of Award for Airport Apron Project – Brian Condie**

The ramp upgrade is a project that was budgeted to be completed this year. With the uncertainty of FAA funds they held onto this project in case they needed to redirect these funds to the higher priority project. At this time Brian feels confident the airport safety upgrade project will be funded as advertised by the FAA and have release the ramp project out to bid. The bids will be opened on Friday and reviewed by CH2M Hill for compliance. Brian plans on presenting the result to the Board today along with a recommendation of award to the selected bidder. With a bid award today Brian feels they will be able to complete this project by the end of October.
Brian passed out bid information to the Board. In putting this out to bid they wanted to start September 1st with a tight bid schedule of six weeks. The bids were not open until Friday. They spent Friday and Saturday reviewing and coming up with the bid tabulation. They had 3 bidders and they did a summary on the first page to show the Board the engineer's estimates. The engineer came in 2.9% below the lowest bidder; so the lowest bidder and the engineer were pretty close. Fiore and Sons, Inc. came in the lowest bidder of $1,591, 957.93. They would like to award them the contract.
Commissioner Samson asked Brian to tell him where each one of these three companies were from.
Brian – Fiore and Sons is out of Denver; United Companies is out of multiple places, he believes Grand Junction is the closest office, and Gould Construction is here in Glenwood.
Ed – On the second page; the subcontractor list, that's the subcontracts for Fiore; right?
Brian – Yes.
Ed – And what is the percentage for local?
Brian – United Companies but he doesn't know where Rocky Mountain Rotomilling is. Ground Engineering is the firm they are using now at the airport.
Ed – So about 2/3's are local?
Commissioner Houpt – It doesn't look like it; not if you're saying United…
Ed – If you do a regional perceptive.
Commissioner Houpt – Are their strict rules with the FAA on making sure you go with lowest bidder?
Brian – This is county funds here.
Commissioner Houpt – She wishes there could have been a more competitive rate locally.
Ed – Eventually it's Fiore within 3% of the project.
Commissioner Samson was pretty impressive with the engineers estimate, and actually they came in on Schedule II, which is the higher of the two, came in lower and that's pretty impressive. The other two are quite a bit higher especially with the schedule II. With that being done I would move that we approve the award of contract to Fiore and Sons for the airport apron project in an amount for schedules I and II combined not-to-exceed $1,591,957.93.
Commissioner Houpt – Second; I have a question. In your memo, that you put in the packet, you talked about this being funded by FAA funds. You said that it will be funded as advertised by FAA and have released grant project out to bid which lead me to……
Brian – We were holding off; this budget would have funded the $1.8 if that Federal government wouldn't have come up with their funding for the airport upgrade project. We held on to these funds because if the FAA couldn't come up with the money; this was a secondary project. The ramp was second to the safety upgrade.
Ed – Problems with rocks.
Brian – Since the FAA did come up with that money that freed them up to do this project.
Commissioner Samson – We had to transfer some funds around.
Commissioner Houpt knows they were moving funds around; but the way this was written it sounds like you were representing that these funds…..

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

- **G. Discussion/Decision Regarding Congresswoman DeGette's Wilderness Bill – Tresi Houpt**

Tresi has brought back a letter for the Board's decision on supporting this bill.
Commissioner Houpt – We had quite a discussion last week and decided to carry it over and she knows there are numerous people in the audience who would like to share more information. She received a lot of phone calls and e-mails from people who really support the notion of wilderness in the north Thompson Creek area that were really being scrutinized right now and e-mails from people who didn't support it. She knows this is a split discussion and the only thing she is asking this commission to look at is support of those lands that are specifically in Garfield County boundaries. If we can't get there she will pull her letter. She thinks it is important for everyone in this room to understand that there are valid concerns on all sides and this is the type of discussion we have when you start looking at protecting special lands and we need to figure out where that balance lies and whether it is important to preserve and lose some interests; but still be able to preserve it. Or whether we let it go. Or whether there is some kind of in-between issue. One of the biggest discussions in her household this weekend, because they have been mountain biking for a long time, is what mechanized means. Because when the Wilderness Act was passed, mountain bikes weren't an issue. There are also some very specific concerns that were raised in her mind from the Mountain Bike Association. They point out that tens of thousands of people who are using areas and what kind of impact that has on the land. That concerns her too. She is looking forward to hearing from everyone today and then we will come to some resolve.
Commissioner Samson concurs and he is sure John would say the same thing that he would say. He has received e-mails on both sides and he is really torn in a lot of ways because it looks to him, in one of the e-mails he can't remember his name. He addressed it and made a statement that it is obvious the Town of Carbondale is against this proposal and doesn't want it to become wilderness, and then he would have someone else say just about the opposite to different wording. So many times with issues we have to deal with it seems to him it is kind of polarizing the community of Carbondale. He hates to see that; but it is very emotional and passionate in how they feel about shutting off these uses and reserving through wilderness and so on and so forth. He hates to see that but he guesses it is the nature of the beast. He asked some people to come today and he hopes they are prepared to answer some questions. Let's go forward.
Chairman Martin – wanted to let them know also the letters and e-mails and face to faces; but it also went a little bit deeper, in reference to who did the inventory originally. Also wrote the land research management plan and the Division of Wildlife etc. All those people representing a little bit deeper into the actual inventory and control of that as well as the enforcement of that and he has to say the majority do not support wilderness but they do support land management and enforcement action other than what's there right now. They felt that wilderness was a little bit too far and so they would like to find a middle ground on that.
Jerry Vanderbeek – He had a very interesting experience yesterday. He went up with a bunch of friends, wilderness proponents and he lead a hike. Just south of the Town of Crystal they crossed the river and went up to an area called Bear Basin; it is unbelievably beautiful. The interesting thing is that a very good friend of his, who showed him the way, and he's one of the owners. He is very skeptical about wilderness, but he is his friend and he has gotten to know other folks who live in Crystal and most of them are against designation of wilderness. Because it sucks up a political load of work and yet they love that area as much as any of them could love a particular area. If you take the politics out of it they would love to preserve it because it is so hard to get to it. His big concern is we have to take the connotation of politics out of wilderness. Now not every time we talk about politics its' necessarily negative. If he looks back at the original wilderness bill in 1964; who here would want to repeal that. Not everything that comes out of Washington is necessarily bad; but it has been so politicized. What he is asking and suggesting that we look at the merits of this protection. He bets that everyone here would like to preserve Assignation Ridge in some way or another. If we take just the political weight and the political rhetoric out of it we should be able to preserve that. He would like to ask that everyone one of you commissioners really look at him or herself and what do we want to achieve. Do we want to protect it or don't we want to protect. If we call it wilderness; let's call it wilderness, it's a beautiful name and there's nothing wrong with it. Let's look at the merits; he must John especially, he is a little discouraged with some of the statements he has made in the press. Two weeks ago you brought up an issue that he doesn't know if it was substantiated or not; but you said yeah it's a good idea but maybe it will cut off the gas supply to the City of Aspen. Honestly; he has never heard him speak as being concerned about the well being of the City of Aspen. The other thing is reading the press report of last week; John complained about Diana DeGette being form a district that had no wilderness. Who cares who proposes it as long as it has merit? That's why he is asking you (John) and hopefully you come up with a letter of support to look at the merits and does the majority of our citizens want to protect that area or not. And if it's called wilderness; what's wrong with the name, take the politics out of it.
Chairman Martin – The only debate he has with him is called representative government. That is what the republic stands for; representative government. We elect those that represent us; our representative hasn't proposed this bill, so therefore he is supporting that representative. His option is to support it or not, to bring it forward or not; that is what we elected him to do. We didn't elect Ms. DeGette to represent us on that particular issue and that's the only thing that he has to say.
Jerry appreciates that; but still if it is a good idea whether it came from Diane DeGette, whether she is republican or democrat, libertarian or whatever, he thinks if it is a merit they should look at its merits and not look at excuses and delays and use political language.
Commissioner Houpt thinks one of the important things about that point too is that Representative Salazar was not in office when this bill was brought forward. It's been in place in excess of 10 years and we are not looking at the whole bill today. We are looking at the portion of the bill that is in Garfield County and she was the only one who brought it forward.
Jerry – Everyone that lived here loves this area and wants to keep its natural beauty.
Chairman Martin – Representative government not total democracy where everyone is equal. Representative government is if that gentlemen wants to bring it forward has the option to co-sponsor that bill and he should.

Jerry doesn't want to get into semantics; he is just looking at the essence of the bill and he thinks they should represent the commission to represent us. The greater desire; regardless of political wording what this community wants to protect its beauty.
Chairman Martin can appreciate that; it is his point of view too.
Chris Trantell – Thanked the commissioner for listening to the public on this issue. He has heard all the comments from all of the commissioners and he thinks they had some great points and he thinks there are solutions that, he doesn't know if they have been broached yet; but there are other designations for these areas to protect them. He thinks it is key in that, he thinks until '88, wilderness was more open. You had a game card and you wanted to haul out your elk; you could deal with a game card. If you wanted to ride a bike into the wilderness area you could. Then administrative they changed the rules. He thinks there is a key area in that Barber's Gulch and the area before you get to Spring Gulch, between Carbondale and Spring Gulch is laced with trails. Old, he thinks most are farm roads, similar type of roads and trails; but that is right the back yard. To designate that wilderness he thinks is wrong; it's not wilderness it doesn't meet the National Forest Service criteria and it's just quite frankly inappropriate. He would encourage the commissioners to look at national conservation areas and other companion designations that are much more applicable for those areas that are close to town or already have existing trail networks for many users. If there are areas that meet the wilderness standards; higher up, more remote, then put those as wilderness. Designate others as companion designations or leave them alone. Don't change the designation especially if they are on BLM land like many of this is.
Commissioner Samson remembered Chris sent him and e-mail and appreciated that he brought up some good points.
Commissioner Houpt thinks you also have to be careful about leaving things as is. You could still lose the opportunity to enjoy those lands…
Jenny Harrington – She previously worked for the Hidden GEMS Wilderness campaign. She believes in the values that wilderness embodies. She resigned because she is trying to assist the ranchers to address concerns they have with land issues in the area. She is here today representing many of the ranchers and their concerns. She lives on one of the ranches on County Road 108 near the Thompson Creek BLM area. She has some concerns indeed for this area regarding the wildlife, the wildlife habitat and the grazing committees. She does believe that wilderness can protect; but she thinks there are some alternatives. She recognizes that there are concerns with users; but this area is one of the last existing lower elevation habitats for mule deer. Other areas have been heavily impacted by mountain bikes, so she doesn't believe that all uses belong everywhere and the mountain bike trails and the bike trails would have a negative impact on the wildlife habitat and the grazing committees. So she is asking that middle ground approach that they try to find maybe a special management area; but to be able to allow the ranchers their existing uses. Representative DeGette has been very good, and her staff, to work on grazing language; to say that grazing is allowed, but there are some concerns on the ground with management now. She would like to protect the wilderness values and how that moves forward, in a designation she is not sure. But she believes it is not an appropriate place for the mountain bike trails. The trails that are being built are not legal trails. There is a sign there; just because you are building trails do not think that these are going to be legalized. It is a big concern. There are great places to mountain bike; she is not against recreation but she doesn't believe this is a proper area. She thinks they can come to a good solution that protects the wildlife that allows habitat mitigation both by DOW and by the agencies, BLM to keep this a great area for the wildlife habitat and to continue grazing. Local food is very important in this area and the ranchers provide to the local food market and she thinks that is only going to grow in importance.
Todd ? – Roaring Fork Mountain Bike Association and Carbondale resident. They did re-approach Representative DeGette last week and asked for reconsideration and unfortunately she held her ground. So they didn't make any headway there. Today what he is doing is coming to this Board and asking for consideration not to support Representative DeGette's Wilderness Bill; but instead to support the BLM and their resource management plan. Acting as probably the most informed and unbiased government agency there who knows are lands and knows what to do with those lands through their studies and their outreach to all the impacted groups. The ranchers, the hunters, the mountain bikers, the hikers; the division of wildlife is going through their process currently to determine how to utilize that land. In that resource management plan, that started in 2007 and will be finished in 2012, they have four different designations they can apply to that land. One of those designations is wilderness without the word wilderness attached to it. Meaning that it's restricted to horseback, hikers and ranchers and then there are three other uses or designations they can also apply. From that perspective he would think that they see the bigger picture and have done the best studies and will come to the best conclusion as to how appropriately use the land.
Commissioner Houpt – Have you been following the discussion about multiple use on BLM land and natural resource development. We have a huge valuable natural resource of natural gas and this area is not immune to that. She is not saying this should be pushed through to keep development from occurring; but she thinks they need to aware that if you keep these lands open, it will not necessarily look the way you want it to look either. Maybe that's okay with you; but she hasn't heard from his neighbors that is okay with them. She just wanted him to know that everything is on the table when you look at a BLM management plan.
Todd – Right; and he hasn't honestly looked that closely, and he presumes she is talking about oil drilling, natural gas drilling and he doesn't know if they can stop it there. He didn't have an answer for her.
Commissioner Houpt – Not if it's a multiple use area. She just wanted him to be aware of that because you are not being a proponent to mountain biking when you make this request.
Matt Moore lives in New Castle and has lived in this valley all his life. He has knows Mr. Martin for quite some time as an officer etc. He has grown up in these mountains, back wooding and he cuts wood for heat, he hunts, picnic, and likes the ability to explore. Just because some people are misusing their abilities to damage the wilderness doesn't mean it's everyone. He thinks that really need to be addressed and for what she was saying with the free range cattle is big industry around here. Everyone wants organic beef; they can't roam, they can't be organic. He cuts wood so if he needs a truck to go into a place to cut wood; that's how he heats his home especially in an economy right now. He barely has work now; he took off the day so he could come here to address his opinion as it is very important to him. If he loses his job again in October he will have to look at other means of hunting and cutting wood. If he has to go far out of his way to get it; it won't help him in any way.
Commissioner Houpt asked Matt if he was familiar with the area.

Matt – Yes, he has been looking at all of them and they are prime places of dead fall that the forest service would like to get off the floor of the forest too.
Commissioner Houpt – There are primary is where you can cut wood; she cuts wood as well.
Matt has been looking at the map and it looks like every single road out of every single town is being locked. Most of those places he sees are very familiar ground to him; he won't be able to go back into.
Commissioner Houpt – This is our comprehensive plan map so this doesn't have anything to do with the proposal.
Matt – A lot of these hills and roads he utilizes.
Commissioner Houpt – There aren't those kinds of road being closed off.
Matt prefers to have open wilderness around no matter what. He thinks oil and gas can be address on another topic another place.
Chairman Martin – It's folks like that kind of made and preserved our lands the way they are today so that people think that they are wilderness. We must have done a good job up to this point.
Tom Fisher – Resident of Carbondale. He is a frequent mountain biker in the area around Carbondale and he rides the stuff by Barber Village and the west side of Carbondale and also up in Prince Creek area. It is a very important riding area for him and for a lot of other people. It's close to town, you don't have to drive to it; you can just hop on your bike and ride up there. There are trails up on Prince Creek that are comingled cattle that are grazing up there and he doesn't thinks there is big impact on the cattle and the grazing and their grazing ability when there are mountain bikers in the area. He also thinks that while that area we are talking about is also habitat for mule deer, they are usually up higher in summer time and frankly those trails are impassable for mountain bikes in the winter time when the mule deer are down there. So he really doesn't see as a strong reason to exclude mountain biking from that area. You could do some winter closure thing up on the Red Hill area and other places around the valley to facilitate the wildlife breeding and grazing in the winter time. He thinks overall that especially from that area from the Sandstone Fins area back toward Carbondale is a great place to mountain bike.
Commissioner Houpt – As a layperson and somebody who has ridden their bike through grazing areas too; she found it interesting that the ranchers who use that area are very concerned. She would have to defer to their judgment on that because…
Tom – Its public lands for them and me to use.
Commissioner Houpt understands that; but the statement you made was that it was endangered and she thinks; she is learning more about what the ranchers concerns are as well in terms of different uses. But also with the e-mails, the responses she received from mountain bikers as a group, or just those individuals that communicated with her; they are not looking at just riding on what is currently there. They are talking about building a whole loop that would bring even more people into the area. That needs to be evaluated too in this discussion. That magnifies whatever issues others are having with people who are more components of wilderness or the ranchers are having with concerns in this area.
Darin Broom – Carbondale resident and business owner. He wanted to attack this with a different point of view; because his is several fold as an avid mountain biker, citizen of Garfield County and Carbondale; but also as a small business owner. He is a relative new comer to the valley having been here five years. He still considers himself an outsider looking in sometimes because having lived in Hawaii for thirteen years he knows what it is like to travel into a very localized environment and want to fit in and be known as a local, although you're not. He is originally from North Carolina. He feels that way about here and he really respects the local environment; it's a beautiful place to grow up and he feels like it is much like Hawaii in that aspect. The people here, the locals are proud to be where they are from. That being said, wanting to be recognized as a local down the line in every facet and form is why he felt such at home here and wanted to buy a business and give back to this community. That's how he is looking at this with the Board now having some of his concerns touched on by George and others. He is looking at this, in his presentation to the Board, as how it would affect a small business. Not just himself owning a mountain bike store or a bike shop. But also encompassing dollars coming into Carbondale, Garfield County. Right now there are two main trail systems in Carbondale proper, Prince Creek and Mushroom Rock. Anyone who rides there or hikes there knows they are getting relatively crowded. BLM is doing a good job of disbursing people by developing more trail systems on the crown and he thinks that is going very, very well. But we are at some point in time getting to a point as more people move into the valley and as more tourism flows down valley from Aspen into our area; which it is doing. But that there is going to be some needs for overflow. Because you just won't be able to fit everyone in these small areas. Back country trails do exist and we love using them; but they exist primarily for our local populist. Not a lot of people that are tourists that came from the Front Range or from other areas of the State or country have the capabilities to ride in Redstone, in Marble. However, they do have the capabilities to ride in a more localized environment i.e. Prince Creek, Mushroom Rock and areas of Barber Gulch. His concern is if they do limit too much; he is seeing a lot of influx and overflow and issues that will stem up from over population in these areas. If we assess it, as you were saying Tersi, he'd agree before we develop more there absolutely needs to be more assessment done. But upon that assessment its deemed that these trails are sustainable, it will give or spread out within the essentially the town area. Which would make it more inviting for the people who are there and keep more dollars in the town as more tourists come in; they get more people looking to go ride other place than Prince Creek, and Mushroom Rock. He has people coming in and saying they went out there; but they couldn't find a place to park. Those issues are being addressed but it would be nice to have follow on areas close by where they could ride their bikes to these areas so they don't have to worry about using car travel to go there. So they can stay in town another day and use their money in our hotel and restaurants. To him it would just be fostering a small business approach that will help the community as well as lower the impact on some of these other trail systems that are already being used to their capacity.
Commissioner Houpt – Here is her dilemma; we are not looking at an area that is insignificant to people. There are people who truly believe it should be designated as wilderness. There are people who truly believe it should be designated and there is impact by mountain bikes and motorized bikes and other vehicles and there is your argument that it's a great place to ride and should be expanded and we can grow tourism in Carbandale. We've seen what happened when Red Hill was expanded and now we are looking at $55,000.00 per year which is pretty significant to an area that actually, and she is jumping back to the area they are talking about, that today is an area that should be protected as wilderness. But if open that up and you start planning to build a loop, which she understands is a desire for mountain bikers, you are

talking about impacting it as heavily as the other areas that are currently established or impacted. So we are looking at a piece of land that people in your community have two different, very different thoughts of mind about how the management of that land should occur.
Tom – And that's why he made the statements as far as assessing what type of trail system you are going to make there. Because just because you open a new trail system doesn't necessarily everybody from Mushroom Rock or is using Mushroom Rock or Prince Creek is going to start going there. But what it could do is divert enough use to spread some of this usage out. He didn't want to get away from that area; but he thinks of issues such as safety, when you get in crowed trail systems you look at people hiking, taking their pets which is all fine. But whenever you start over crowding trail systems and you have people on mechanized equipment, people walking even when you get into multi use trail systems with horses and such. When you get into that level of congestion that is when safety starts to be an issue. He thinks with the expansion, he is not saying without assessment, you will divert some of the traffic. Not that we are going to send every tourist that walks into our shop, into an area to ride. All he is saying is this will create some overflow and this is not completely tourism. Does he think his town could turn into the next Mohab; no he is not and doesn't want it too. But there is a significant amount of tourism coming into their area with being highly published. Other than outside magazine labeling Carbondale as one of the best towns to live in, in the country; which is incredible and as a result people are going to see that and go I wonder what's there. They are going to look for our prizes when they come here. They are going to go and they are going to venture and sometimes do their own thing anyway. What he would like to be able to do is send these people into safe environments based on talking to them and have areas that are safe to go to and close by and that also well maintained and with plans like BLM management taken into consideration. He thinks plans can be developed without initially just closing things off without further assessment like Todd was saying with the BLM management plan coming today and another couple of years. That might address some issues that might get missed by closing everything off initially; right now he is just going a blanket coverall. He thinks companion uses; he thinks there is always a middle ground in there somewhere that can make the people happy verses it being black and white.
Commissioner Houpt – Again, she would urge him to look at BLM management. Because it wouldn't help your industry, it could help other industries and she doesn't want to sound antidevelopment, but she thinks there are some areas that probably should, if they are not being targeted for development right now, it probably should be looked at for protections.
Tom agrees; but when it starts coming too close to our backyard and there's a reason a lot of it is being moved here. There is a reason when we came in the valley and looked around and said my God this is a beautiful place. We all work hard enough to need to be able to recreate and enjoy our local areas and in some point in time if enough encroaches in our backyard, if we can't enjoy our backyard it gets kind of frustrating if you want to go recreate yet you have to drive 30 – 45 minutes just to get to that area. It's interesting because from a green standpoint you start looking at a lot of other issues of increased highway use just to get to recreational use which brings up a whole other issue there. So that was his point.
Commissioner Houpt – But you can recreate on wilderness.
Chris Harrison is Carbondale resident and the Chair of the Carbondale Park and Recreation Commission. Back in the fall of '09 they invited the wilderness workshop to do a presentation on their latest updates and were the proposal stood; which are very similar to Representative DeGette's proposal. The Thompson Creek areas was in particular an area of concern for the council. That meeting drew literally a record number of people. Granted a lot of them were not Carbondale residents; they came from many other areas outlined because the proposal was so extensive. And there wasn't much opportunity for people to really hear what was going on. He believes a lot of the same conditions exist with this proposal to an even further extent that we haven't heard about what all of this proposal encompasses. He doesn't believe it has been presented to the Town of Carbondale Board of Trustees and he definitely knows it has not been presented to the Town of Carbondale Park and Rec. Commission. He wants the Board to know that after the discussion weighing in a lot of comments made from people outside of the Carbondale are, they realized they needed to week some of that out and filter through some of everything they heard. Which was enormous. But the park and recreation commission did decide to send a resolution to the Town of Carbondale Board of Trustees not to support the wilderness workshop proposal as it was because of the impacts to the Thompson Creek area. Limiting that use is, especially to recreational uses off of the designation that was created half a century ago, it really will have some far reaching impacts to the Town of Carbondale and the area. What is frustrating to most of the people on the board, to himself and to a lot of the other people that are here in the room today, is that they want to protect wilderness. They want to help stem off massive industrial development and degradation of natural environment. They don't believe that mountain biking does that. It does that no more than hiking or horseback riding. What is frustrating is that the wilderness workshop as well as Representative DeGette's proposal has not done the real diligence to research these alternative designations. Yes, it will take more work; yes there are pros and cons to that too. There are things that could happen that we might now want to see happen; but to just cart blanche designate big swatches that people have been using for decades and decades as wilderness and to just cut off what they have been doing responsibly and with very minimal impact to the natural environment and the wildlife; is taking an easy way out. To stem off a problem that he does agree is a problem; industrial development, things like that. Yes he thinks that would be just as devastating to have that whole area full of gas wells as it would be to have it cut off to virtually a lot of the people who are using it right now. But that area, the Barber Creek area in particular just does not qualify as wilderness. He is fully in support of designating the assignation ridge as wilderness. A lot of the other Thompson Creek area, he could probably support that as well. But you are talking about, with the Barber Gulch area, this is the very first public lands you come to when you go up ? road. This is literally on the doorstep of Carbondale. He believes it goes down on the other side and virtually comes in and boarder Highway 133. That was some of the main objections that a lot of people had to designating this as wilderness. It just doesn't fit the description at all. There is already a gas well in that area. Does he want to see more of those; no absolutely not. But this just doesn't fit at all for that area and the park and rec. commission at the time voted to not support the wilderness workshops proposal and he is sure they would feel the same about this and he would hope that the Board would take that into consideration as you go on with your deliberations.
Steve Smith lives at 63 County Road 116 in Glenwood Springs. Thanks very much for taking on this important topic and taking it on so thoroughly in multiple sessions. This is an essential debate; it's about a proposal to permanently preserve a remarkable place. Permanence is a hard thing to talk about and so he

appreciates their careful deliberation. If ever there were a place that qualifies as wilderness, for designation by Congress; the Thompson Creek assignation area is it. If ever a piece of Bureau of Land Management land qualifies this highest of protections, it is the Thompson Creek portion. The fact that it is close to where people live, the fact that it is close to town is just frosting. It's just a bonus that you can have that remarkable of a place so close to home to see, to visit and to appreciate for the habitat and the other values that it provides. The forest service of course has recognized its portion, and he knows that is not the part they are talking about. The companion piece next to it, managed by the Bureau of Land Management, has been cataloged as fully qualified as containing what they call wilderness characteristics. Their highest version of a wilderness assessment of their projection of whether this qualifies or not. They have assessed the four essential and raised five essential requirements for that kind of a finding. It has naturalness, it has opportunities for solitude, opportunities for primitive and unconfined recreation, it has supplemental values. The supplemental values in this case includes some remarkable geology, some essential and shrinking wildlife habitat. Scenery that everyone here has already testified to in its abundance and its wonder. The BLM in the Garfield County portion has recognized this as wilderness; this is the place. And this is something that the BLM does not do lightly and does not do often. It's a pretty rare finding for this evaluation to come through. This is one that is carefully selected and therefore he thinks highly qualified. This as you know, and you have pointed out several times; but this discussion specifically is about the Garfield County portion of the Thompson Creek proposal. But he thinks as they put this place and community discussion on the table they need to put it into context. As you know there is an array of wilderness proposals in the Roaring Fork and Frying Pan valleys; in discussion right now. Part of those discussions are about bicycling access. Over the last couple of years, in specific and through conversations the original wilderness proposals have been reduced by 8,000 acres. Specifically in response to bicycle concerns. 4,500 of those acres were in the Thompson Creek proposal. 4,500 acres had been removed from the Thompson Creek proposal in response to grazing concerns, snowmobiling concerns and bicycling opportunities. Seven bicycle trails that were either legitimate use or potential use were removed from that wilderness proposal. A major agreement, a major concession of lands that otherwise have those wilderness characteristics are now out of the proposal. What you have before you now is the important core area that is so solid in its wilderness values that it must have this protection. What you also have before you is the core area that has had the other bicycling and other important local uses trimmed away from it. You also look at this discussion and put into context; you know this is a community discussion. It's a negotiation anyway and in negotiation no one gets everything they want. The wilderness advocates don't get everything they want, the cyclists don't get everything they want, the snowmobilers don't get everything they want. Similarly when we look at our federal public lands, public and owned by all of us as they are; wisely we do not drive everywhere on those. We do not drill for energy everywhere on those, we do not ride our bikes everywhere on those, we don't put wilderness everywhere on those; we are selective, careful deliberative. We do it as a community and through the expertise of our own knowledge and the expertise of our federal agencies. All of those cycles and all of those processes have lead to the conclusion that this one piece, these 8,000 acres in Garfield County are for wilderness and it will not compromise the hundreds and hundreds of other miles of trails that are available for other purposes. It will not compromise the thousands and thousands of other acres that are available for other purposes. This is about reaching a consensus and reaching it in an accommodation, reaching a compromise and this compromise is it. The opportunity for economic development, for good riding out our backdoors, for other kinds of activities is not compromised by this proposal. This is a rare piece of land in your county and this one deserves the highest of protection and he strongly urges the Board to recommend its endorsement, it's designation by Congress as wilderness. Final bit is kind of the congressional personnel question; sure congresswoman DeGette is the woman who brought this to you. If Congressman Salazar has been expressing interest in wilderness opportunities and wilderness possibilities also and has consistently invited counties to send him messages as to what they feel about the areas. He urges the Board to put it away; put that question aside or in another way step right up to that question and tell any member of Congress that comes up to you, tell them that this is wilderness. Tell them that you want this protected by the correct person. Give them the message this is the place.

Chairman Martin – You missed one thing Steve; in the cycles and that's the presence of man within the different cycles. If you look at the history of the particular area you will see cycles of man, intrusion, and exodus. There are places where man has been there; from Marion to the coal mines to the timber harvesting to again cabins. They have been there and roads are still there. That is a cycle we also need to include within our land use of public lands which you always leave out. It's a cycle of man and his entrance in and his exit out.

Steve – Thinks that is a really smart comment. He doesn't think they were leaving that portion out. He thinks that what you have found in this portion of Thompson Creek in Garfield County, this ridge portion, this core of these larger areas has had some places where we not had human impacts. It has some places where we have and those where we have, have now grown over, have now recuperated and the whole area is back to this healthy standard.

Chairman Martin – Yes and no. It's an ebb and flow; it's a cycle just like on the flat tops. People used to live up there, benches are still there, houses are still there, roads are still there; yet it's a wilderness. He used to travel it his self, jeep, horse, foot. He bets if he walked up there he could still see fences, corrals and homesteads. It's the cycle of man; it's what we perceive and what we want to use our lands for. Again we keep the options open so people can come and go. Again it's the west, it's not a museum; it's a living west and we have to accept that man is going to be here. They will come and go.

Steve thinks again that is a really smart observation in that we are here, we continue to be here and we continue to grow in numbers. Especially in that third factor; as we continue to grow in numbers and are mechanized and motorized activities, it's that much more important that we find a select core places where we won't have those impacts so we know that there are some of those treasures in place. And proceed with our other human activities but know that we are not going to overrun the whole place because we were smart enough to pick out some and set aside.

Chairman Martin – You can also make the observation the biggest blight on nature is human. So we can go from there.

Commissioner Houpt had a question for Steve. Mountain bikes, they weren't really an issue in '64 when the wilderness bill was adopted. What is your though about how mountain bikes should be approached in relation to; are they more impacting than horses, grazing, they don't have motors. She has been struggling

with this; she thinks when you start putting large numbers out there, there is a huge impact. But what does mechanize mean to you in the wilderness?
Steve – He presumed to shift the question just a little bit. That is what kinds of activities do we want to have on which portions of our public lands, and you can have that kind of conversation about gas wells, bikes etc. It is important that we be smart about how we do that. Any more than we say gas wells can go everywhere because we need energy. We don't say bicycles can go everywhere because we like doing it, or because it's popular, or because it is attracting visitors. We are smart about where we do that and there are some places whether, if it's not the impact on trails it can be with growing numbers the impact on other visitor's experience. It can be the impact on wildlife either directly or on habitat fragmentation. This is one small; 8,000 acres of Garfield County where those wildlife values or geologic values, and the solitude and slow pace visitor opportunities are uniquely scale in price. We need more places for him and others to ride their bicycles and we need to go find those carefully. We need to go find those carefully other than the north end of Thompson Creek Ridge. This is one that is special for other reasons and other values to us as a community and to the natural features that we cherish.
Commissioner Houpt – For the use that it's been receiving from bicycles over the years; has that started to compromise the area and that's why they are being identified in this proposal?
Steve – One area compromised; the Barber Gulch area particular. Is the increase in presence of unauthorized trail building. Trail building that is on a whim or on an exploration technique and not in a planned and sustainable design that are worked out through the Federal land managers to whom we all say we are deferring for wisdom. That is not a good way to approach either the landscape or policy, to say well now we have a bunch of trails out there. They got there in some mysterious way; that means that now sets the policy. Meanwhile the other connections in western portion of the Thompson Wilderness; other opportunities that you described in other portion around that part of the county continue to be there. This is one shortcut route that would not be available for a bicycle. But it does not mean the end of bicycling in our county or in the Carbondale community. Its one route and we can develop routes and loops and systems and attractions in other less sensitive and less wilderness quality, qualify portions of the county. This is the small jewel that needs to be set aside.
Chairman Martin – do you know what this discussion sounds like? Take out one or two words and we have the Burr Trail. It was motorized at that time and now we are talking about bicycles. It's the same impact; people have used it before, needs improvement, needs management. Again, change a couple of names and we have the same issue. Which is one of the issues; we should all do it locally and have as much input as possible and discuss it like we are for years before we move forward on it. That's one of the problems we have; we haven't had that whole discussion as a community.
Steve – Appreciate you listening.
John Hoffman – Town of Carbondale, representing himself as a citizen that has played and worked and understands this tiny portion of Garfield County from 40 years. He used to cut pinion on BLM land and the access was through the Crystal River Ranch, not at that time. But the motorized access, that he knows of for access to this area has been blocked off as has much access around Carbondale to the wilderness, to the wild lands behind. Yes we are slowly losing that access but he still plays a lot on Carbondale Peak and he enjoys that land because it is wild. Theres cougars, bear, deer, elk, skunk; all of the animals you can imagine are in there and pressed in, in a very pressed manner. It is a very popular hunting area and the deer and elk have actually derogated the habitat to a certain degree. Maybe it needs more hunting; but it certainly doesn't need more pressure from people. Tresi was asking about the effects of mountain biking and whether it is different from a man on horseback or a person walking. And it is; in his own experience a mountain bike has a lot deeper access to the land than even a man on a horse. They will go twice as far and twice as fast than you would see a man on horseback. But even more importantly is that when he is on his mountain bike he can focus, especially on a rough trail, he is focused on the trail right in front of him. He is focused on making a climb, on making a curve, on navigating; he is one with his machine. But he is not one with the environment; he could be anywhere but he is not in that spot. He is ignoring the mystery and we have ignored the mystery. Our society is not aware of life and living and wild values of habitat. The animals that live there, the trees that live there, the plants that grow there; we are ignorant of those. We don't want to pay attention to them unless we are harvesting them. Reaping some material benefit from those things and then we will focus on that one species, that one thing. When the thought of Carbondale Peak being wilderness; the first thing that comes to mind is the covenant they had with the land when it is wilderness. When we designate land as wilderness we're setting that land aside and saying we are going to meet that land on its own terms. We are going to met it one to one on a horse, on foot we're going to meet it on the slow pace that the land lives by itself. And when you are on a horse, when you're on foot you don't have to pay attention to where you are or where you are walking. You are able to look at the trees, look for the animal signs there and you can't do that when you're in any mechanized vehicle. He's driven, rode bicycles, he's done all sorts of things; but his favorite way of meeting of any of the wild lands that we have is on foot because it's a full rich experience. It gives him access to the mystery; the mystery that is life, the mystery that we ignore at our peril. We have industrialized 90% of Garfield County. We have polluted a lot of the waters and he only says that because he has taken scouts down the Colorado River and have them go swimming and have them come out with their bodies covered with rashes. That water has probably flowed on down maybe there is cleaner water that comes behind it; but he knows there are things in the water that we don't want to drink. You talk to the people in Moab that run the water system there; they won't touch the Colorado River. They can't imagine drinking out of that water because there are things we can't filter out and rightly so they are smart about it. But that is beside the point; we have done things to the air that will affect our grandchildren and our grandchildren's children that will affect every person in this room to our detriment. But we have this one tiny little corner, he doesn't know many acres it is; he imagines it's a couple square miles. 1,600 acres someone in the audience said. So three square miles almost and it gives us a chance to balance just a little bit. We have industrialization here and we have a chance to balance that industrialization with a tiny bit of a covenant with the land. Is it going to balance it? Yeah; it's going to balance because that tiny bit of covenant, that bit of realization is going to make a different. It is going to make people think about what the land is truly worth to us. What our true union is with the land that nurtures us. We can't get this on any other planet, any other solar system, and any other galaxy in the universe. This is all we got; this is it. This is God; wilderness is God, wilderness is land as God intended, as God put it there in a wisdom that we can't even begin to phantom. We have done a lot to this planet and we have made millions and millions and billions and trillions of dollars off of degrading a

lot of this planet. He is willing to let go of being able to mountain bike this mile and a half of trail; starting at the Source Gas compressor station. He thinks it is a tiny price to pay. And the future ability to run trails in there; yeah it is a nice area. It's a flat trail going up which is unlike most of the other trails around that take a little more expertise. It could probably be developed into a couple of topographic line trails; but it could also be wilderness and recreated on in a way that we don't tend to recreate in any of the other lands. Because it's too easy to take our machines in there. He wanted to thank the Board for their consideration and their deep thought about the people of this county and the economy of the county. But we need to think of the other aspects of what we have here.
Chairman Martin – Thanked him for his passion but felt he got his numbers wrong; 10% has been developed and 90% is still undeveloped in Garfield County. It's almost 3 million acres and if you look at the little pockets of population verses the other that is public lands.
John Hoffman – The flat tops are an amazing place.
Chairman Martin – And there are many other places that equal that and you have never been there John. Again, we have two million acres in Garfield County that is public land. Wilderness kills it because we advertise it as wilderness and that is one of the down sides of wilderness too.
Commissioner Houpt – To John Hoffman; has your town council talked about wilderness values or this particular area?
John Hoffman - They haven't talked about this particular areas; he knows that Chris had mentioned before that the parks and rec. board had made a designation that they didn't support wilderness, and he knows that a few of the trustees were absolutely furious at the thought that parks and rec. would weigh in on an issue of this importance. He knows that a lot of the council doesn't. Tomorrow night they will be; on the consent agenda is a resolution number 9 supporting Thompson Divide Coalitions. That resolution will probably pass unanimously. He knows that the trustees understand the value of the natural properties of the land and the value of the wildlife. The importance of creating a space just for wildlife because this is their land and it's all they have.
Chairman Martin asked John if he had seen the new draft legislation that he worked with Dorthea with this week; has she presented that to you yet regarding Thompson Creek.
John Hoffman – No.
Chairman Martin – You need to look at that; there has been some changes but it is probably more acceptable for more parties, so you can get a unified support. That's a different subject; but they are still working on that particular issue.
Steve Aut – He owns a bike shop and has only been a resident of this county and state for a little over five and one half years. He grew up as an avid motorcyclist, dirt biker, and mountain biker. AS you put it yourself Mr. Martin; these trails have existed for years and years and years and he firmly believes they need to continue to exist. As far as developing new trails down lower maybe. Once again he is coming to this Board very naïve as to the proposal itself. This is his first meeting; he has read some stuff in the paper. Now he is starting to get very concerned; these lands, our lands, my lands, that he has enjoyed for so many years are in jeopardy of being shut down. When it pertains to trail riding; whether you are on mechanized equipment, a motorcycle or a mountain bike, he disagrees they are not up in the high country trails just to go as fast as they can down a trail and see nothing but what we are focusing on. We stop, we remove deadfalls, we maintain the trail and we are conservationist. They maintain these trails and are not into building new trails. They just want to see the existing trails stay there. Other than that he needs to do a lot more research; this has been very interesting for him. It has fueled his emotions without a doubt with some of the comments that have been made. If we close these areas as a society today, we don't have time to do the things they used to do when they recreate. We have to get out on a Saturday or a Sunday; we have maybe one day and we enjoy the trails up in the high country simply for the views. They are not just focused on that trail zipping or zooming here and there. They really those stops and every time you see something out of your peripheral, the corner of your eye; you stop and you gawk at it. Like you said yourself; these trails have been here forever and ever and he would certainly like to see them stay there.
Michael Kennedy has been a resident in Garfield County since the early 80's. Thinks that everyone wants to preserve what they have and maintain that wild character. He has spend a lot of time in the Thompson Creek area in particular; hiking, some mountain biking, rock climbing and he thinks wilderness is a blunt instrument for preserving that area. He thinks there are other ways of preserving it; other companion designations and things like that. He would also like to address what John was talking about and what Steve was talking about. Wilderness value, the opportunities for solitude and everything else and he can tell them from his experience; he can find solitude up at Thompson Creek area easily the way it is now. It doesn't matter if there are motor cycles up there, mountain bikes; he can go up to the crown and find solitude. He can go up to Red hill walking and find solitude; all you have to do is get 2 minutes off the trail, 2 minutes away from the areas that everyone else goes to. He thinks there is a lot more work to be done on this particular proposal and although he doesn't ride a motorcycle or snowmobile particularly he does worry about alienating and pushing those people off of land they have used for many years. Because he thinks that will reduce overall support for wilderness and environmental protection.
Commissioner Houpt to Michael; you made some really general comments about wilderness and she thinks that one of the benefits of having the discussion about not only this proposal; but other proposals on wilderness in general is that it does bring up the questions of multiple use. We have a great deal of multiple use in this county and in neighboring counties. Have you had an opportunity to look at this map? Because these lands are for the most part not used by motorized recreational opportunities and she wanted to make sure that he understood that.
Michael has studied this very closely. Again to be more specific, this is his personal view from living in the valley from the early '70's and sending a lot of time in both wilderness and non-wilderness areas in this region. Which is, he is a pretty strong believer in multiple use and a strong believer in wilderness and the balance between the two is going to be important. He thinks they have a lot of wilderness in this area. He thinks we can find the kind of solitude that Steve and John are talking about pretty easily; even in the non-wilderness areas.
Bob Millett from Glenwood Springs and a member of the Roaring Fork Sierra Club Group. He can't reiterate what Steve and John have said; but he strongly supports the things they have pointed out. The mystery, as John pointed out is to preserving natural areas like this. He likes to mountain bike and at his age he can't do the extreme trails, but when he is on a mountain bike he can't relate to the nature there. He can't interact with animals and birds as he can when it is by foot. Another point he wanted to make; we are

concerning this as wilderness designation, alternative designations are not on the table. Maybe that will happen, in case this fails, other designations would be appropriately considered. But if it's maintained under BLM management, as Tresi pointed out, it will be open to mineral and resource development. That could change the picture of this area completely. Seems like the biggest objection to maintaining this little 1,600 acre parcel in Garfield County comes from a certain segment of the mountain biking community. There are a lot of trails in there, but as he understands he thinks Jan will show this on the map; the main mountain bike trails have been removed from the northern end of this area. What is left are trails that mountain bikes used; but they are essentially old cattle trails that have been there since the early 1900's, 1910. That doesn't mean they are legitimate maintain biking trails; these are banned because they have been in use they are legal. They are banded trails and maintaining trails that were illegally constructed or were formally cattle trails, does not mean they are legitimate mountain biking trails. He thinks it would be awesome to have this area just outside of Carbondale available as a wilderness that people could walk into. Not just ride their mountain bikes in there. He would love to have an area this close where he could hike in and be with nature and appreciate the beauty of this very special area. This is not part of the hidden gems area; he thinks that has been made clear before. That keeps being brought up; this is separate. We are only considering this as part of Diane DeGette's wilderness plan and thinks it would be a shame if Garfield County doesn't approve this one portion and Pitkin County approved their portion, and wilderness this gets passed and we are not part of our parcel. He would like to urge them as county commissioners to please support Diane DeGette's portion of this wilderness plan and approve the 1,600 acres. Only 1,600 little acres that are in Garfield County. It's the only way we are going to maintain lands like this from being exploited by mineral and resource development in the future.

Travis Lucero has been a resident in the valley, born and raised here and is 30 years old now. He asked to take a look at the map. One of things that concerns him the most about both this 1,600 acre parcel or Diane DeGette's entire bill, and just any of these other type of proposals; there really seems to be a lack of responsibility about letting the public know about this. the meetings, the discussions all seem to happen at times during the day and week when it is really inconvenient for a lot of people to attend and voice their opinion. Anyone here could ask for a responsible solution for either land protection, public lands etc.; but he feels the only way they will get a responsible solution, rather than one extreme or the other, is going to be if there is more responsibility taken to let the public know about these meetings and discussions. What they can do to help, really what are the pros and cons because he thinks they all know every story here is going to be biased one side or the other on this. Once that happens if there is any way to get some of these meetings and discussions; for example after people are off work so they don't have to debate on whether to risk losing their job to attend, or just hope for the best. This would probably be one of the biggest steps we can take to finding this responsible solution.

Perry Will - Division of Wildlife. Basically from the inception of this thing, the Division of Wildlife has had concerns about this area, because they like to do habitat mitigation in that area. They have asked about wilderness and how that will affect what they would like to do. Winter range is a very limiting factor in this valley; they are down to, due to development and roads, they are down to islands of winter range for wildlife. That's not a good situation for wildlife. Basically they are asking for some sort of an alternate designation, be that a special management area where they could designate what can be done and what can't be done in there. Wilderness, in his experience of about 35 years with the Division of Wildlife, he has had some problems with wilderness. He knows they say well you can do this exemption and that exemption, in his experience that hasn't happened. One story on that; they were trying to put big horn sheep in the holy cross wilderness, asking a land helicopter to put sheep in there, Never did get that. Big horn sheep in the wilderness seem like a no brainer to him. Also another story; a lady on the flattops, horse rolled over on her, flight for life couldn't find here; they got some bad directions. He was camped up there doing an elk classification and the flight to life helicopter was so afraid of that wilderness designation he wouldn't land and he was lost. Finally they waved him in and he did land; he said I'm either going to leave this helicopter in the wilderness or he has to get some fuel. Turns out they found her the next day. This guys afraid to land because he was afraid he would get seized if he landed in the wilderness. John talked about riding a mountain bike and how much you have to pay attention; he has a couple of horses you have to do that as well. He understands everyone's passion about this and it does need to be conserved in some manner. We talk about solitude, conclusion areas; we have to speak for wildlife because they can't speak for themselves. But they need those kind of things; can it be accomplished with wilderness, yes. Can it be accomplished with management sure. We deal with that all the time. A lot of this boils down to travel management and mechanized, motorized, the whole situation, the population in this area has just increased. Friday one of his officers rode his horse into Snowmass Lake and contacted 91 people on that trail. Six of which were fishermen; but 91 people. In the early '80's you could spend three or four days and not find 91 people. We have to deal with the hunting public which pays the bills for wildlife management in the State of Colorado. The demographics of that, hunters are getting older. Average of a hunter in Colorado now is 57 years old. We still need access to do the harvest manage the herds. Something they have to look at, in the earlier part of his career that was not anything we talked about. Now getting hunters into that area is a tough deal. They have talked about with the hidden gems, DeGette and everything else; the RMP with BLM access for hunters. That's another issue they have. There was a mention about grazing. Proper grazing management is benefit to wildlife. Improper grazing management is not beneficial to wildlife. When you just say grazing; its properly managed grazing. He has seen in his entire career, properly managed grazing is beneficial to wildlife. The division would like to see some kind of alternative designation where they could stipulate what can and can't be done. He and his wife were at Silver Creek Pass; he said they were going to be riding in the dark. He looked back and his wife was sitting there; he asked what she was doing and she said I'm taking a good look cause I'm never coming back.

Chairman Martin – But you sure do lose a lot of population and the use of the trails when you take Silver Creek Pass and go in the back side and go into Lost Trail; you don't see people down there.

Commissioner Houpt asked Perry; what would your ideal problem management plan look like, how would you like to see that area managed? You said the DOW wanted an alternative designation.

Perry – Obviously they would like to see it closed to mechanized motorized; maybe some seasonal stuff could be motorized. They talked to some of the private landowners as well that they might offer up a motorized, mechanized trail during the season. Obviously they would be wanting seasonal closures on it to protect wintering wildlife. Wilderness doesn't mean it's good for wildlife; but if you have the proper

designations and the seasonal closures and the travel management in place that works for all involved. You could still utilize it where it is not affecting wildlife at times too.
Commissioner Houpt – What would be different from what is being proposed for wilderness is that there would be the opportunity to use motorized vehicles during hunting season.
Perry – Potentially; their main thing is they want to have habitat manipulation in there.
Commissioner Houpt – As you look at this map; are you talking about the entire location?
Perry – Yes; he is speaking in broad terms not just the small area that is in Garfield County.
Commissioner Houpt – No; the area in Garfield County.
Perry – Yes, that included.
Jen Clanhan - Staff for Congresswoman Diane DeGette. As Diane mentioned when she was here a few weeks ago; she first considered this issue, it's been 11 or 12 years when citizens first brought it to her. There are groups that did inventory and researched potential areas that might qualify for wilderness for years before that. Then they held public meetings, they talked with interest groups and then they brought the proposal to Diane. She has continued those conversations since then over the last decade, more than a decade so this is an issue that has been discussed quite a bit. At some point you wonder how long you need to talk about something in the office. There has been, as she mentioned, citizen groups who brought into her and asked her for this protection. They surveyed the states, they went out with volunteers and they looked at lands across the state and said what are the few remaining areas that really qualify as wilderness. What are these special little areas that need this high level of protection and this area is one of them. We have heard a great deal of support over the time that they have been talking about this. They have received e-mails and calls and had meetings and they have a common forum on their website and have taken a great deal of comment on this. Also there was a survey, a poll done a few years ago, maybe '07. It showed that 70% of Coloradans want to see more wilderness designated in the state. They over sampled on the western slope. They have had a number of discussions with a number of groups because they wanted to make sure they reached out to various stakeholders who are concerned about these areas and they have cut areas out. As has been mentioned before; there are very legitimate concerns, we are hearing from all side and they are trying to balance all of the issues. They are hearing concerns from ranchers about mountain bikers, and motor cyclists and hikers who want solitude and quite. They are hearing from wildlife enthusiasts and the outfitter in the adjoining forest service area and he is supportive of the proposal. He sees impact of mountain bikes and other uses on the wildlife so he is supportive of the wilderness proposal. They are taking all of this input and they have come up with this compromise; you saw it when Diane was here before. She showed a map. It would removed these acres, the Roderick Creek Trail, the area is absolutely gorgeous and it qualifies for wilderness; but because of the interest in mountain biking on this trail and because of come concerns of those that graze over there, they are going to removed the whole area. That is not an insignificant compromise. They feel it is pretty fair; they have looked at all these issues. To address a couple of things that have come up; snowmobiles, she did check with the BLM and there are no known snowmobile routes in the area. Apparently the area doesn't hold snow well and they like the higher altitude areas. Everyone is quoting the BLM and so she will give everyone the BLM words for this area. They did a wilderness characteristic assessment of this area and the finding states; "Does this area contain wilderness characteristics? Yes the entire Thompson Creek area consisting of 8,171 acres was found to contain wilderness characteristics. The findings differ today from the original inventories in 1980 based on the current condition of routes in the northern portion of the unit that have not received regular and or routine maintenance, or continuous use. Due to the limited public access. May of these routes have naturally reclaimed, or become partially or totally covered with vegetation and do not detract from the units overall naturalness". She understands that one groups wants to focus on their interest and may say it's an important area; it's just not receiving continuous use. Even one of the members she spoke to with the Roaring Fork Mountain Bike Association, she thinks he might have slipped up; he said this area just isn't used very much. You will see here the trails are naturally reclaiming because it's not receiving continuous use. So it's not an area that is used as much; the one that is being used, they are going to remove from the proposal. The question of a companion designation; Diane has been pretty committed to wilderness. The question of a companion designation she thinks they will be coming back to a very similar discussion. We are looking at concerns with mountain bikes and then if you have a special management area or an NCA; we will be coming back to the same question. Are mountain bikes allowed in that NCA? Again they have taken what they think are all of the interests, all the conversation they had over all this time and found what they believe is a balance compromise and we ask for your support.
Chairman Martin – There was one gentleman from Red Stone who has a cabin within that area on the southern end and he has been there for 30 plus years wondering what is going to happen to his cabin and his access. Because he just outside the forest with his regular place of residence.
Jen – Is it private land?
Chairman Martin – It's under lease
Jen – There are no private land holding in their proposed area.
Chairman Martin – He feels that there is and nobody has talked to him; it is within the forest service he says. Maybe there are those people out there that we haven't contacted.
Jen – He must be outside they have contacted everyone.
Commissioner Houpt asked Jen to respond to DOW's concerns about habitat manipulation.
Jen – Usually they find that wilderness offers very high quality habitat which is why they often have the support of the outfitters and back country anglers and hunters groups. They find that because the area is so well protected it often promotes a lot of great wildlife habitat and that there is more wildlife in the area. She has heard in areas where there is a lot of mountain biking for example; the wildlife gets pushed off. Which is one of the concerns that the ranchers mentioned to them; wildlife gets pushed off this area onto their private property. As far as use of hydro ax or other uses; she would be happy to look into if there would be some language they could put into legislation that might permit something like that.
Commissioner Houpt – It seems to her that DOW does not disagree that mechanized and motorized use shouldn't be in that area. They seem to agree with that with the exception of habitat manipulations and hunting season considerations. The focuses that you brought up was protecting that habitat and making sure it's healthy and that wildlife is healthy. It might be really good to work with DOW.
Jen – Absolutely. She has actually been trying to get hold of Perry to discuss that issue. She would be happy to look into what kind of language they might be able to put in the bill that might address that concern.

Chairman Martin – Tresi do you wish to move forward with a motion of support?
Commissioner Houpt – I think I need to hear from you all first because if there's support we can move forward, if there's more work then I ….
Commissioner Samson tried to get up there and he and Perry will go up there tomorrow. He doesn't want to do anything today. He has a lot of sympathy for Tresi; he knows this is her district and Carbondale and so on. As he said earlier he thinks there is a real logger head there among some impassioned people. With that being said; the way it stands now, to be honest he would have to say after listening to everyone he is not, he is leaning that wilderness is too far. That is not where we want to go with this.
Commissioner Houpt would like him to make his visit before you make a definite.
Commissioner Samson is not saying he is there, he is saying he is leaning there after listening to everybody and their concerns and maybe there are some other designations that would be better and make as many people as possible happy to some degree.
Commissioner Houpt – This is our final meeting in August, she would want to postpone this until Commissioner Samson has an opportunity to review that. There are always compelling discussions on both sides. She thinks a great deal of negotiation has occurred; we heard from DOW today some additional concerns that she thinks some language should be put together to address and she would be happy to postpone this and bring it up again in September. We don't have another meeting until September 7th, Ed not sure what the schedule is looking like for that day.
Ed hasn't seen it either.
Chairman Martin can put you in touch with the person who used to work for the Forest Service that wrote the RFP for the Forest Service and his findings on that. He doesn't support the wilderness either; but that's his opinion and that is what he wrote into the RFP. He will give them that person's name and report.
Commissioner Houpt – If we schedule this for the 7th it should give everyone time.
Ed – Do you want to continue to do it at 8:00, 10:15 or your time in the afternoon?
Commissioner Houpt would like to do it at 8:00.

- **H. Authorize Commissioners to Sign Letter of Invite to Congressman Salazar in Regard to Thompson Divide Coalition Issues.**

A draft letter was presented to the Board for all Board members signature.
Chairman Martin – Had the pleasure of meeting with Dorthea Farris on Friday. Originally they were the ones that Mr. Salazar contacted to put this together. We have had a redraft of the legislation; he thinks it will be acceptable more around the coalition as well as the outside parties. He still thinks the letter needs to go to John and to say what are you looking for and come and talk to us.
Commissioner Houpt had some corrections; but we already authorized this to go out. What she hopes they will be able to do is get those revisions after lunch and everyone can sign before they leave today.

COUNTY ATTORNEY UPDATE – DON DEFORD

- **B. Resolution Submitting Three Ballot Questions to Registered Electors Regarding Prohibition of Medical Marijuana Infused Products Manufacturers Licenses within Unincorporated Garfield County**

Don – Deb has prepared a single resolution that would establish three ballot issues. He wanted to say preliminarily that is a little bit at odds of the actual motion that was made and approved. The actual motion, he believes was to do three separate resolutions. Don recommended they not do that; he thought it would be more understandable to put it in one resolution but it is still three separate ballot issues.
Commissioner Houpt thinks the emphasis was on three separate ballot questions; so she appreciates.
Chairman Martin – One resolution, three questions is the way he saw.
Don – Because it will appear on the ballot they wanted to make absolutely certain this is the language that the commissioners would like to see.
Commissioner Houpt – There is a typo in the second question.
Deb will correct.
Commissioner Houpt – I'll make a motion we approve a resolution submitting to the registered electors of Garfield County at the general election on November 2, 2010. The questions of whether or not to prohibit medical marijuana centers, optional premises, cultivation operations and medical marijuana infused products manufactures licenses within the unincorporated boundaries of Garfield County.
Chairman Martin – Second. He understands that Mr. Samson would like to see this in one particular ballot question banning all in one.
Commissioner Samson – I still stand as our legal staff said and encouraged us to put it in one question; he thinks that would be the best way to go. I hope the people study this very carefully; there's a lot of power here and I would like to make sure that everyone understands I am not against one iota of having the voters vote on this. I think that's very important; but I still maintain it would be best to have it in one question. That's why I will be voting against the measure.
Chairman Martin – I understand that; but I also see a legal challenge to one question versus all three items within that question.
Commissioner Samson – I don't think it will make any difference. I think you're going to see a legal challenge no matter what.
Chairman Martin – Most likely. The motion is seconded.
In favor: Houpt – aye Martin – aye Samson – nay

- **C. Letter of Agreement with Clerk for Coordinated Election**

Purposed of this letter is the County Clerk and District agree to the scheduling of a coordinated election. The County Clerk shall serve as the Coordinated Election Official for all political subdivision involved in the coordinated election. This election shall be conducted as a polling place election. The county Clerk will establish service centers, drop-off sites and combined polling locations. All election judges shall be appointed and trained by the County Clerk. Copies of legal notices published by the district shall be submitted to the County Clerk. The petition process for the district shall be entirely the responsibility of the district. The ballot content must be certified to the County Clerk by the district, in its exact and final form, not later than 4:30 p.m. sixty (60) days before the election. The district assumes all responsibility and cost for any judicial proceedings regarding whether or not issues or candidates legally should be placed on the ballot. The County Clerk shall be responsible for the preparation and printing of the sample and official ballots, ordering and printing of election forms and supplies. The Clerk will also be responsible for providing, preparing and delivering equipment and supplies. The County Clerk will be responsible for the conduct of the coordinated election, including receiving the certification of watchers and the appointment

of observes. Processes relating to and tabulation of ballots shall be the responsibility of the County Clerk. An unofficial tally of votes will be available to the district upon request after completion of the counting of ballots on election night. The canvass of votes will be conducted by the County Clerk and the canvassers appointed by the County Clerk. The County Clerk will determine the cost allocation for each political subdivision participating in the coordinated election and that district shall reimburse the County Clerk for election costs. Reimbursement will be made to the County Clerk within 45 days from receipt of billing from the County Clerk. The district agrees to indemnify, defend and hold harmless the County Clerk from any and all loss, costs, demands or actions, arising out of or related to any actions, errors or omissions of the district in completing its responsibilities. In the event the election is cancelled before election day, the district shall be responsible for its prorate share of election expenses incurred to the date of notification of cancellation, in writing to the County Clerk.
Don – It always seems a little odd when we do this when the county has an election issue signing an agreement with the clerk. However he believes under the statute you should do this and make certain that the county government is treated exactly the same way that every other district is in Garfield County. He is asking for the Boards authorization for the Chair to sign this agreement on behalf of the Board Of County Commissioners.
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

CONSENT AGENDA

zz. Approve Bills
aaa. Changes to Prior Warrant Lists
bbb. Authorize the Chair to Sign the Resolution for American Soda, LLC (SUAA 6206), for a Special Use Permit Amendment – Molly Orkild-Larson

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

REGULAR AGENDA

Assessor's Update:

- **A. Abatements for David Ralph Delaney – Abatement No. 10-152, Schedule No. R008630; James and Vaness Biebl – Abatement No. 10-151, Schedule No. R011032; Tasker Investments, LLC – Abatement No. 10-157, Schedule No. R009515 and Abatement No. 10-158, Schedule No. R009551; James A. and Maria P. Gornick – Abatement No. 10-149, Schedule No. R320046; Linda Brynildson – Abatement No. 11-001, Schedule No. R363465; Braeburn Real Estate – Abatement No. 10-154, Schedule No. R007725 and Abatement No. 10-155, Schedule No. R007726 – Lisa Warder – Maggie Bowker**

Chairman Martin – Notice to the taxpayer only and no other requirements. Chairman Martin swore in the speakers.
Lisa – Abatement number 10-152, Schedule R008630. This is a property at Oak Meadows Ranch and the owner owns the adjacent vacant lot; the code has changed from a vacant land code to a residential code which will change it from the vacant land assessment rate of 29% to the residential assessment rate of 7.96%. It is due an abatement for 2008 in the amount of $1,198.76 and in tax year 2009 for $2,313.72.
Commissioner Houpt – Is that because it was incorporated into the other lot?
Lisa – It's not incorporated with; it is used with. In conjunction with.
Commissioner Samson – Would it be appropriate to just do that right now before we move on?
Commissioner Houpt – Is there a reason?
Commissioner Samson thought they would just get it out of the way and go through.
Commissioner Houpt – But we have to open and close the hearing if we do it that way.
Lisa – Abatement number 10-151, Schedule number R011032. This property the owner actually, when he came in and protested his 2010 value; he did not protest in 2009. Because we adjusted the 2010 value, we are also giving an abatement for 2009 taxes because the cycle runs in two years. If it's not correct this year then it's not correct last year. The amount of the abatement is $1207.72. Abatement number 10-157, Schedule number R009515. This is the same situation as last time; the folks came in and protested the 2010 valuation. This property is actually on the subdivision discount; when she recalculated it she did find a difference and they are being abated taxes in the amount of $1,161.88 for 2009. This is the same owner, same situation; Abatement number 100-158, Schedule number 009551, again she recalculated the subdivision discount and found it in error and they are being abated in the amount of $1,019.32. Abatement number 10-149, Schedule number R320046. This is another case of an owner protesting their property in 2010; Lisa's office actually did a physical inspection of the property, and determined that not only was our land value incorrect; but that the property actually has a mixed use. It has residential and commercial which changed the assessment rate on part of the property. They are due an abatement in the amount of $5,191.24. Abatement number 10-154, Schedule number R007725; this is a property that as of January 1, 2008. This property had a foundation on it as if January 1, 2008 therefore the codes need to be changed from vacant land to residential. For 2008 the abatement is $1,014.64; for 2009 the abatement is $7,902.16. Abatement number 10-155, Schedule number R007726; its right next to this one. The one she just gave them; this is for the same reason. As of January 1, 2009 15% complete foundation only. The amount is $7,898.52. She will have to wait for Maggie to do the 11-001. She explained how the abatements ran and why this abatement starts with an 11.
Commissioner Houpt – I make a motion we close the public hearing.
Chairman Martin – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion that we approve Abatement number 10-152, Schedule number R008630 for the tax year 2008 in the amount of $1,198.76, tax year 2009, $2,313.72.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve abatement 10-151, Schedule number R011032 for tax year 2009 in the amount of $1,207.72.
Commissioner Samson – Second
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt – I'll make a motion we approve abatement number 10-157, Schedule number R009515 for tax year 2009 in the amount of $1,161.88.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve abatement number 10-158, Schedule number R009551 in the amount of $1,019.32.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve abatement number 10-149, Schedule number R320046 in the amount of $5,191.24.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve abatement number 10–154, Schedule number R007725 for tax year 2008 in the amount of $1,014.64 and tax year 2009 in the amount of $7,902.16.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve abatement number 10-155, Schedule number R007726 for tax year 2009 in the amount of $7,898.52.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin asked Lisa if she had one more if it was a noticed public hearing.
Lisa – Yes.
Chairman Martin – That notice was only to the tax payer and no other obligation?
Lisa – Yes.
Chairman Martin swore in the speakers.
Lisa – This is abatement number 11-001, Schedule number R363465. The petitioner actually protested their value in 2010; they did not protest the value in 2009. When Lisa's office discovered the value was incorrect for 2010 she also gave an abatement for 2009. The amount is $5,946.96.
Commissioner Houpt – I'll make a motion to close the public hearing.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion that we approve abatement number 11-001, Schedule number R363465 for tax year 2009 in the amount of $5,946.96.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. Abstract of Assessment – Lisa Warder**

Lisa is close to completing the state abstract of assessment and she would like to ask the Board to authorize Chairman Martin to sign the state abstract of assessment when she completes it and she is hoping it will be today.
Commissioner Samson doesn't have any problem with that; but explain this more to him.
Lisa – The assessor's office is required by law, as of August 25th of each year to send a report to the state. It's called the abstract of assessment, it is similar to what Lisa has given to the Board, or John gave to the Board in July telling what the value of the county is, how many acres of certain types of property there are, how many individual residences there are, commercial type properties there are, and they compile all that information for the state. It comes out in a report from each and every county; you probably have those books over here. That information is available to anyone who wants it. It basically gives like the state of the union address for the county as the assessor's point of view.
Chairman Martin – Do we have a motion to authorize that when completed?
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Human Services Commission:

- **A. Presentation of 2011 Human Services Grants – Grant Committee**

The committee supplies a spreadsheet to the commissioners showing grants received from 2008 through 2010. They also showed the grants proposed for 2011.
Kay Vasilakis – Garfield County Human Services Commission and the grant allocation committee. They met and had 43 applications totaling $869,489.00 and they had $469,164.00 to give. The entire Human Services Commission thanks the Board of County Commissioners who have agreed to fund several of the applications in their county budgets. Those requests totaled $86,470.00. You do have the amounts that we have recommended and the Human Service Commission approved those grant recommendations.
Chairman Martin – Was there anything held in reserve at all?
Kay – Everything was spent.
Commissioner Houpt – We had twice as much requested than we actually had in money. The one correction on the spreadsheet; under the Columbine Home Health, she thinks that was a combined grant. Columbine Home Health asked for two separate grants; one was for private duty nursing and the other was for a wellness program. She said they did an overall combined grant for that; this only shows that we funded one of those programs. She would think that administration should slip that number up one notch. It was a challenge this year; we know that everyone is in need of funding and there were some really valuable requests that could only receive partial amounts and some we couldn't fund. It's a challenging year; but when you are truly are asked for twice as much than you have to give it becomes a challenge. She applauds committee for doing a real fair balance job of putting these numbers together.
Ed – As the Board recalls they also offloaded about $86,000 to our budget in both Human Services and in the general fund. Talking to Lynn Renick and her staff; $26,000.00 of that went to directed requests in this Human Service deliberation. But there are other pre-schools and day care centers that need grants as well. Ed would like to propose they set up a $50,000.00 grant fund in Human Services and let them administer that so we cover the $26,000.00 that is needed here plus other needs.
Commissioner Houpt – Those backfill the needs that we used to receive for childcare.
Carolyn to Mr. Martin; as a follow-up question to that, she knows they haven't voted on this year yet; but she thinks everyone is assuming next year will be a challenging year as well. Staff needs some direction on

what you plan to do about Access Roaring Fork. Because that is an educationally oriented program that she was under the understanding you were going to direct them to go to the Human Services Commission next year to be part of that process.
Commissioner Houpt – We haven't discussed that yet and what they did do at the last meeting was approve the money that was in the budget go to them.
Carolyn – Correct and your staff has worked on that; they have a new contract ready, but contract management and county attorney's office and Ed we don't know which way to go for next year.
Commissioner Houpt – We haven't had that conversation and hasn't really been on the agenda to be able to contemplate that.
Carolyn – Should we agenda that for discussion.
Commissioner Houpt – Yes.
Chairman Martin – Wonderful program that it is; he thinks he has voiced his concern that he needs to find other funding sources other than general fund of Garfield County and Human Services.
Commissioner Houpt thinks in all fairness to have that conversation you need to have the agency here and they are looking at other monies.
Carolyn – Looking at this she noticed there are a number of educationally oriented things on this sheet. She will work with Ed and get it on the agenda.
Ed thinks the other issue is could this come out of their discretionary funds or not. This year it did not.
Commissioner Houpt – I make a motion we approve the 2011 Human Services grant as presented by the Human Service Commission Grant Committee and approved by the Human Service Commission.
Commissioner Samson – Second.
Chairman Martin – That was total amount of $469,164.00.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – Ed you would like a motion to set up this special grant funding?
Ed – Administer a total fund.
Commissioner Houpt – Within the childcare department of Human Services and I would say that those monies should come out of the County Commission grant discretionary funds; that would be my motion.
Commissioner Samson – Second.
Chairman Martin – We have not used the entire amount but we need to go ahead and transfer that to them.
In favor: Houpt – aye Martin – aye Samson – aye

Board of Human Services:

- **A. Approval of EBT/EFT Disbursements for July, 2010 – Lynn Renick**

For the month of July 2010, client and provider disbursements for allocated programs, totaled $284,877.64. Client benefits for Food Assistance totaled $569,603.26. Total EFT/EBT disbursements for July totaled $854,391.90. The department is requesting Board approval and signature.
Commissioner Houpt – So moved.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. Consideration and Approval of SFY11 Core Services Plan – Lynn Renick**

Garfield County's total allocation (80/20 and 100% categories) totals $268,484.00. All counties received approximately a 2% decrease from last year's Core allocations. The four-county (Garfield, Eagle, Pitkin, 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 is asking for approval for signature on the plans.
Commissioner Houpt – So moved.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Consideration and Review of Self-Sufficiency/Colorado Works Program Policies – Lynn Renick**

Colorado Department of Human Services states that the Board of County Commissioners are no longer required to formally sign the policies, however, these policies need to be presented to the Board for information and feedback.

a. Fraud policy
b. Colorado Works Family Stabilization/State Diversion policy
c. Colorado Works Cash Assistance Sanctions policy
d. Colorado Works Other Assistance policy
e. Colorado Works Community Resources Investment policy
f. Collection of Public Assistance Recoveries policy

Lynn – Although we don't need a signature; we need to have evidence that these were presented to the Board and if you have any feedback please let her know.
Chairman Martin – Do we have any objections or concerns.
Commissioner Houpt – She didn't have any feedback but she appreciated seeing.
Lynn – These are not new policies; but they might be revised and she is not quite sure if they need to come annually or not. The state keeps changing how they want this done.

- **D. Consideration and Approval of the SFY11 Senior Meal Preparation IGA with the City of Rifle – Lynn Renick**

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 the meals to Parachute, Silt and New Castle locations. The contract reflects no increase in per meal cost of $4.00. The contract is effective July 1, 2010 through June 30, 2011 in the not-to-exceed amount of $65,000.00.
Commissioner Houpt – I'll make a motion we approve the Senior Meal Preparation IGA with the City of Rifle as presented.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Consideration and Approval of the SFY11 Senior Meal Preparation Contract with Valley View Hospital – Lynn Renick**

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 Carbondale Senior Housing Sites. The meals are prepared at Valley View Hospital facilities and the Traveler transports the meals to CMC and Carbondale. Hospital staff transports the Sunnyside meals to that location. 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, 2010 through June 30, 2011 in the not-to-exceed amount of $42,000.00.
Commissioner Samson – Why the discrepancy in costs for Carbondale to Sunnyside is it transportation?
Commissioner Houpt – They deliver. I'll make a motion we approve Senior Meal Preparation Contract with Valley View Hospital as presented.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **F. Consideration and Approval of the Lease Agreement with Community Health Initiatives, Inc. for Storm King Case Management Services**

This lease will give continue 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. The term of the lease is July 1, 2010 through June 30, 2011.
Commissioner Houpt – I'll a motion we approve a lease agreement with Community Health Initiative, Inc. for Storm King Case Management Services as presented by Ms. Renick.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **G. Program Updates**

Lynn didn't have anything specific other than to say they have been busy. Their self sufficiency application; they almost topped 500 applications in the month of July. They have not had close out yet; they should be getting it any done, they have some preliminary numbers. They were, as expected, over expended in TANF allocation. Probably about $192,000.00; but they did have reserves to cover that for this year. It will be very difficult to cover any over expenditures next year through their TANF reserves. They are waiting for mitigation on child welfare and there are other closeout numbers they don't have.
Chairman Martin – Was that the state auditor that was here last week.
Lynn – Probably; they have had many different reviews. They had almost a week long management evaluation with the Food Assistance Program. They got a lot of very positive feedback on it.
Commissioner Houpt – Will that be part of our 2011 budget discussion about the short falls in funding.
Lynn – Yes, she did not add anything relative to the childcare discussion. But she thinks that is something she wants to make sure the Board is aware of in terms of where that is at. She did get a preliminary allocation late on Friday afternoon on our county admin. She is expecting it to change; but they actually have been increasing slowly but surely on that every year. They are showing right now that they will be getting $1,069,000.00 in the preliminary allocation for that which will be a big boost if that actually comes across.

PUBLIC MEETINGS:

- **A. Impacts of Proposition 101, Amendment 60, 61 – RE-1 Shannon Pelland, Garfield County Library District – Wilma Paddock**

Bill Lamont, Wilma Paddock, Shannon Pelland, Miles Rovig, and Amelia Shelley were present.
Amendment 60: 1. Will require school districts to cut property tax rates in half by 2020. Repeals all past votes to retain property tax revenues above TABOR limits. 2. Limits future revenue retention to four years, and future tax increase votes to 10 years. 3. Repeals other tax provisions enacted since 1992 (TABOR effective date). 4. Requires enterprises and authorities to pay property taxes and requires local governments to offset that revenue with lower tax rates.
Proposition 101: 1. Reduces specific ownership taxes over four years to $2.00 on new vehicles and $1.00 on other vehicles. 2. Eliminates state and local taxes on vehicle rentals and leases, and on 1st $10,000.00 of auto sales. 3. Limits registration, license, and title charges to $10.00 per year per vehicle. 3. Reduces the income tax rate from 5% to 4.5% in 2011 with later rates decreasing 0.1% per year until reaching 3.5% in each of the years that revenue growth exceeds 6%. 4. Eliminates local or state government fees on telephones, pagers, etc. except 911 fees which are frozen at 2009 rates.
Amendment 61: 1. Prevents the State of Colorado from issuing debt of any kind. 2. Prevents local governments (including school district) from issuing debt of any kind without voter approval. 3. Requires local governments to cut their tax rates equal to the average annual debt service after the debt is repaid, even if the debt service is not being paid with tax revenues. 4. All local borrowing will be considered bonded debt, and must be repaid in 10 years. Limits the amount local governments can borrow to 10% of the assessed taxable value of real property.
Shannon summarized what was in the Boards packet. The percentage lost under 101, 60 and 61 that are reflected on the handout are pretty significantly different for the three districts. The reason that is true is because under the school finance act in the State of Colorado; property taxes make up a very different proportion of funding for school districts across the state. For RE1they happen to make up a much more significant share, local property taxes makes up a much more significant share of their funding than it does for either the Parachute or Rifle school district. That dates clear back to 1988 when the school finance act was resolved and those disparities were kind of locked in place in 1992 when the TABOR law passed.
Commissioner Houpt – We are actually televised and she thinks it would be helpful if she shared some of the numbers.
Shannon – This is based on 2009 numbers, 2009 numbers were used by the Bell Policy Institute in coming up with these figures. They have changed pretty significantly for their district in particular since 2009 because of the very significant increase they saw in property taxes this year. She wanted to talk later on about the impacts to their district and how those changed just based on the most recent property tax levy. This reflects the lost dollars to Parachute over the period of implementation of this measure would be about $2.5 million or 27% of their per people funding under the School Finance Act. RE2 the Rifle school district would lose about $6.8 million or 32% of their funding and Roaring Fork School District would lose $16.3 million or 42% of their funding under the School Finance Act. She will save amendment 61 for last because it has some special implications that may involve the Board of County Commissioners. She knows that they all know this; but she will go through the bullet points of the different amendments and the

propositions. Amendment 60 requires school districts to cut their property tax on the levies in half by 2020 over the next 10 years. It repeals all past votes to retain property tax revenues above TABOR limits. Her district passed a debrucing measure in 1997 so it would repeal that. It limits future revenue retention to four years over and above those TABOR limits and future tax increase votes to 10 years. Repeals other tax provisions enacted since 1992 and requires enterprises and authorities to now pay property taxes and requires local governments to offset that revenue with a reduction in their tax rates. The impacts to the school district in particular are pretty significant. For each of these there will be some resulting in impact; but she summarized the biggest ones. The first one is cutting that proper tax rate in half by 2020; because their district is so heavily property taxed funded, and she just used this years numbers. This year they levied $34.8 million dollars in general fund operating property taxes for their school district. That's no surprise to everyone who receives their property tax bill and sees what a large portion of that goes to Roaring Fork School District. $30.8 million of that revenue is calculated under the state school finance act, and an additional $4 million has been approved over the years by Roaring Fork School District voters for general operating funds in addition to what's authorized by the school finance act. It appears under the law that both of those levies would have to be reduced. Both the levy that their district voters formally approved as well as the school finance act levy. At full implementation, using 2010 numbers, that would be a reduction of $17.4 million dollars of our funding and would represent about 44% of their expenditures for last year. It's a very significant impact. The law does require the state to backfill those lost revenues. The reality is though when you look at the combined total of the impact of this across the State of Colorado; that is going to be an absolute impossibility. They are already looking at additional budget cuts in the 2011/12 budget. The state is projecting another $1 billion dollars in additional budget cuts and that is without the passage of any of these amendments or the propositions. She thinks it is important to make clear that the legislative council, the state's office of budges and planning have all been very clear that, that level of backfill is not going to be doable. It also limits revenue retention to 4 years and future tax increase votes to 10 years; there are a number of interpretations of the language in the ballot and whether or not that will apply to over rides that have already been passed. That $4 million dollars in overrides; certainly it would apply to overrides that their voters might pass in the future. The difficulty that creates she thinks for school districts, and anybody who passes overrides for general operating purposes are that those funds have the potential to expire obviously. It is very difficult to put them into salary increase for teachers or anything like that because you may be look at having to cut those funds out of the budget at some point in the future.

Wilma – On 60 for the library district, in 2006 the voters approved a one mill levy for the library district to build or remodel all libraries in Garfield County. Of course the Board has gone on with that. The TABOR limitation on this would slow dramatically the building process down because part of the money that they need from the one mill is also to operate these brand new big buildings. Which they would not have in their operating funds and the voters very generously approved part of the one mill to be used for operations. They are presently finishing a 30,000 square foot building in Rifle and a 9,000 square foot building in Parachute and they will be opening this fall and it would severely limit the building of the next round of buildings.

Shannon – Proposition 101; it reduces specific ownership taxes over 4 years to $2.00 on new vehicles and $1.00 on other vehicles. It eliminates state and local taxes on vehicle rentals and leases and on the first $10,000.00 of an automobile purchase. It limits registration, license and title charges to $10.00 per year per vehicle. It reduces the state income tax rate from 5% to 4.5% for the 2011 year continuing to decrease it by .1% per year until it reaches a 3.5% level. That would happen in each year where revenue growth in the State of Colorado exceeds 6%. It eliminates local or state government fees on telephone, pagers etc., except for 911 fee which would be frozen at the 2009 rates. As far as the school district goes the reduction in specific ownership taxes again a significant portion of their funding comes from specific ownership taxes and it is part of that school finance act calculation. The district 2010/11 budget included specific ownership tax revenue of about $1.6 million dollars; the estimated reduction I this amount would be 98% or $1,589,000.00. So they would be left with maybe $22,000.00 of that revenue. It reduces income tax rates and other state taxes and for this purpose it's really difficult to quantify what the direct impact would be on their district. That is an indirect impact because it will impact the state's budget, general fund budget obviously, the state's general fund, 43% of the state's general budget goes to fund K12 education. So certainly any impact on the state's budget is going to trickle down to school districts; but they don't know exactly what the dollar impact of that would be.

Wilma – The library district would also lose 98% of the revenues. By 2015 they would lose $197,000.00.

Chairman Martin – You make real interesting arguments within the joint budget committee.

Shannon – Amendment 61; this amendment prevents the State of Colorado from issuing debt of any kind. It prevents local governments, including school district from issuing debt of any kind without voter approval. It requires local governments to cut their tax rates equal to the average annual debt service after the debt is repaid even if the debt service is not being paid with tax revenues. All local barrowing is considered bonded debt under amendment 61 and it must be repaid within 10 years and it limits the amount that local governments can barrow to 10% of the assessed taxable value of real property in their districts. How would the amendments passage affective our school district: The debt limit in particular; their debt limit right now for their school district is 20% of assessed value; which for them is about $240 million. It would drop from $240 million to $140 million in addition to which, in the past just bonded debt has been subject to this limit. Now all debt falls under this cap and we do have debt outside bonded debt. As you can see the district has $105 million in general obligation or bonded debt. The district has issued COP's for the acquisition of the east bank proper and has a lease purchase on Roaring Fork High School site; those two total about $4.8 million. They are at about $110 million in debt outstanding right now. One of the things they project under this amendment is that as we see assessed values fall, and they have been projected to fall pretty substantially in the next re-evaluation, that obviously then their debt limit is going to fall as well under this amendment. Probably they would be exceeding their debt limit at that point. In fact she thinks most districts in the state will exceed their debt limit if they see the kinds of reductions in assessed values that are projected at this point. Which means; as school districts start to grow, need new facilities and certainly there are district in the State of Colorado that wow maybe they aren't growing; have very aging facilities and will need to have bond issues for the replacement of those facilities or improvements to those facilities, they'll be above that debt capacity and won't be allowed to issue any additional debt. Debt repayment terms: The debt repayment terms on any debt issued after January 1st

would be a maximum of 20 years. Typically bonded debt for school districts is spread over 20 to 25 years. Their bonds have a 20 year amortization period and really the impact of that is going to be felt by voters in terms of when we pass bond issue; while the debt repayment term maybe shorter, the annual debt repayment costs will be much more significant than it would be under the current law. Voter approval required debt of any kind would prevent their district from using lease purchases for equipment, such as acquisition of computers and copy machines without going to the voters for those types of lease purchases. This legislation would have prevented their district from acquiring either the east bank site or the north face site where Roaring Fork High School sits. Particularly in their district, she thinks this is true everywhere at some point or another, when land is in high demand, to get a piece of land under contract and have a seller be willing to sit on it long enough for it to go for a vote of the people; the north face site in particular is a piece of property that they would not have been able to acquire. Had we had to wait for a vote and not issue COP's for the acquisition of that piece of property. Typically you'll see districts use this mechanism to acquire land a lot and often they will later ask for voter approval to roll that debt service into a bond issue. They have not done that on either of these sites at this point; but it would make it really difficult to acquire land because of the timing issues that are associated with that sometime. She thinks for both of those sites, particularly for the north face property, condemnation would probably have been realistically the only way to acquire that land. Unless later the purchaser had been willing to sell it. There is also a requirement to reduce the tax rate by the annual debt service once repaid. An example of that would be the annual debt service they have on these certificates participation to acquire for example the east bank property. When they pay those certificates of participation off; they would have to lower their mill levy by the amount of their annual debt service payments on those. Which obviously in that situation they would not acquire properties in that fashion because they could not afford to turn around and lower the mill levy once they are paid off. The state no longer being able to issue debt of any kind: in the State of Colorado back in 1992 they changed school district fiscal years; from a January 1 to December 31 fiscal year to a July 1 to June 30 fiscal year. What that meant is for school districts like theirs who are very heavily property tax funded; we don't receive most of their funding until the end of the school year as property taxes roll in. That creates a cash flow problems for them and as a result of that the state said; it's really not fair to impose the requirement for these districts to go out and borrow money on their own and pay all that interest cost when they are only in this position because their property tax payers are already funding a large share of their support. At the time the state instituted what they called an interest free cash flow loan program, which their district and about between 15 and 20 districts in the state borrow from annually to meet their cash flow needs until those property taxes come in. The state would, under amendment 61, no longer be able to provide those interest free loans. The problem is; districts also would not be allowed to go out for short term barrowing. If they tried to go to a bank and get a line of credit; for their district that cash flow deficit amounts to about $10 million dollars, is what they are estimating for this fiscal year they are in now. If they try to go to a bank to barrow $10 million dollars and it's just to borrow for a couple of months; at the end of that barrowing they would have to lower their mill levy to compensate for that $10 million dollars; so now they are taking in property taxes of $30 million dollars, they would have to drop that mill levy by that $10 million dollar barrowing. It really creates a catch 22 for school districts in this situation. One of the proposed solutions, or one of the things that has been discussed, and you (the Board) may have seen this; school districts in this situation may go to their counties and request advances of property taxes to get them through this period. The likely hood; if 61 passes, what they have been told is that they will call an emergency legislative session to deal with this issue and probably a number of others. But to deal with this issue in particular and will issue authorizing legislation that would allow counties to do that. It is only being looked at as a one year solution to get through this first year and then the state recognizes they will have to come up with some long term plan. Which for school districts may require that the districts that are affected by this; go back to a calendar year budget basis instead of fiscal year. The state couldn't afford to make that change for all school districts; but it might make it for the 15 or 20. So it would be a little odd; they may have the potential to have different school districts on different fiscal years. Long term they would have to come up with a solution; but that is one of the things that have been tossed out as a possibility. To be honest with the commissioners; they don't have really a good solution on how they would deal with this issue. She would like for the commissioners to think about this and she can come back and talk to them at a later time; but it is something to start mulling over.

Commissioner Houpt – The difficulty in that proposal is that we as a county could potentially work with you on that; but maybe the only county in the state that would be able to do that.

Shannon – There are actually; the Colorado Department of Education has actually looked at that and there are a very significant number the districts in this our situation of which there are 15 to 20 pretty significant numbers of counties who would be able to manage that. But she doesn't know which ones they are and how many; but they have looked at that. Because you're right, not every county is going to be able to do that. One of the things that the state has also said is that they will front equalization; the school finance act has three pieces to it. Specific ownership tax, property taxes and then state equalization; the state funding we received out of their general fund. Usually they get that over 12 equal payments throughout the year and for districts likes theirs they will start to front load that, so that they will receive that probably more in the first four to five months of the year. That will certainly help some districts.

Wilma – 61 is not as devastating to the library district as it is for the school district; but they also do lease purchases for their computers and their copiers, which are heavily used by their patrons. They would have to figure out how to purchase those outright in order to get them.

Amelia – The COP's of course are also an issue for them. They have sold COP's to finance Rifle and New Castle. They are looking to sell COP's to finance Carbondale and potentially Glenwood and Silt. If they don't do that it will be much longer.

Ed asked Shannon; would the county be able to recover monies that we would receive from investing, if the county was to provide funds to them.

Shannon – Yeah; that's one of the things they looked at in the draft of the legislation they are doing, and they are not really calling it interest, but there will be a fee associated with that kind of an advance. They recognize that is something counties certainly are not going to be willing to do if they have to give up the investment income amount. They obviously understand that as well.

Ed – One other issue; the option of extending the debt for years just to avoid the situation once you pay it off. You have to reduce your mill levy.

Chairman Martin – And it's a perfect storm.

Commissioner Houpt – Will there be a discussion with whoever might be sponsoring this bill with counties? You've had bills pass that in fact you haven't been invited to the table and they would hope they would.
Shannon – they have received a call just last week from the department of ed finance director asking the 20 districts, who are in this situation, to begin discussions with their counties and approach them and let them know that it's something out there that's being thought about at this point. She will pass that along to the people who are writing the legislation.
Commissioner Houpt – We should be able to participate in the wording, the language in that. Also do you know how much that would actually mean to you, and would the other two districts find themselves in that position?
Shannon – They will not. She doesn't believe either RE-2 or Parachute would be impacted by that. For their district it's about a $10 million dollar number and the case flow deficit they have occurs most significantly between January 1st and March 31st. It's about a three month period.
Commissioner Houpt – How do you now pay that back to the state; what is the timeframe?
Shannon – Literally the way they do it now is they get property taxes in on the 10th and on the 11th they have to repay 100% of the taxes they receive on that day until that loan is paid off. Sometimes they are paying off 100% of the taxes and turning around two weeks later and barrowing again. But again, it's the issue of the investment stream that they wanted that money back in the states, as soon as they could get it. So they literally had a one day turnaround for repayment on those.
Commissioner Houpt – So we have to; this is where it is so important to have them at the table because they have to figure out how to accomplish that without conflicting our programs.
Shannon talked to; she left a message for Georgia Chamberlain about this a couple of weeks ago, and she will call her about it and maybe they can sit down and get the Board a better feel for what that would look like. She has also talked with Lisa Dawson briefly.
Chairman Martin said they run into problems with loaning as a county too; statute issue, they don't want to go too far in violating state statutes.
Bill – Your staff our staff, they can present you with facts and as a non-paid advocate, they can advocate. He is really encouraging the county commissioners to consider, after they have looked at to the depth they want; the commissioners already know more presentation than they might want to know. But these three amendments, were they to pass, will devastate the state, the school district and anything they are trying to accomplish positively with the state.
Commissioner Houpt – The commissioners can't; we are in the same position as the school districts and in terms of being able to campaign for or against. But they did adopt a resolution that; did we?
Chairman Martin – No we didn't adopt any resolution.
Carolyn – No.
Commissioner Houpt thinks they did and they need to check the minutes.
Commissioner Samson – We had the discussion but he doesn't think there was a resolution.
Don – There was a workshop discussion.
Commissioner Houpt – We are going to propose adopting a resolution. We sent it into CCI.
Chairman Martin – We did our impacts and basic information; but they didn't do a resolution. But there is another issue; even if it doesn't pass it's a wakeup call to government in that we need to change our approach. Because we are losing again those that we have worked for and their support and their belief and their direction; he feels they need to get more information and we need to pull it a little bit tighter to the bill is the message they are getting. Frustration has grown to that level and we have polarized both government and our citizens. They are at odds with each other; they are the same entity. We have to remember that you are a part of the government; the government is just part of the citizen.
Miles would agree with that aspect. He went to renew an old car license earlier this year which was $19.00 for the last 12 to 14 years, and it jumped to $78.00 and that was plus a $100.00 penalty that he wasn't aware of. He thinks that in their school board discussion they have talked for the last year, year and a half about how we can tighten their belts just in general. Not just because they have a funding problem; but in general. He thinks the folks want them to be very efficient and very aware of their needs and the needs of the governmental agency and it shouldn't be a we versus them. We need to work together to be efficient but not a neutron bomb type event.
Chairman Martin – these three amendments are based on total frustration with people not listening to them; the government is not listening to them and doing things that the government wants to do without consulting the citizenry. He thinks that is what it amounts to. Its government priorities not citizen priorities; that's the frustration they have to deal with. If we don't; these will pass and then you're going to change drastically and we'll start over again.
Bill – He thinks it is also the philosophy of starving the elephant; which has been discussed for 20/30 years, that rather than take on individual programs; the basic ides was just cut the revenues. When you cut the revenues you don't have to fight program by program. And that is a philosophical vent there that some people have in our country and this is an example of one of those diabolical approaches to starving the elephant.
Chairman Martin – If you look at it this way and they all pass, local governments go away, state governments go away; what do you have left? Federal government and marshal law; is that what we want because that is kind of the pathway we are on. We are no longer individual governments; we have to have one government and how is that going to work? It's not what we founded this nation on.
Bill – Before we close; September 11th they will be opening the Parachute library and the Board will get a formal invitation. Early November they will be officially opening the Rifle library. Everyone excited as shown by the vote of the citizens for them to build this library. In Glenwood they had 120,000 visitors last year come through the Glenwood library; a totally inadequate library had that many visitors. They are following through what the citizen's approval.
Commissioner Houpt is very impressed with what they have accomplished. It was a joint vision when they put the district together. She would like to re-agenda this; she thought they had adopted a resolution so she would like to have that discussion in September.

- **B. CEC Airport Solar Farm, Consideration and Approval of Documents – Paul Spencer and Brian Condie**

Brian – Site locations; in discussing the requirement for grant assurances this last week and the possible relocation. They can pretty much guarantee the site they have is good for the next 20 years. His concern

came up; if in 20 years the FAA wants to put a tower here, the site they putting them on is a prime site for that. Mostly because when they did the temporary VOR location; that was one of the spots that was identified and it was actually down to that one and the one that was eventually chosen. The one that was chose will have hangars on it in the next 10 years, which leaves this site available. They looked at alternate sites and one of the possibilities that came up was that they have the whole new west side of the airport where the wall is. It wasn't available a year ago when they started this. They could move them to this new location; Brian showed on a map. This is on a 3 to 1 slope; it will never be used for aviation and we can guarantee they won't use it for anything else. The relocation cost they calculated at around $1 million dollars. He couldn't commit the county to a million dollars and they couldn't commit their constituents and backers to a million dollars, so if we can make this other site work for four acres for the same deal they won't have to worry about the relocation clause in the future.
Chairman Martin – Just do it now; that would be wiser, but you have to work out access, the slope…
Brian – They had two site visits last week; they are still coming up with some engineering numbers he believes.
Paul Spencer – They did go out two times last week to look at the sight. They are trying to assess, they know it will be a little bit of a challenge as far as working on the slope. So they are trying to assess and get estimates back to see how difficult it will be. Will it be just a slight factor of "X" percent and something they can absorb, or will it be a multiple expense. They hope to have this information yet this week to be able to give to Brian and staff. They do feel it is a better long term vision as far as not having the possibility of not having to move it at some point.
Chairman Martin – Have you looked at what's going on now, an extension of a contract with the earth movers so they could handle that while they are on site instead of totally rebidding it and moving it; changing the scope of elevation on that corner?
Brian – Earthworks is done; so it would be a matter of doing the foundations. He said they could do that before they seed so they don't disturb that.
Commissioner Samson – If I am understanding; you are saying it will cost a million dollars to do that?
Brian – To relocate it; once the system is up.
Commissioner Samson – So how much would be the added cost of putting it on the secondary site.
Paul – That's what they are trying to get numbers on now.
Commissioner Samson – Can you give me some kind of an idea?
Paul is guessing it will be in the couple of hundred thousand dollar range.
Commissioner Samson – Your Company will be paying for that.
Paul – Yes.
Brian – For the security of not having the threat of moving in 20 years is virtually gone.
Chairman Martin – Why don't we continue that particular engineer and scope and make a determination after they see their hard numbers?
Brian had a couple of things with the lease; they want to get that off to the FAA.
Chairman Martin – If you have a new site you won't have a lease.
Carolyn – But there are standard lease terms that would be in there. There are two issues and this is one of the reasons she asked if he has Chairman might consider a special meeting. There is another issue they need to talk about. But she would like to get this document off to the FAA. There are two aspects; one, remember they talked with you about having a good funds escrow and proof of construction financing in place instead of a letter of credit or payment and performance bond, and what CEC had to tell the Board was that they don't do too much on a credit card. They have to pay for their materials frontend; so the real cost to them, and the county's concern would be whether labor is paid for. They what to know if they can rather than, or at least instead of have the option, instead of a letter of credit, or performance and payment bond that the Board would approve proof of construction loan plus the good funds escrow if that doesn't cover the entire construction cost. What that means is that there is no pot of money for the BOCC to go after if they don't get the array up or if they don't pay any of, some of their material and labor is not paid.
Chairman Martin – Still goes back to the salvage.
Carolyn – We still do get the salvage; but there is no pot of money for the BOCC to use. Like she has said before and Ed told you that early on in the development of the airport you did approve such a thing for one of the big hangars that went up. This is a different situation from a hangar; but before she ships this off to the FAA they need know if the BOCC would approve that option and this instance.
Brian – Because it's different from a hangar, if they get in the middle of a hangar and have a slab that they now have to remove; that's one thing. These are small pylons, there's no ground, or minimal ground disturbance. The risk, in his opinion, is very low.
Commissioner Houpt – We had this discussion last time they were here and she thinks they agreed that was a smaller risk because you do purchase materials at the front end. She would think that would certainly be acceptable.
Carolyn – Because this is a variance on their standard form of doing business she needs to know that the BOCC will let her put that in the lease. In fact she would like to have a motion so she has a record that the BOCC approved it.
Commissioner Houpt – Tell me what you want.
MOTION:
Carolyn – That we would have, instead of a performance payment bond or a letter of credit; that you would approve the use for both the performance and the payment side of proof of construction funding and good funds escrow.
Commissioner Houpt – So moved.
Brian – Is that just for this project?
Carolyn – This project yes.
Chairman Martin – Just this project because we are dealing with CEC.
Carolyn – And it is community owned.
Commissioner Samson doesn't like it at all; but I'll second it.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – What do you need from us in terms of moving forward on this other piece of property, anything?

Brian – We are filling out the 7460; we should get that back within two weeks. The site that was originally approved, he did get the approval letter back, was more an obstruction that the site that's now on the south side of the hill. So I'm confident it will come back approved as well.
Carolyn – Mr. Martin and gentlemen; there is one other issue if CEC is not able or willing to use the sloped site. We still have the issue of what happens with relocation. We all understand the year to year budgeting; but Brian can look out for 20 years and say we are not likely to need that parcel that's close to the well site. But you can't say in the next 10 years the two renewals that he can assure that. So assuming…..
Chairman Martin – I don't think anybody can. I think we need to stay with the standards and it's about time to do some replacements. Time wise; between 25/26 years you are going to be replacing everything.
Carolyn – Do I read that to mean that on the renewal terms there will be a renegotiation?
Chairman Martin – I think there has to be. But again it's pretty standard in reference to the approach that we have – 20, 5, 5 etc. Keeping it fair and open; performance, evaluation.
Carolyn – I'm asking a slightly different question.
Commissioner Houpt – What are we going to do in terms of building a relocation or will we have a pay relocation.
Chairman Martin – Do we promise in today's dollars, it may be a million dollars and in 10, 20, 30 years it maybe triple that?
Carolyn – We can't do it because of our annual budgeting; but I need to know what kind of language to put in there. Am I saying that we'll do our best to relocate you if not on the airport, someplace else in the county property or do we just say at the end of 10 years…
Chairman Martin – That would be 20 years.
Carolyn – 20 years.
Commissioner Houpt – After 20 years we do our best; but that's not a guarantee that there will be anything available.
Brian – But the risk has gone down to almost nothing because of the slope.
Chairman Martin – If you get the new location.
Brian – correct
Chairman Martin – But if it doesn't; it comes back to this particular; it's a 20 year.
Paul – And we would be fine with it; do your best language as well. Now they did, I think a different thing, maybe you just brought up maybe not. As far as the renewal, we did initially I think take care of several meetings ago as far as the auto renewal on the 10/10 meeting. If we do go on the slope and it continues to be a good spot; that those wouldn't be in question. Is that still the understanding?
Carolyn – If we're on the slope it's not an issue.
Brian – so then next time when we come back with the lease, if we get it all worked out, then we'll be asking for the BOCC to approve the new location. Because right now they haven't approved that; it is just conceptual right now.
Chairman Martin – Approve a site I think it what it amounts to.
Brian – Correct.
Ed – Before you go on to the new site; you said the additional cost, incremental cost would be $200,000.00 to place it there versus the well site?
Paul – We thinks several hundred thousand; I don't know exactly what it is.
Ed – What's the impact to us in terms of revenue?
Paul – No impact to you; it would be an additional expense on our behalf.
Brian – For the security of not relocating.
Carolyn – We'll definitely be on your agenda again September 7th; but I just wanted to let all of you know and Chairman Martin in particular that if the FAA tells us to jump, I may be asking you to jump into a special meeting.
Chairman Martin – Then we will have to call a special meeting with 24 hour notice.

PUBLIC HEARINGS:

- **A. 7th Supplement to the 2010 Adopted Budget – Theresa Wagenman**

Don – On notice; the hearing was published on August 16th in the Citizen Telegram and the Board is entitled to proceed.
Chairman Martin swore in the speakers.
Theresa is presenting exhibit A which have some increases and decreases to the existing 2010 budget. They are requesting they allow them to make those changes.
Commissioner Houpt – I'll make a motion to close public hering.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt – I'll make a motion we approve the resolution concerned with the 7th amendment to the 2010 budget and the 7th amendment appropriations of funds as presented.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **A. EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -**

Don has three items that he anticipated for this morning's session; provide an update on the status of sales tax collection and refund and confidential information regarding that issue; provide legal advice concerning use of county fuel and fuel facilities by other entities and also to provide an update on the Intergovernmental Agreement with RFTA in Carbondale on County Roads 100 and 99. They also have three items; all code enforcement issues for 1:15 p.m.
Commissioner Samson – Work through lunch.
Chairman Martin – Motion is then to go ahead proceed and be ready at 1:00 p.m.
Don asked the Chairman if he wanted to go forward with the code enforcement issues as part of this instead of waiting.
Chairman Martin thinks they should.
Commissioner Houpt – If everyone is available. I'll make a motion to go into executive to discuss the items outlined by our county attorney.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
A motion was made by Commissioner Samson and seconded by Commissioner Houpt to come out of

Executive Session; motion carried.
Action Taken:
Don would like the Board to consider a motion that would authorize the Chair to assign a letter to the various recipients of sales tax funds through Garfield County; advising them that due to an adverse decision with the Nobel Energy case that the state is seeking a refund of previously paid sales tax; but that we do not have any additional information at this time. Don will keep them updated and posted as they know more.
Commissioner Houpt – So moved.
Commissioner Samson – Second.
Chairman Martin – And to make sure it is not between Nobel Energy and Garfield County; it is between Nobel Energy and the State of Colorado.
In favor: Houpt – aye Martin – aye Samson – aye

Carbondale – RFTA Agreement:

Commissioner Houpt asked if there was anything with the Carbondale RFTA agreement.
Don – Yes, he would ask and suggest that they authorize the Chair to sign an Intergovernmental Agreement with the Roaring Fork Transit Authority and the Town of Carbondale that would authorize the use of county right-of-way for reconstruction as safety improvements at the intersection of County Road 100 and County Road 99 otherwise known as Main Street and ?? Drive, so long as that agreement that reconstruction does not require the issuance of any special license or permit in addition to the existing PUC order.
Commissioner Houpt – So moved.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Carolyn wanted to let them know that one way they tried to help move this project along as they put a signature line for the Road and Bridge Director so he could delegate his authority for road closure related to construction as well as give the Boards permission to be in our rights-of-ways and so that authority has authority gone to town.
Chairman Martin would also like to find out if we have any update in reference to the entrance to Carbondale on the RV Park and the purchase by the City of Carbondale on that piece of property. He saw it advertised and the sale taken place; but he didn't see anything change. Fred, that is in reference to employee housing, low income housing, 30 some units on there.
Fred will look into it.
Don – We have covered the items in terms of legal advice for 1:15 p.m. items as well.
Commissioner Samson has received, and he assumes both of them have also, several e-mails from the realtors who are quite concerned about the adoption of the comp plan. He doesn't know if they are specifically referring to the adoption by the P & Z on the 18th.
Commissioner Houpt – It's their document so they are the body that adopts…
Commissioner Samson realizes that and then of course they want the Board to have a blessing on that. But what he is saying; do we have a scheduled time as to when we are going to look at that document and decide what the BOCC wants to do with it?
Fred – The way the process works; it's a statutory process, as he thinks the county attorney has described to the Board. The planning commission is the body and the only body that adopts this plan. The statutory process however requires that they then certify that plan to the BOCC. That's it; it is basically a resolution that says, here we are certifying this to you. There is no "Blessing"; there is no affirmative action of this Board that is required of the BOCC at all. As far as process; the planning commission right now has set a schedule that's been in place 4 or 5 months at this point. That has moved systematically through that document with an eye on possible adoption on this Wednesday night here in this room. So the schedule as it has been planned is; Monday night, tonight here is their official public hearing start. They have taken public comment for about a year plus; but at some point all processes must come to an end and that's what this is all about. It's tonight at 6:30 p.m. until whenever they will take public comment and the same thing tomorrow in Rifle; he needs to verify that location. He will follow-up on that and then back here for possible adoption closure of the public hearing and adoption by the planning commission in this room on Wednesday 6:30.
Chairman Martin thinks what Fred is leading up to also is the question raised on mandatory versus general compliance and that would be a rules and regulations text amendment. That would come from this board and presented that way as certified and that it become mandatory instead of in general compliance.
Fred – Right; your land use code right now has language that says you shall pay attention to this document in a certain fashion. That's language, that part of it is certainly controlled ultimately by the three of you.
Commissioner Samson – To change that we have to have a text amendment in our land use code.
Fred – Yes, that is correct. You will have to look at that language right now and see what you want to propose to them.
Chairman Martin – And through their certification and making a recommendation to make a change or not. That's why he says through that process, they may adopt it or they may make another recommendation.
Commissioner Samson – We have to wait and see what they are going to do and they may "adopt" that on the 18th or they may just start discussions and then maybe wait a week or two more.
Fred – As he stated earlier, the plan really is to adopt on Wednesday night.
Commissioner Samson – So these realtors, when they call him, he needs to tell them they have to talk to the P&Z.
Fred – That's right; it's a public hearing and everyone is invited.
Commissioner Samson – What they are saying is they need more time to look at it. They have not had enough time to look at the entire document and digest it. He is assuming the commissioners are getting the same e-mails.
Commissioner Houpt – She saw e-mails come in and she hasn't had opportunity to look at them; but she knows that it is one group that is paying a lot of attention to this process and to the formation of the document. Has there been a document that has gone out to the public that these folks are reviewing?
Fred – Yes there is; there have been many, many over the last year plus and there has been a member of realtors association, that he has talked to, that has actually participated for the last 3 or 4 months with the planning commission and the citizen advisory committee. He's just; there has been another young lady as well who has participated with the planning commission at least the last 4 months forming that document. He saw the same form letter this morning that he thinks the commissioners have seen.

Commissioner Houpt – He's going to be allowing them time to speak and it sounds to her as if they have received everything that this Board has received in the past several months as far as formation and all of the various ….of the plan. She is not quite sure….
Fred – The document that the Citizen Advisory Committee, that this Board put together, that has been a public document and they have worked through a number of iterations of that; it's all been public as well as the, there are several documents there and the planning commission has met with this board. That's all been very public and it's been on the website as well as the more congealed version of the now comprehensive plan; which has also been out there for months. Of course they have all happened in public workshops that have been advertised and noticed. So it has been a very transparent, very public process; he thinks they have had over 18 public meetings on it thus far across the county and all the jurisdictions three times.
Commissioner Samson – When it comes to the deadline everyone gets a little excited.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Donna Lynn Lagiglia is here to represent the suicide prevent coalition here in Garfield County. She is the Chairperson for the suicide education awareness and she would like to welcome the commissioners, if they haven't heard of this coalition yet. It was actually born in January, 2006; it is a task force focused on protecting lives in our valley. It's in response to the growing number of deaths in Garfield County; the National rate is somewhere around 21.7% and Garfield County, at this point in time, is about 11.2%. Garfield County is pretty high as far as incidents; each community representative on the coalition brings a unique and valuable skill set with them to the team. Their goal is to increase public education and awareness; statistics show the more they get out and offer this as a public venue for education, those statistics come down as far as death by suicide. For each suicide six people are affected. There is a good change, even with the number of people in this room, that somebody here has been affected in some form with suicide. The schools in Garfield County that offered this training last year, in which she taught in all of them, had 59 students who chose to self report for either being depressed or having suicidal thoughts. These students were given the opportunity to be counseled. In addition to the number of students identified, teachers, staff and of course other students as well received the hope they needed. The Western Colorado Suicide Prevention Foundation which is out of Mesa County; offers eight free counseling sessions through the egregious program for students at risk of suicide who cannot afford therapy. She is certified, licensed volunteer in the following applications that can be presented in a variety of venues. One is called the applied suicide intervention; which is the emphasis of the certifications on suicide first aid. QPR gatekeeper training is for all personal and professional individuals. Team Link is the middle and high schools and QPR for emergency medical workers. Each of the prevention training programs includes information on the problem of suicide nationally and in Colorado and of course they also talk about their own county. Common myths and facts associated with suicide, warning signs of suicide; both behavioral and verbal. Tips for asking a suicide question and intervention skills, methods for persuading suicidal individuals to get help and ways of referring at risk individuals to our local resources which they are developing all the time. These classes are offered free of charge; however there is always a cost, she personally doesn't take any pay. If individuals, organizations are able to make a donation it would be a help to support the common goal. They hope that by working together with different organizations that they are all reaching out to the community to increase the awareness, to provide hope and prevent suicide. It's a hard word to talk about, to acknowledge and it is a scary place for some people. The coalition meets right here on the 4th Wednesday of every month from 11:00 a.m. to 1:00 p.m. She has a handout for the commissioners and the second page is a flyer. September is suicide prevention month; she is working to offer classes in the libraries, fire departments and the first one scheduled is September 2nd. If in your travels you could post someplace it would be appreciated.
Commissioner Houpt – The Parachute school district took the lead to bring into the classrooms. Did the other school districts.
Donna Lynn – Grand Valley did, the principal is now transferring to Urey; we have been in Bridges, the middle school here, Yampa, St. Stevens, Crossroads, so they have been in public and private places at this point in time. They have a good track record, most of her concentration was in this last year; even though the coalition is older than that she has taken on the education task force to be sure they are getting out there. They hope by good word of mouth and need and understanding how wonderful this program has been; it's amazing, 59 students is a lot. She has taught over 600 students in the valley so far. That doesn't include any other public venues that she is invited to.

REGULAR AGENDA

- **A. Executive Session – Litigation Update and Legal Advice**

PUBLIC MEETINGS

- **A. Consider a Request for a One-Year Extension for the Land Use Change Permit for the High Mesa RV Park – Applicant; Jerry Rush – Fred Jarman**

Planner Fred Jarman explained:
As the Board will recall, the BOCC approved a land use change permit for the High Mesa RV Park just west of Battlement Mesa PUD in 2009; which is memorialized in resolution 2009-72. The campground would consist of 119 back-in parking spaces for RV's with full hook-ups and utilities, with no tent spaces proposed. Request: The applicants have been diligently working on meeting the required conditions of approval since their approval by the BOCC, but have had difficulty with obtaining financing for the projects due to the tight lending environment. As such, they request a one year extension to meet all the conditions of approval. (Letter provided) Because staff has been working with the applicant in meeting their conditions of approval and the fact that they have been working diligently towards meeting their conditions as well as the challenging financial lending market; staff recommends the BOCC grant a one year extension to the applicant. This new deadline would be one year from their original expiration date, which sets a new deadline date of September 21, 2011.
Fred – Jerry has been working with Fred since his approvals to move forward with his project and has done that diligently. Jerry spent a lot of time and money with his engineering firm to put together the plans; Fred has seen them and there are still a lot of things he needs to complete. Because of what he has to do and probably more importantly the lending environment has made it very difficult for him to find financing. Right now he can't move the project forward. He is working hard on that and he testified to that in his letter to the Board. Your current land use code Section 4-103 (G)(8)(B) 3; provides you the authority specifically to grant the one year extension should you like to. Fred believes his request merits an

extension and Jerry has asked for this well before any deadline has turned up. Fred is recommending they grant the one year extension.
Commissioner Houpt – I'll make a motion we approve the one-year extension for High Mesa RV Park which would establish a new deadline date of September 21, 2011as recommended by staff.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Issues:

a. **Commissioner Reports**
b. **Commissioner Calendars –** Commissioner Samson – We have the Comp plan if you want to check in tonight in Glenwood, tomorrow night in Rifle and then the final version tomorrow night. We have been invited on Wednesday the 18th to a meeting talk about 60, 61 and 101 in the Glenwood Springs school board room; 7:30 p.m. Commissioner Houpt has a Rudi water and power authority. Commissioner Samson said he guessed they would hear the same thing they heard today. Commissioner Houpt - There is also a health care policy meeting tonight at the Glenwood Community Center at 6:30 p.m. People from the state want to talk about implications of the new health care policy. She and Jean are going to the Kessler Canyon for a site visit on Wednesday morning. River Bridge is having a dedication of some funds on the 19th at 10:00 a.m. and then our county picnic at 11:00 a.m; she will represent them. Commissioner Samson – Is there anything next week or the following week. Commissioner Houpt has a CCI board meeting in Pueblo, the livestock sale at the state fair. Chairman Martin – On the 29th is Mr. Samson's birthday. Chairman Martin – Tomorrow is the workshop with the Department of Revenue in Palisades at 9:30 to 11:00 a.m. He will meet with the City of Glenwood Springs representative Mr. Bersney on Wednesday regarding common interest and the Silt pig roast will take place on the 21st, it's a fund raiser for emergency services.
c. **Approval of Minutes**
d. **Commissioner Agenda Items**

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MONDAY, SEPTEMBER 13, 2010
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Tuesday, September 7, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Mike Samson being 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.

Note: Verbatim Minutes are available upon request. www.jalberico@garfield-county.com

COUNTY MANAGER UPDATE: DALE HANCOCK
R. **A. JUNIOR ACHIEVEMENT – WILLIAM WRIGHT AND SHARON BRADY**
William (Bill) Wright and Sharon Brady were present. Bill submitted a request for $5,000 to support Garfield County's Junior Achievement Programs in Carbondale, Glenwood Springs, New Castle, Silt, Rifle and Parachute, a non-profit organization using loyal volunteers to teach grade-specific programs focusing on real-world scenarios of financial literacy, entrepreneurial, economic and business skills and the importance of staying in school from K – 12 in our valley. Due to the economic realities of budget cuts, it is very important to have assistance in this endeavor. This has been active in the valley for over 10-years.
Commissioner Samson made a motion to approve the $5,000 to the Junior Achievement Program.
Commissioner Houpt – Second, but I feel we need to be careful as those who submitted grants for the Human Services Grants were not funded for the full amount they requested. We used an equation using last year's figures and adding a percentage. Most of those who applied for grants only received 70%. I could support a $3,000 grant but not the full $5,000 granting money outside the process.
Chairman Martin – Others received funds – this is based on sales tax.
Commissioner Houpt – Point made, however others did not receive the full amount.
New Motion and Discussion
Commissioner Samson – Fair is fair and I see your point. So, I will make a new motion - $3,500 and think we need to come to the realization that our discretional fund will probably cut from $1,000,000 to $500,000 but it has not been decided.
Commissioner Houpt – Understands.
Chairman Martin - $1.00 per kid is what this amount to in funding and feel the kids are worth it.
Commissioner Samson – Have you called the schools, district offices?
Sharon – All of the above and spoke to them about the opportunity and…
Commissioner Samson – I taught at Rifle High School and never received a call. Re-double your efforts. Our High Schools know about Junior Achievement and those kids are the ones we need to reach but it is critical for the seniors that we promote responsibilities and rights that they have in life.
Bill - Further the comment and the reason I got involved was Rifle did not have the emphasis as in Carbondale. Read the article in the paper about Career Days, called some of the members of the Board and accepted. My reason for involvement is I have several grandchildren – young kids in high school do not have the basic math schools. Banks involved in Junior Achievement on how to write a check, supply and demand and Brian Whitting on the board, in June talked about the basics – Glenwood Springs in 2 years

will not be offering the basic finance – bill wants to teach economics and supply and demand. He has been involved in getting donations and has a proposal for community funds.
Sharon – We need 4 teachers in middle school and within 2 hours we had 3 for the Rifle Middle School. He has been recruiting teachers and soliciting funds. We can no longer walk into a business that has been successful because they are all are cutting back on expenses. It is unfortunate that we did not meet the deadline but I appreciate what you can do for us.
Commissioner Samson – We appreciate you.
Bill – There is a total of 3,000 to 4,000 volunteer hours.
Commissioner Houpt – For the past couple of years the Human Services Commission has been trying to understand how we fund other organizations, some feel it is better to avoid the process, just come in and ask for money. The cutbacks will have us look hard at how we allocate funds. There are two others that we did not accept recommendations. Appreciates the needs and concerned how this would affect the HSC process and suggested to have another HSC – rather put a specified and open it back up for non-profits – if not able to apply – or those who – please apply – need to be equitably about the process and if we funds – we will have other organizations who want more funds. We were looking at basic needs and only half was granted to those who applied. I support Junior Achievement, but in terms of process and fairness, I would rather have a second process.
Commissioner Samson – I would support a grant to Junior Achievement for $3,500.
Commissioner Houpt – I could support this grant if you want to offer a second grant cycle and put $100,000 aside for the process for those who missed the first cycle and/or who want to reapply for additional funds.
Chairman Martin – that is why the discretionary funds are and why we put these aside.
Commissioner Houpt – How we are going to fund…?
Commissioner Samson – I would not have a problem putting in $100,000 and added this to the motion.
Commissioner Houpt second. In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Houpt directed Dale to provide this information to Ed and start another grant cycle.
Dale – Lisa would also need to move this $100,000 from the Commissioners discretionary fund to the Human Services Grant.
Executive Session – direction contract negotiations on 1B and need provide liability issues – discussion the deliverable services contract.
Commissioner Houpt made a motion to go into an ex session to discuss 1B and 1D.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Houpt made a motion to come out of executive session.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson - aye
Action taken:
Legal advice only.

S. **B. STAFF REQUEST FOR BOCC DIRECTION REGARDING FUNDING TO COMPLETE THE CR300/US 6 INTERSECTION IMPROVEMENT PROJECT – BETSY SUERTH**

Betsy Suerth presented the partner cost sharing and type of agreements to insure partner participation. At this time Board direction is necessary. The following are the partners in the discussion and the amounts with option 1 and option 2:

	Option 1	Option 2
Strong PUD	$ 72,077	$ 72,077
Travelers Highlands	$ 75,000	$705, 758
Energy Companies	$500,000	$ 300,332
Una Gravel Pit	$ 33,000	$ 33,000
Garfield County	$821,535	$390,455

Betsy presented a power point project progress report showing all the meeting that have occurred since June 2010 as well as outline the various steps involved in the process. Additionally, she explained the variables with the engineer's opinion (Resource Engineering, Inc.) based on cost sharing ratio based on projected traffic counts for Travelers Highlands and Strong PUD. There is a DOLA grant for $500,000 made on July 16 and if that occurs, it would reduce the County's payment by that amount.
Motion and Discussion
Commissioner Samson – Okay, let me take a stab at this so we can get going, I would move that we give staff a general direction here Betsy, to follow Option 2 knowing that most of these numbers will fluctuate, I don't think as I said earlier the Strong PUD or the Una Gravel Pit, Grand Junction Pipe will fluctuate; the others will and along with that to direct you to secure contract with those all partners involved to make sure that we have the commitments necessary to go forward; at that time we would need to you to come back to us and we would then have to approve that as a Board or send that to the PID.
Don – You will need to send to the PID a proposed contract – we discussed this at the time the PID was formed that there would be where you reach a junction where there would be a contract between the Board of County Commissioners and the Board of the PID so ….
Commissioner Samson – When you get that done, you report back to us, we'll convene to the PID and at that time firm those figures up and report back to the BOCC for final negotiations.
Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson - aye

C. STAFF RECOMMENDATION TO AWARD A CONTRACT TO EATON SALES AND SERVICE TO INSTALL A FUEL TANK AT THE FAIRGROUNDS – JAMAICA WATTS
Marvin Stephens and Jamaica Watts submitted the contract award for $138,864.00 to Eaton Sales and Services to install a fuel tank at the Garfield County Fairgrounds and requested approval of the Chair to sign if authorized by motion.
Motion
Commissioner Samson made a motion to approve the contract award to Eaton Sales and Services in an amount not to exceed amount of $138,864.00 to install a fuel tank at the Garfield County Fairgrounds.
Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson – aye

T. **D. DISCUSSION OF TRAFFIC CALMING DEVICES ON COUNTY ROAD 109 – MARVIN**

STEPHENS

Tom Harrington, ranch manager, Don DeFord and Marvin Stephens from R & B were present.
Marvin submitted the request for Crystal River Ranch for a speed-calming device for safety. In talking to the ranch owner, Sue Rogers was willing to engineer and pay the cost of these devises such as a dip.

Motion

Don suggested that you authorize an agreement between Crystal River Ranch and the Board of County Commissioners to develop and engineered design for traffic calming devices in the vicinity of the ranch and it brought back to the Board if that is what Crystal River Ranch would like and that is what the Board would like then you could approve it when it is front of us.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson - aye

CONSENT AGENDA:

a. Approve Bills
b. Changes to Prior Warrant List

Commissioner Samson made a motion to approve the consent agenda items a – b. Commissioner Houpt - Second.
In favor: Houpt – aye Martin – aye Samson - aye

COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – DELIBERATIVE PROCESS DOCUMENT INVOLVING CHILD HEALTH AND ANTICIPATES PUBLIC ACTION ON THAT MATTER ALSO A CONFIDENTIAL EXECUTIVE SESSION SET WITH THE DEPARTMENT OF REVENUE AT 3:00 P.M. – A SALES TAX QUESTION ADD TO THE AGENDA – INADVERTAI – SALES TAX AT 3:00 P.M.
Commissioner Samson made a motion to go into executive session to discuss the items mentioned.
Commissioner Houpt Second. In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Houpt made a motion to come out of executive session. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson - aye
NO ACTION TAKEN:

ASSESSOR UPDATE:
ABATEMENT FOR PFA COMPANY, LLP C/O 1ST NET REAL ESTATE SERVICES, ABATEMENT NO. 11-009, SCHEDULE NO. R830152
Lisa Warder Chief Deputy Assessor and Maggie Bowker Chief Appraiser were present.
Lisa Warder explained this is requested to be denied based upon the current assessment of $625,000 is supportable by market sales. Lisa passed out a letter written by Sean McCourt. This is vacant land property in Aspen Glen and we are recommending denial of this abatement. It was posted this year and the letter before you is the one Sean gave the tax representative, Mike Walter regarding the property. He included 5 comparable sales and the value of this property falls right in the middle.
ABATEMENT FOR SUNLIGHT MOUNTAIN RESORT - ABATEMENT NO. 11-007, SCHEDULE NO. R009636
Lisa Warder explained this was due to a double assessment of a Forest Service permit using the ski area formula. The abatement for 2009 is for $1,727.80.
ABATEMENT FOR NEWCOMB, LILLITH A & GIANINETTE, DENISE, ABATEMENT NO. 10-162, SCHEDULE NO. R090067

Lisa Warder explained this was a property split in 2009 and the account was not de-activated and consequently, the taxpayers were double taxed. The abatement amount if for $2,302.92.

Motions

Commissioner Houpt made a motion to close the public hearing. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Houpt made a motion to deny Abatement for **PFA Company, LLP** c/o 1st Net Real Estate Services Abatement No. 11-00, Schedule No. R830152 based on the recommendation by the Assessor.
Commissioner Samson – Second. In favor: Houpt – aye Samson – aye Martin - aye
Commissioner Houpt made a motion to approve the Abatement for **Sunlight Mountain Resort** - Abatement No. 11-007, Schedule No. R009636 in the amount of $ 1.727.80 for tax year 2009.
Commissioner Samson Second.
In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Houpt made a motion to approve Abatement for **Newcomb, Lillith A. & Gianinette, Denise,** Abatement No. 10-162, Schedule No. R090067 in the amount of $2,302.92 for tax year 2009.
In favor: Houpt – aye Martin – aye Samson - aye

TREASURER UPDATE:
REIMBURSEMENT FOR TAX LIEN SALE CERTIFICATE #2006-126, SCHEDULE NO. R312318, ASSESSED TO TERRACE GROUP, LLC, CERTIFICATE HOLDER IS ARCHIPELAGO, INC. – GEORGIA CHAMBERLAIN
Georgia presented the Resolution concerned with reimbursement for tax lien sale certificate #2006-126 and abatement of Schedule #R312318 assessed to Terrance Group LLC, certificate holder Archipelago, Inc. due to an erroneous sale in the amount of $1017.47 and interest to be paid in addition of $516.24 for a total amount of $1,534.71 and funds to be paid out of the general fund.

Motion

Commissioner Houpt made a motion to approve the Resolution concerned with reimbursement for the tax lien sale certificate #2006-126 and abatement of Schedule #R312318 assessed to Terrance Group LLC, certificate holder Archipelago, Inc. in the amount of $1017.47 with an interest to be paid in addition of $516.24.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson - aye
PROPOSED RESOLUTION FOR BOCC POSITION ON PROPOSITION 101, AMENDMENT 60 AND 61 – LISA DAWSON

Lisa – We have come to you before on Proposition 101, Amendment 60 and 61 and how they could affect our budget for next year. It doesn't really affect Garfield County that much because of our healthy fund balance but we have attempted to bring other folks before the Board such as the School Boards and Library Districts and they are the ones who will be impacted by this. It is my understanding as a Board you have the option to do a Resolution on your opinion for these propositions and part of the process we are bringing this forward to you to see if you would like to do that or not.

Motion and Discussion

Commissioner Samson – I understand what John is saying, I don't agree with him but I understand and with that I would move that we give you direction to formula a resolution opposing Proposition 101, Amendments 60 and 61 using the whereas clauses etc and bring that before us at our next meeting on September 20.

Commissioner Houpt - Second.

Chairman Martin – A statement in that – all the decisions that have led up to the frustration that have made people put this kind of amendments in front of us reflects on all decisions of all governments that they have. The frustration, the out of control and everything else that has led up to this including the anti-tax group or the "don't tread on me group" etc – that has led up to this frustration. We are going to add to that frustration now by telling them they shouldn't have that frustration, trust us we're from the government, we're here to help you. Understand that there is there going to be a backlash getting involved in this one way or the other. What we have to do is make good sound decisions, priority budgeting and use the rules and regulations that we are supposed to do as a County government not to get involved in this kind of a political debate as a county government and I can't support a resolution putting us in the middle of that quagmire.

Commissioner Houpt – I think I understand what you're saying but I have to say after looking at the projected impact to school districts and the library district and to this county if we weren't as solvent as we are now and how it could impact us into the future, I think we would be remiss in doing our jobs if we didn't share the knowledge that we have on public funding with the public and why it's important to find different solutions for the frustrations that people are having. But, these three proposals are not the solution.

Chairman Martin – It is two different issues, number one it is that we have to justify our expenditures, we have to make sure that we make our decisions, we live and die on that. Right now is that you are getting off base and doing a political issue on the resolution protecting those prior decisions. What it amount to, people are fed up with the government spending too much money and the rules and regulations and the fees and not being able to participate in that. It think you are going to have a backlash I really do in that don't take this position, stay neutral, understand the rules and regulations are, live within those means and do the right for the people. People voted on certain things and didn't.

Commissioner Houpt – If I truly believed that this as right for the people then I would agree with you but I have a responsibility and if that I means that I am jeopardizing something, then so be it but I have a responsibility to let people what kind of impact the Proposition 101, Amendments 60 and 61 are going to have.

Chairman Martin – Let them make that choice, Tresi. We can share the information as we have done before, we can put that information out and they can read and they can make their choice but not to tell them that you have to do this county government is going to suffer – that is the wrong.

Commissioner Samson – You are using the wrong terminology, we are not telling them that, we are telling them and I appreciate what you are saying John and I agree with what you are saying about the people are upset – I'm upset about many of the things that I see also, but there are certain times when people look to us as the county leaders and as the three County Commissioners we are the leaders and they are looking for leadership and what I'm saying, I'm willing to step forward, joint the multiplicity of school boards, city councils, hospital broads, fire departments, whoever it is that realize yes people are frustrated but there is good and better and best ways to take care of things. I don't even think this classifies as a good way and this is part of my way to tell our constituents we understand but these are not, this is not a good way to address that and we go on record as opposing it.

Chairman Martin – I understand and what position that you are taking is that it is bad for government and that is the point that you're missing. It is for the people to understand and to share that information and what is going to benefit them and what is going to be a determent to them, they need to make that choice not that it's going to be good or bad for government because that is the issue of frustration.

Commissioner Houpt – It's not an issue of whether its good or bad for government, it is bad for the them.

Chairman Martin – Allow them to know that with the information and distribute that information pro and con as they do in reference to their Blue Book and also any question that is asked – what is the detriment to me as an individual tax payer and how will I see that. Not that is going to be bad for government. I think it is a losing argument.

Commissioner Houpt – Mike was right when he said it's not a matter of being bad for government, it's bad for the people of Colorado, that is the message this brings forward, and I would like to call for the question.

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

Don – Do you want this put on your consent agenda or on your regular agenda?

Commissioner Houpt – Well, I would like to have it put on the website after we approve it so do we need to initiate a motion or just direction.

Don – I will put it on the regular agenda and you can take action.

APPROVAL OF A RESOLUTION REPEALING AND ADOPTING SECTION 5.7 OF THE GARFIELD COUNTY PROCUREMENT CODE: BID PREFERENCE -- GARFIELD COUNTY RESIDENT BIDDER – GENE DURAN AND JIM HACKETT

Carolyn Dahlgren, Gene Duran, Procurement and Jim Hackett Contract Administrator presented the local vendor preference saying on May 17, 2010 the Board requested a final draft of the Local Vendor Preference Rule for consideration. The Board had opportunity to addres this as a copy of the details was submitted in the packet of information.

A decision was made to have Gene and Jim work on this formulating the discussion by the Board and bring back a proposal at the September 20, 2010 meeting for approval or additional direction.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

No citizens appeared to speak.

COUNTY ATTORNEY UPDATE – LAND USE ISSUES: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

NO ISSUES

CONSIDER A 1-YEAR EXTENSION TO RESOLUTION 2007-61 FOR THE AREA WIDE MINOR TEMPORARY HOUSING FOR ENCANA USA, INC ON THE NORTH PARACHUTE RANCH. APPLICANT IS ENCANA USA, INC. - FRED JARMAN

Renal Bush and Jason Eckman for EnCana and Fred Jarman presented that 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 August 6, 2010 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 August 6, 2011.

Motion

Commissioner Samson moved that we grant a one-year extension to Resolution 2007-61 for the area wide miner temporary housing for EnCana USA Inc on the North Parachute Ranch. Commissioner Houpt - Second.

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

COMBINED PRELIMINARY AND FINAL PLAT FOR SEATON SUBDIVISION, CPPF 6257; REQUEST FOR PRELIMINARY AND FINAL APPROVAL OF TWO LOT SUBDIVISION. APPLICANT IS DON AND NANETTE SEATON – MOLLY ORKILD-LARSON

Don DeFord, Molly Orkild-Larson, Mike Sawyer of Karp, Neu and Hanlon, Deric Walter of Boundaries Unlimited and Don Seaton property owner were present.

Don reviewed the noticing requirements and advised the Board they were timely and accurate and the Board was entitled to process with the public hearing.

Chairman Martin swore in the speakers.

Molly submitted the following exhibits A – R. Chairman Martin entered Exhibits A – R into the record.

GENERAL PROJECT INFORMATION

This Application, a "Combined Preliminary Plan and Final Plat", is for a two lot subdivision. The 13.156-acre (13.22 acres in the application and 13.156 on the plat) site is located south of Glenwood Springs on County Road 117 just north of the CR 117/CR 125 intersection shown on the vicinity map below. The property owner proposes to divide his 13.156-acre parcel into two lots with Lot 2 at 4.448-acres and the remainder, Lot 1 containing 8.609-acres. There is an existing single-family home on Lot 1 and an approved Accessory Dwelling Unit (ADU) on Lot 2, which would become a primary residence if the Combined Preliminary and Final Plat are approved. Resolution 2003-05 for the approved ADU is attached in the application as Exhibit E.

The ADU is adjacent to CR 117 and located in an upper story of a barn. The drive access crosses Four Mile Creek leading to the single-family residence on the proposed Lot 1. The application shows an additional "Tract A" as a dedication to Garfield County for CR 149 (Chelyn Road). The applicant proposes a shared well for the water system, which is currently in place and operating along with separate and existing Individual Sewage Disposal Systems.

PLANNING COMMISSION RECOMMENDATION

Discussion during the Planning Commission public hearing included additional requirements for the shared portion of the access road, requirements for "Tract A", and the Visual Analysis provided in the application and the associated visual impacts to CR 117. Both the "Tract A" requirements and roadway standards for the shared roadway have been discussed above and conditions have been added to meet the requirements of the ULUR. The visual impacts were discussed at length by the Planning Commission.

The Applicant provided a Visual Analysis with the application for the Combined Preliminary and Final Plat in accordance with the requirements of Article V. The analysis provided photos of the site and concluded that proposed Lot 1 is not in the visual corridor of the road with minimal visual impacts and the proposed Lot 2 has some "minor visual impacts" which have been mitigated by existing landscaping. The Planning Commission expressed concern over any future construction on the additional building envelope area of Lot 2. A condition has been added for an administratively reviewed and approved Vegetation Screening Plan for any future construction on the northern building envelope of Lot 2. The Planning Commission recommends the Board of County Commissioners **APPROVE** the proposed Combined Preliminary Plan and Final Plat of the Seaton Subdivision with conditions.

Motions

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

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

Commissioner Houpt made a motion to approve the proposed preliminary and final plat for the Seaton Subdivision with the recommended findings and conditions with some adjustments on Condition No. 4 I am still not clear on the language we want in there, I know we don't want the language that requires a deed conveying the roadway to Garfield County so I am going to need some language for Condition No. 4.

Chairman Martin – Instead of roadway, do an easement.

Commissioner Houpt – A deeded easement to benefit lot 1.

Molly – Would it have to be called a private easement?

Chairman Martin – And allow emergency vehicles to use it.

Commissioner Houpt – And reference on use from emergency vehicles and anything else.

Don – As long as you are indicating it for private dedication.

Commissioner Houpt – For private dedication and I think that is the only condition that I'm changing.

Molly – How do you want that to read again?

Commissioner Houpt - "A private road and a deeded easement for private use to benefit Lot 1 and to make reference to conditions for use by emergency vehicles."

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

CONSIDER AN AMENDMENT TO SECTION 4-103(G)(8)(A)(1) OF THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED, SPECIFICALLY ADDRESSING THE 1-YEAR EXTENSION REQUIREMENT FOR PRELIMINARY PLAN APPROVALS – FRED JARMAN

Fred Jarman and Don DeFord were present.

Don reviewed the noticing requirements and advised the Board they were timely and accurate and the Board was entitled to process with the public hearing.

Chairman Martin swore in the speakers.

Fred submitted the exhibits A – D. Chairman Martin entered A – D into the record.

BACKGROUND

Recently, the Board of County Commissioners (BOCC) was petitioned by members of the public to "waive" the current requirement in the ULUR (Section 4-103(G)(8)(a)(1)) that only allows for a 1-year extension of Preliminary Plans before they expire. The basis for the request for this waiver was primarily due to the general poor state of the economy where approved Preliminary Plans could not either 1) keep their existing financing or 2) could not get new financing to carry the project towards Final Plat approval and actual site development.

The BOCC directed Staff to draft a text amendment to provide more flexibility in this requirement so that the BOCC has the discretion to approve or deny future extensions based on standards rather than a hard line deadline with no flexibility. As a result, Staff has reviewed many similar counties in the state to see what other options are being used. Fred submitted other county concepts – Mesa County, Douglas County, Park County, Fremont County, Archuleta County, Boulder County, Routt County and Broomfield County as to how they handle extensions.

Motion

Commissioner Samson made a motion to close the public hearing. Commissioner Houpt -Second.

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

Commissioner Samson - I will move that we amend Section 4-103(G)(8)(a)(1) of the Unified Land Use Resolution of 2008, as amended specially addressing the one year extension requirement of preliminay plan approvals as submitted by our Planning Commission and staff. Commissioner Houpt Second.

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

PUBLIC MEETING:

CONSIDER AN AMENDMENT TO THE PHASE I SUBDIVISION IMPROVEMENTS AGREEMENT (SIA) OF THE IRONBRIDGE PLANNED UNIT DEVELOPMENT AND FINAL PLAT. APPLICANT IS LB ROSE RANCH, LLC. – FRED JARMAN

Fred Jarman, Tim Thulson and Don DeFord were present.

Fred submitted Exhibit A –Garfield County Unified Land Use Code of 2008, as amended.

BACKGROUND

The BOCC re-approved the Final Plat for Phase I of the Ironbridge PUD in 2004. As part of that approval, the approved construction plans provided for separated concrete sidewalk pedestrian ways to be constructed along the streets within Phase I, which was referred to in the SIA. Due to geologic / drainage issues encountered during the construction of the streets in Phase I, the developer elected to not construct the sidewalks and instead constructed a pedestrian path in the common open area providing pedestrian circulation through Phase I which was installed 7 years ago. The Applicant has been waiting for the new land use code to be amended to submit an application for a much simpler process to the County, which is now in place to ask to amend their approvals to match the now constructed path.

Motion

Commissioner Houpt made a motion to authorize the Chair to sign the amended SIA with the findings brought forward for Phase I of the Ironbridge PUD. Commissioner Samson - Second.

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

COMMISSIONER ISSUES:

Discussion occurred regarding the official record of the minutes.

Don stated this needed to be an agended item and discussed.

COMMISSIONER REPORTS AND COMMISSIONER CALENDARS

Commissioner Samson – Jeff came to my office in Rifle and we talked about the Satank ground-breaking so I suggested noon on Wednesday, September 15 not knowing you have a Forum Tresi from 12 – 3 in Rifle.

A time was determined for 10:30 a.m. on Wednesday, September 15.

Commissioner Samson – Tuesday in Delta, we have two projects. The other one is Steve Anthony had put in a request of this RAC money for weed control so he and Tamara will attend and each will have 5 minutes to present as a Board. I asked them to go because I am new to this committee. Wednesday, September 15 – 10:30 a.m. for the Satank Bridge and you both have meetings in Denver for CCI.

Chairman Martin – Grand Junction and Denver for CCI. The River District is in Grand Junction in reference to the settlement and the discussion we discussed at the district CCI meeting and all of the information coming out on that particular issue; and then CCI is in Denver.

Commissioner Houpt – Tuesday there's a CDPHE is holding a solid waste planning meeting at the Community Center in Glenwood and will make an attempt to be there for at least a portion of that meeting. Also, Valley View Hospital is having a time capsule ceremony at noon on Tuesday and then Wednesday the ground-breaking, Thursday I have oil and gas hearings and CCI on Friday.

Chairman Martin –The Fall Arts Festival set up on Sunday with Community Corrections as well as volunteers and Fall Arts Festival folks. This is the 49th Fall Arts Festival and it is a non-profit, which they donate to education and supplies and never ask money from any government, only sustained by the sale of their own art.

Commissioner Samson – A Commissioner's meeting on the 20th and Dale and I will be attending on the 23 and 24 of September in Delta the Coal Conference.

Commissioner Houpt asked what about the outcome on the AGNC meeting.

Commissioner Samson - Doug Monger who is a representative from Routt basically submitted a new budget for 2011 and in that his proposal was that basically counties instead of paying $22,000 or $25,000 dues that they pay $6,000 plus so we are going to have a budget meeting on October 7 in Rifle and they asked me to be on that concerning hammering out the 2011 budget. The problem being Moffat, Mesa and Routt are in tough time. They have had to cut personnel. Greg Meis told at the Sheriff Department in Mesa

is cutting 30 deputies and they also have to cut $10 million more from their budget. And Routt cut and Moffat too so I said, because things are real tough for AGNC and we all want it to continue but we have fallen on tough times, I suggested and Rio Blanco was very amenable to this that the two other two counties are not in dire straits, I said I'm only one person but I will go to my Board and try and convince that we should pay what we can and Rio Blanco said they would do the same so that we can help this organization exist.
Chairman Martin – On our workshop with our budget we did put in that amount.
Commissioner Samson – So hopefully we will not go back and change that. You need to know that is not going to take care of things so we are going to have a skeleton budget and very graciously Aaron the director knew it was not looking good so we worked out a settlement with him and he will work through September and get basically a severance package for October and his vacation and he's gone and we do not have an executive director come September 30 but we still need some money to exist and go forward.
Commissioner Houpt – What would the money be going to?
Commissioner Houpt - One of the things we are going to have to talk about and decide and then present it to the whole group. We have a secretary, Jane works Tuesday, Wednesday and Thursdays, our next official meeting for the budget is October 7 and our next official meeting will be Thursday, November 4, which we will have to decide but it was discussed and kicked around that possibly what we are going to do is try to hire a professional lobbyist to represent us as AGNC to see what the possibilities are, how much that is going to cost, what would be their duties , etc.
Commissioner Houpt – So we just would be paying dues to become a professional lobby group.
Commissioner Samson – No, we also have AGNC because you have the Council on Aging and all the money and the go-through and we need to keep that going, there are 2 or 3 other things but if AGNC dies it would be a disaster for a lot of organizations.
Commissioner Houpt – After you have your budget meeting and you put your budget together, will you be bringing that back to us because I could see staying at the level that we had committed to help, but I can't see covering other counties but I can see staying at the $25,000.
Commissioner Samson – That is the upshot of all of that all of that. I am probably all of us and being on AGNC, we are going to have to do a whole lot more work without an executive director

Commissioner Samson – We had originally put on Tuesday, September 28 at 6:30 p.m. we were going to meet with the FairBoard and that didn't work out and it was moved to October 4 at 6:30 p.m. in Rifle at the Fairgrounds.
Commissioner Houpt – We will finish our meeting here, then we will go to Rifle, and they will have dinner for us.
Jean – Lisa was putting the agenda together for that meeting.
Commissioner Samson – We wanted us as the Board, the Chamber of Commerce, 4 H, the City of Rifle, the Fair staff and Extension.

Commissioner Samson – Tuesday, October 5 at 1:00 p.m. we have the work session on these three things but on Wednesday, October 13 we have a proposed budget meeting and on the October 20 we have elected officials budget.
Chairman Martin will be out of town on Wednesday, October 13.
Commissioner Samson – Also on Saturday, October 9 we are cooking for the Airport Open House from 10 a.m. to 2:00 p.m.

APPROVAL OF MINUTES

NONE

COMMISSIONER AGENDA ITEMS

3:00 P.M.

EXECUTIVE SESSION - DEPARTMENT OF REVENUE – SALES TAX AND REFUNDS

Dale Hancock, Georgia Chamberlain, Lisa Dawson, LuAnn Pyatt the Local Government Liaison for the Department of Revenue, Roxy Huber Executive Director of the Department of Revenue, Jean Alberico and Don DeFord joined the Board for the Executive Session.

Motions

Commissioner Houpt made a motion to go into an executive session to discuss the Department of Revenue regarding confidential issues. Commissioner Samson - Second.
John Colson – Do not see why a discussion about sales tax is to be held in Executive Session.
Don stated this is a specialized case and the disclosure is confidential. A disclosure by anyone is a criminal offense and it applies to all included elected officials.
In favor: Houpt – aye Martin – aye Samson - aye

Commissioner Houpt made a motion to come out of executive session. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson - aye
Action Taken:
None

ADJOURNMENT

SEPTEMBER 20, 2010
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 20, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Mike Samson being 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.

VERBATIM MINUTES ARE AVAILABLE UPON REQUEST- jablerico@garfield-county.com;

COUNTY MANAGER UPDATE – ED GREEN

Ed explained that before he started his agenda he would like to move item C Sub-Recipient Agreement down below the Sheriff's update, just before the County Attorney time. It is going to require an executive session.

- **A. EAB Update – Jeff Simonson**

Jeff – Explained they had similar attendance from last time and Judy put together a great form for next year as far as educational items. Vanessa Bull, with BLM, went over the requirements for pad reclamation and it was very informative. Judy does have educational items coming up; the next will be at 4:00 p.m. at the Williams Water Treatment Plant Facility located across from the driveway into the West Garfield County Landfill. The public is invited, after that meeting, Williams will show how they do their pad reclamation at the Health and Human Services building in Rifle at 6:00 meeting.

- **B. BOCC Consideration of Union Pacific Railroad Crossing Agreement for County Road 300 – Betsy Suerth**

By direction of the BOCC, Garfield County staff has been working toward the improvement of the intersection of County Road 300 and U.S. 6 over the past year. During the course of project progress, it was discovered that neither the UPRR nor the County had a record of a crossing agreement for County Road 300 crossing the railroad in the vicinity of the subject intersection. Upon this determination, UPRR provided the County with a draft agreement. The County Attorney's Office has previously provided a memo to the BOCC regarding the agreement. Although there are several issues raised by Mr. DeFord, his memo closes with the caveat that he expects the railroad will make few if any changes to the agreement. Staff recommends the BOCC approve the agreement with only the revision as show in the red line agreement provided to the Board. Staff is asking for the appropriation of $1,000.00 from the 2010 Road and Bridge Budget for crossing agreement payment to the UPRR.

Betsy - We are looking for approval of the document so they can move forward and this is a document that should have been in place for this crossing of County Road 300 on the railroad, both agencies did a search, and they were not able to find any such existence of any such agreement. Because we have this intersection project on the table and they are looking at trying to improve this intersection in the near future; they need to get everything in place. This is not necessarily something that has to be specifically with the construction project; but it something that they have in place to move forward with the project.

Chairman Martin – It's interesting that CDOT was able to do a special project across this particular intersection to I-70 and to work out all the detail with Union Pacific; but forget to include it in Garfield County. That was several years ago; that doc should have been there as well. Since we didn't find it; we'll have to accept this.

Motion

Commissioner Houpt – I'll make a motion that we approve the public highway upgrade crossing agreement between Union Pacific Railroad Company and the Board of County Commissioners as presented by staff; accepting the red line.

Commissioner Samson – do we also have to have something in there for appropriation or you want that as separate?

Betsy – Sorry, I neglected to mention that is in the budget for County Road 300 project. It is a fee of $1,000.00 that will be going directly to Union Pacific out of the 2010 budget that has already been appropriated for the project.

Commissioner Houpt – I'll say we can authorize the Chair to sign and the fee will paid out of the County Road 300 budget. Commissioner Samson – Second.

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

- **D. Staff Recommendation to Award a Contract to McMahan and Associates for 2011 Finance Audit – Jim Hackett**

A request for proposals and five proposals were reviewed and determined to be responsive and of those four companies were interviewed. McMahan and Associates had the highest combined score and therefore staff is recommending the Board approve the award to McMahan and Associates, LLC in an amount not to exceed $50,000.00. Contingent upon 2011 budget approval to provide financial auditing services for Garfield County and approve an extension of the renewal years for this contract to the base year plus four option renewal years. The purpose for the five-year contract was explained and Jim stated this is allowable under the code as long as the Board agrees to the extension. The finance department feels that based on the services from McMahan are exemplary and from the prospective of staff time to put together the RFP.

Lisa Dawson gave further explanation to the advantage to having the extended period by the same auditor as they offer recommendations for improvements, stay on top of those improvements and help our departments work towards goals. Even though they are the same organization, they do shift the auditors on the auditing team and have a fresh eye approach to the yearly audits.

Commissioner Houpt voiced a concern for the 5-years.

Lisa - In her opinion, a five-year was reasonable based on previous statements.

Ed – The key is that they have indeed helped improve work processes throughout the organization. They are probably the first audit firm, that he has seen, that has done that.

Don did not have any legal concerns.

Lisa – In their proposal, they recommended a 6% increase, cost of living increase, which was typically in all of the proposals they received. It's a one year contract with the option to renew for an additional four years. We definitely have the option to review the prices and if we think it's' not reasonable, we can easily not go in that direction.

Ed – This company has have been extremely reasonable in their negotiation approach with the County. Their increases have been very nominal.

Don – It does raise one question; the renewal you discussed it is not a mandatory renewal is it? We could refuse to renew for any reason. We wouldn't have to articulate it.

Ed and Lisa both agreed.

Jim – The biggest cost benefit for a five versus a three is in saving staff time from doing the re-competition, looking at proposals and he estimated they spent a good 150 to 200 hours of staff time. You would be doing that at the fifth year versus the third year.

Commissioner Samson – I would move that we approve an award of contract to McMahan and Associates LLC in an amount not-to-exceed $50,000.00, contingent upon the 2011 budget approval to provide

financial auditing services for Garfield County and an extension of the renewal year for this contract to the base year plus four optional renewal years. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Staff Recommendation for Award of a 5 Year Commitment to Hart InterCivic for Warranty, Support, and License of Election Voting Equipment – Jim Hackett**

Hart InterCivic Software License Addendum to the Warranty, Support and License Agreement was submitted for a new period of five years on a sole source award. Hart agreed to hold their pricing steady for the entire five-year period saving the County $12,382.90 over that five-year period through 2015. Staff is recommending the Board sign the five-year commitment addendum for that total savings.
Hart provided this information to Jean Alberico in September. They agreed to lock in their price if the county was willing to sign up to a five-year addendum agreement. That price would be $19563.00 per year for a total of $97,815.00. That shows a cost savings to the county of $12,382.90 based off a 4% increase they would do annually. Since Hart is in a sole source position with the state with what they provide and the cost savings then this is the recommendation of staff that the Board of County Commissioners and the County Manager agree to a five year instead of a three-year contract. We are not moving toward five-year contracts and the only reason he would even entertain this software license agreement is with the savings they are providing and the fact that they are sole source. To save that amount of money over the five years is advantageous to the county.
Jean Alberico said she needed to speak up because she and don had conversation about this. She would be happy to go with three-year extension and stated it is not sole source for the state; it is sole source for our County because there are other voting companies that have contracts with other counties. Basically, the smaller counties are with Hart InterCivic. With the process these companies have to go through to get certification on the national and state level, it's highly unlikely that there is going to be any problem moving forward. She has had a number of conversations with fellow clerks around the Western Slope, because they have all been offered this contract, and she knows that both Jim and Don have some issues with some of the wording. But she is almost in agreement with some of the other clerks she has talked too; that probably it would be better to do the three year lock-in, simply because we are being up for election for another four years and five years would put, if a clerk wanted to change if it's not her as the clerk in five years then it really shouldn't lock them into that.
Don – This contract is different than the last one. They are not the same type of contract. He and Jim particularly have been involved in a whole series of e-mail exchanges with county attorney's offices around the state. The appropriation language in the Hart contract is a little more difficult than it was on the last agreement. It is lawful under state law in the sense that it is subject to annual appropriation; but it is language that has the effect if you go ahead and use this generic type of software and appropriate for the software, then you would be required to use Hart. It is a difficult position. The other county attorneys also had difficulty with this language. There are a couple of county attorney's offices, particularly Douglas County they are trying to see if they can get further alterations accomplished; but from Don's perspective, he is alright with the contract particularly if it is a three year rather than a five year agreement.
Jim – As Don said it would lock you in whatever you decide whether it's three or five except for the provision of non-appropriation of funds, if you were to go to someone else and have the funds appropriated, you would pay a penalty under the contract. Jim did some rough calculations; he thinks the savings over three years would be about $4,800.00 to $5,000.00.
Commissioner Houpt tends to agree with Jean that it may not be what you want to do after three years.
Jean – We don't know, if Colorado goes to all mail ballots, we would still have to have the software because she uses it to design the ballots and print them. But they wouldn't necessarily, other than having the disabled units available at her service centers. The only thing she does see, if they don't go to all mail ballot, all the companies are working on developing……. She doesn't pay yearly maintenance on the equipment because they have had very few that ever required repair and it's cheaper in the long run to send it in and have fixed. She does have to pay the yearly software.
Commissioner Samson – So it's Jean's recommendation we go three years?
Jean agrees with Don and initially he and Jim were thinking three years was better.
Motion
Commissioner Houpt – I'll make a motion we approve the addendum to warranty support and license agreement between Hart InterCivic Inc. and the Board of County Commissioners for a three year period and the numbers will change a little bit back…
Jean – I will get a hold of Hart and have them redo the base contract.
Commissioner Houpt – The three year equipment; there is a worksheet back here.
Jean – There is a worksheet and they do allow you after the three years to then lock in for another three years with a onetime 4% increase.
Commissioner Houpt – Is there a total amount here I should be putting in?
Jean – Actually, the contract will be $19,653.00 per year for the next three years.
Commissioner Houpt - 563
Jim – The total according to the three years would be $58,689.00.
Commissioner Houpt – Okay, so moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **F. GPS CORS Station in Garfield County – Scott Aibner, Frank Kochevar and Marvin Stephens**

Scott Aibner received a letter from Bernard F. Kochevar, Jr. regarding their wish to establish a new CORS in the Rifle area, adding said CORS to Mesa County's Real Time Virtual Reference Network or RTVRN and to use a real time data stream from said CORS to enhance Mesa County's RTVRN coverage to the north of Mesa County. Depending on cellular/FM radio coverage this will allow all surveyors whether public or private the ability to have real time "Centimeter Accuracy" on a 24/7 basis in our area. All new or added GPS equipment/software will be provided by Mesa County with no obligation from Garfield County. This partnership or agreement is not binding and can be terminated at anytime wither by Mesa County or Garfield County. There was a site selected with power nearby and internet in this case a QWEST box. They are proposing to take the site and set-up a CORS station that will broadcast GPS information. The advantage to this is having a fixed site.
Marvin explained it takes up small amount of room at road and bridge. It will be secure and they are not using the space. It will have a radius of several miles; they will be able to broadcast through the valley area,

south of the airport, Silt and Rulison. We will be responsible for the excavation of a concrete pad and a trench to boxes for power. Other than that, the only cost would be electricity with an estimated cost of $5.00 to $10.00 per month.
Carolyn – This will require an IGA with Mesa County. She asked if this was the person she should call. You are leasing land; don't we already have one at the landfill?
Marvin – We do and could use the same format.
Carolyn will search for it.

Motion

Commissioner Samson – I would move that we approve the IGA between Garfield County and Mesa County for the construction of a GPS CORS station in Garfield County and bring this back on the Consent Agenda. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Recipient Agreement:

Don asked Ed, you skipped over the recipient agreement; do you want to handle that during our executive session and then take public action?
Ed – Yes.
Chairman Martin – That was the request to move that after the sheriff.

Sheriff's Update – Lou Vallario

- **a. Discussion and Direction to Lease/Contract Space to Colorado West Regional Mental Health – Detox**

Lou talked about a working relationship with Colorado West Regional Health saying essentially what they want to do is shut down the current Detox facility south of town and temporally do some short term small detox in the space they have available for them in the jail with the long range goal creating a modified medical detox for the community. Therefore, he would like to discuss signing a lease agreement for about 1,065 square feet of the jail.
Jackie – Based upon declining revenues and in discussions with community stakeholders, hospitals, law enforcement and Pitkin County serving both Pitkin and Garfield County. It will become a 1 to 2-bed detox as opposed to currently having a capacity for six. Other changes include 1. Eagle County has been a consumer of our detox and they are opening their own detox. This detox would then just be serving Garfield and Pitkin. Their average has been about one person in detox. They cannot afford to lose the amount of money they have been losing and this is the one option they have come up with on the table as a possible short-term solution.
Lou – The important piece here it is a separate entrance, not lock down and it flows very well just because of the design of the jail. The sheriff's office doesn't have involvement in the program and he won't have his deputies monitoring these folks. It also has its own bathroom facilities.
Don – There are really two sides to this agreement; we need the standard lease agreement and with the standard payment that finance requires for….but you will need to also approve an offsetting change to their grant agreement.
Lou spoke with Jim Hackett and he said sounds like the average is about $4.00 per square foot, which would make it $660.00 month and he assumes they could do that on a calendar year. The remaining three months of the year and then renegotiate again.

Motion

Commissioner Houpt – I'll make a motion we approve the concept of renting the space in the jail with Colorado West for a detox facility, and contract with them for their services and authorize the Chair to sign contract that is developed and the lease.
Commissioner Samson – Lou sign it.
Lou – There was just sort of a quirk in the lease and he doesn't know how flexible. The issue in the lease says the leasee will be responsible for utilities. In this case, utilities already exist as they are, the lights are still on, and the motor is still running and its part of the jail. There really wouldn't be anything.
Don – Waive that provision that is a standard lease.
Commissioner Houpt – So we will waive the utility provision. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don – Get the information to MaryLynn and they will generate the lease.

- **b. Consideration/Approval of a Resolution Concerning Fees Charged by the Garfield County Sheriff's Office Relating to Service of Process**

Lou – Essentially, through legislation this year, they had some changes in the process to provide fees in civil service and had to write a resolution to catch up with state statutes and we are here for approval of that. There were some changes out of the session of the legislature. The ones that are placed in the first part of this resolution were some discretionary authorization of the statute on how to charge mileage. Adam and the sheriff's office have developed a system they would like to follow that other counties, in the state are also following in terms of a zoned based charge. He thinks it is straightforward. Adam can explain the mileage rate itself.

Motion

Commissioner Houpt – I'll make a motion that we approve the resolution concerning fees charged by the Garfield County's Sheriff's Office relating to services process pursuant to 2010 amendments to numerous statutes listed on the resolution and approve the amended exhibit given to us by the sheriff's department this morning that allows for the change from $.36 per mile to $.45 per mile for civil work.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

- **B. Consideration/Approval of Resolution Opposing Proposition 101 and Amendments 60 and 61**

Don believes at the last meeting the concept of this resolution was approved by the Board. He put the draft resolution in the packet to make sure it was the language the Board wants to reflect as their official position. If it is, we can file a motion authorizing the Chair to sign the resolution or give him instructions.
Chairman Martin – Noted that his vote was in opposition and wanted the change on the Resolution.
Chairman Martin – That it is the correct resolution and do we go forward.
Commissioner Samson – So moved. Commissioner Houpt – Second.
Chairman Martin – Again, not that he is for the propositions, it's just that is the wrong format that I see to go forward. In favor: Houpt – aye Samson – aye Opposed: Martin - aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -
Don has stated he has a number of items on which he would like to provide legal advice and receive direction; one of those was listed as item 1C under Ed Greens agenda concerning sub recipient agreement with Boulder County. He needs to continue the discussion concerning the right-of-way apposition for County Road 301 and 309 which started two weeks ago, and that may require public action; also giving direction concerning those roads. He needs to provide an update on right-of-way apposition for County Road 306; provide Commissioners Houpt and Samson an update on the Martin vs Vallario litigation; provide update on the status of personnel in his office.

CONSENT AGENDA

ccc. Approve Bills

ddd. Authorize the Chair to Sign a Resolution for "Storage: Supplies, Machinery, Equipment or Products" on 8.6-Acres within a 645-Acre Parcel Located on State Highway 6 Southwest of the Town of Parachute, Approximately 2.5 Miles West of the Intersection of SH 6 and County Road 300 – Applicant; 5-Mile Ranch, LLC – Kathy Eastley

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - b; carried.
Chairman Martin then asked for a motion with the identified items for 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..
Action Taken:

County Road 301 and CR 309

Don – Several weeks ago, they received a request from one of the landowners on 301 and actually on 309 as well; indicating she had difficulties with some road construction in the area. He is wondering if it would be appropriate to authorize the Chair to sign a letter, which he would have to draft, indicating we would like to cooperate with her in the development of safety improvements on those two roads and we would also like her to specifically delineate the solution or remedy she see, or some of the construction issues she raised.
Commissioner Houpt thinks it would be important to move forward with that. I'll make a motion that Don draft such a letter for the Chairs signature. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don will do that and communicate it to the Board and ask if okay ask the Chair to sign that document. He thinks the only other public action issue was item 1 C under the administration time concerning the agreement with Boulder County.

- **C. Sub-Recipient Agreement Between Boulder County and Garfield County for $545,000.00 EECBG-C Grant through DOE – Betsy Suerth**

Betsy included in the Board's packet is a red lined document sub-recipient agreement with Boulder County. She gave background on the project. In December of '09, the Garfield County New Energy Communities Initiative applied for a grant with the DOE. This grant was to ramp-up the existing CLEEN Energy challenge program for commercial and residential properties. This was a joint application with Boulder County, Denver County, the Metro Mayor's Caucus, and Denver Regional Council Governments. Boulder County is the grantee. The Clean Energy challenge is right now in a coaching program for residential and commercial property owners and this helps them evaluate the energy efficiency of their property. They determine the most effective improvements through this auditing process; energy auditing process, and then the energy coaches assist the property owners with the implementation of whatever project they decide to pursue. They also assist with the application of utility rebates.

Motion

Commissioner Houpt – I'll make a motion that we approve the sub-recipient agreement between the county of Boulder and the county of Garfield County, County of Garfield, as presented in the September 20, 2010 version that we received today and authorize the Chair to sign. Commissioner Samson – Second.
Chairman Martin – I have to say that this is money that the Federal Government doesn't even have and they are awarding $25 million dollars to a county with sub-agreements in place. It's spending our future and it's the improper way to go ahead and spend tax payer dollars by again taking future monies that they don't even have for these kind of programs. If they were really truly interested in doing them, they would find a way to do it locally and with our own money. My position has been on this act is truly a burden to Garfield County to be able to meet all these strings that are attached to this money and the O & V recording process puts a tremendous strain on our staff so.
Commissioner Houpt – Well then I have to say that the monies we have received have given great opportunity for new energy programs, conservation programs, job and we see across the board with, and we'll probably hear from CDOT today about transportation projects that have been funded. I know there a great deal of controversy about whether this is what works or not; but I think that we also have to look at this particular funding as a great partnership between large county and small counties and we really have great opportunities opened up to the citizens in Garfield County as a result of this funding.
Chairman Martin – And my only rebuttal to that is at the expense of the future generations to come. They are not even born yet that will be paying for this particular project. So I cannot support it.
In favor: Houpt – aye Samson – aye Opposed: Martin – aye
Chairman Martin – I oppose so there will be a nay; but then I always oppose ARRA funding, sorry.

REGULAR AGENDA

Assessor's Update

- **a. Abatement for James Castaldo and Bozena Szmkowiak – Abatement No. 10-161, Schedule No. R 340593 – Maggie Bowker**

Chairman Martin – This is a public noticed hearing and was accomplished with a letter. Chairman Martin swore in the speakers.
Maggie – This property was incorrectly valued; the improvements should have $5,000.00 in value and the rest towards the land. It was corrected for 2009 and the abatement amount was $1,480.32.
Chairman Martin – Do we have a motion to close the public hearing?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt – I'll make a motion that we approve abatement no. 10-161, Schedule No. R340593 in the amount of $1,480.32 for tax year 2009. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Human Services Commission

- **a. Youth – Heidi Pankow, Debbie Wilde, Jenny Lindsay, Susan Ackerman, Pat Horwitz**

Debbie Wilde, Jenny Lindsay and Susan Ackerman were present.
Debbie wanted to give an update in area of youth and the representation of those programs of working with kids. Two of the things the Human Service Commission is charged with are to identify and try to fill gaps in services and to avoid duplication of services. One of the ways, those of us working with youth, address these charges is through intense collaboration. She wanted to illustrate that collaboration with a few examples of efforts having the kids learn in the county.
Jenny - Family Resource Center collaborates with everyone, community providers and other agencies to meet the needs of kids. It's critical that we work more closely across distance to make sure we are providing the services that will meet their needs. We are fortunate in Garfield County to have several collaborative efforts that address the needs of at risk youth that intersects systems. All of these teams bring together boast from education, child welfare, judicial, mental health and substance. The teams then meet with the family and youth if appropriate and determine where the family needs lie. She named two programs that work on these issues, CST or the early childhood community support team, which works with families with very young children, the second is FACET, family and community engagement team and the third is JET, juvenile evaluation team. The latter two teams managed by the Collaborative Management Program. HB 1451 which is a voluntary group with multi agency services provides to children and families by county departments such as Human Services and other mandatory agencies including local judicial districts, probation, health departments, community mental health clinics and other community agencies. She informed them of the goals of the CMP.
Debbie – Steven Kaufman and he was going to say a word about the collation for families. That group continues to meet in a juvenile justice meeting on Wednesday. Comments have been made that county programs do not have services to send a kid to as well as their families. So many feels they just need to go to probation because that's where there is money for services. That is not the idea of going to probation and the concept is that they have other kinds of needs or their families cannot pay. They think well the welfare system has money or the criminal justice system has money.
Susan – This is an example of their collaborate efforts with the Human Service Commission, which has been valuable to developing relationships and understand what they need to do to avoid duplication. The Child Help River Bridge Center is a great example of a program that really only functions as collaboration, this is a multi disciplinary model. She gave an example.
Debbie – Provided information on the after school program and they outreach to these kids has been very beneficial.
Commissioner Houpt – It's a lot, there is so much going on in this county to be proud of.

Board of Human Services

- **a. Approval of EBT/EFT Disbursements for August, 2010 – Lynn Renick**

For the month of August 2010, client and provider disbursements for allocated programs totaled $264,462.93. Client benefits for food assistance totaled $579,850.66. Total EFT/EBT disbursements for August totaled $844,285.59. The department is requesting Board approval and signature.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **b. 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 agreements/child specific addendums:

1. SS23B with Gateway Residential for State ID Y496752 in the not-to-exceed amount of $54,849.60

Commissioner Houpt – You would like that to be approved, authorized and signature. So moved.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

1. SS23B with Hand Up Homes for State ID U199468 in the not-to-exceed amount of $59,182.90

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

- **c. Consideration and Approval on the SFY11 Chafee Foster Care Independence Annual Program Plan – Lynn Renick**

The department is requesting the Board's signature on the State Plan for provision of Chafee Independent Living services for youth preparing to emancipate who have been in out-of-home placements. The total amount for services requested in the budget is $17,079.00 and signature.
Commissioner Houpt – So moved. Commissioner Samson – Second.
Commissioner Houpt – I do want to say that I know there is a lot of paperwork that you go through with these, but it is very informative and it's nice to have an opportunity to receive the updates on these. Thanks. In favor: Houpt – aye Martin – aye Samson – aye

- **d. Presentation Regarding the Expanded Senior Benefit – Judy Martin**

The Senior Services staff Judy Martin and Debby Sutherland has completed 156 affidavits for eligible seniors to receive the expanded senior benefit in the amount of $163.00 per individual meeting the criteria. County staff will be present to request authorization for the Finance Department to issue the $163.00 checks in the total amount of $25,428.00. Judy explained the process and all the seniors that received the checks on the first round and those that will get it in October are very thankful for what the Board has done.
Mildred Alsdorf – Judy did a wonderful job in going out and seeing all the people in their homes.
Chairman Martin – For those that don't know; the Senior Advisory Council takes in every municipality in Garfield County along with some other situation there. He thanked everyone for all the volunteers on the review process and Judy.
Commissioner Samson – Is that in excess to the $10,000.00?
Chairman Martin – That includes but you are $15,428.00 short.
Commissioner Samson – So we need to approve $15,428.00 more dollars for the senior benefit?
Chairman Martin – Correct.
Commissioner Houpt – And you have to approve the $25,000.00 as part of that motion as well.

Commissioner Samson – So moved. Commissioner Houpt – Second. That money will come from and Chairman Martin stated the same place that the money came out of originally.
In favor: Houpt – aye Martin – aye Samson – aye

- **e. Program Updates – Lynn Renick**

The State's closeout process is complete for SFY10. Garfield DHS received full coverage for over expenditures of the County Administration, Child Care and Child Welfare allocations. TANF reserves covered the over expenditure of the Colorado Works allocations. August was the highest amount yet. The close out was finally received from the State for June. They did remarkably well to recovering some over expenditures, we always over expend allocations. She cautioned the Board not to count on TANF Funds for 2011. A report was provided for the Farmer's Market and WIC program.
Lynn – The PEAK system, which was delayed a little bit so we are waiting to see how it goes.
Commissioner Houpt – Now they have a new county liaison that should help with communication anyway.

Board of Health

- **a. Battlement Mesa Health Impact Assessment Update – Jim Rada**

Jim gave a brief update on the Battlement Mesa Health Impact Assessment saying that the draft was provided to the Commissioners last week and it is now open for public comment and available on the website. A public meeting has been scheduled for October 4th at 3:00 p.m. on the Boards agenda for the research team to come and review on the research effort. Following the public comment period, they will have about three weeks for the Colorado School of Public Health to compile all of that input from wherever they get it from and incorporate that as an appendix to the final document. They are asking for people who would see or have a desire for their comments to be incorporated into the final document to be submitted in writing. The release of the document is November 15th and then to have a public meeting in Battlement Mesa for the community and any other interested parties.
Commissioner Houpt thanked him for the work he has done.

- **b. Report on EPA CARE Grant Environmental Health Issues Assessment – Jim Rada, Diana Smith**

The Environmental Health Program embarked on the EPA CARE (Community Action for a Renewed Environment) Grant project three years ago in an effort to identify and prioritize Garfield County's key environmental health issues as determined by the residents of the County. The environmental health issues assessment is complete and ready to use to address environmental health issues in Garfield County. Jim provide an executive summary and a full report believing the Board will agree that the report does not contain any major issues of which they are aware. This is the CARE project. The EPA CARE grants are ending and they have some results to share. The basis of this program is to build community partnerships, identify and prioritize key issue, key community environmental health issues, and really to position the community once the issues are identified and prioritized to develop a level two grant application, which then would begin to address the issues that are identified and create a sustainable approach to dealing with those issues. Jim's charge upon coming to the county was to develop a comprehensive environmental health program for Garfield County Public Health. The CARE project has really created foundational material to start a strategic plan. Jim further explained the Colorado Public Health Reauthorization Act of 2008 including the plan and emphasis. One of the programs included the Middle Colorado River Watershed Partnership. The issues range from emergency planning, response to many types of air emission issues related to not only oil and gas but vehicles and other sources of air quality impacts in our community. Other issues related to sustainability type issues, fish and transportation, energy efficiency and so on. Even traditional public environmental health issues were addressed as well as safety so there is no disease occurrence in the community. He has already made it his goal for the next year to come back to the Board and share with them what they come up with and the approach they are going to take to address these issues into the future with a key component involving community outreach and education. We just received a small CDPHE Radon Grant, which would monitor or sample their homes for radon and help them with addressing mitigation. They are meeting tomorrow to see if they could coordinate this program with their low-income weatherization program. They have also begun working with the Town of New Castle's environmental committees to develop a community wide anti-idling campaign to help people understand what idling of their vehicles has on air quality. They are hoping to empower citizens to participate and we are a small staff of three that obviously cannot do it all by themselves.
Commissioner Houpt – Jim started a new office that we hadn't had in the county before and she knows they have worked very hard. She applauds Jim's efforts in this process. She thinks people take certain things for granted in a county and we're a county with a new environmental health department and thinks really bringing this forward in a systematic manner that will strengthen the department in this county.

- **c. Environmental Health Quarterly Activity Report – Jim Rada**

Jim reported on the EA quarterly activity report in Battlement Mesa saying they moved the air monitoring station from Rulison to Battlement Mesa. Chief Blair was very excited about the station there because the county is going to tie into their computer system and they will have access to real time. They will use that data also for the analytical work they do in conjunction with the sampling. Air quality in Rulison is looking good and the amount of activity down in the valley around Rulison calmed down a bit and felt it was appropriate to bring that up to Battlement. They have had over 23,000 hits on their website, which he thinks is substantial and over 1,000 hits per month. That is doing really well and they are going to install new meth stations in Parachute and in Battlement Mesa to see if they can get the live data on their website also.

PUBLIC MEETINGS:

- **A. State of Colorado DOT Report on Transportation Issues and Future Projects – David Eller**

Doug Aden talked about budgets and funding. He submitted a booklet outlining the budget, projects, increase in population and the wear and tear of the road system. In 1999, CDOT was authorized to borrow a billion and a half dollars and most of that money was spend in 2000, 2001, and 2002 to accelerate the completion of 28 strategic projects around the state. Roaring Fork Valley was one of those projects. When the economy was better and especially after the passage of Referendum C for a couple of years there was some significant general fund transfers from the state that came to CDOT. Now their budget is made up of about 2/3 state funds and 1/3 federal funds with the state funds coming from the motor fuel tax and the faster funds from the passage of Senate 09-108 that increased vehicle registration fees around the state. Currently, we have about 78 million dollars allocated to various safety projects. Over 71 million dollars is allocated toward bridge programs to accelerate the completion of the 120 plus substandard structures

identified around the state. There is about 15 million dollars in two different categories of transit funding. On the HUTF side, he thinks it is obvious that both state and federal level that the gas tax, at least at its current rate, has peaked in terms of its ability to generate revenue. At the state level and the federal level, a slight decline has been in the amount of revenue that is being generated by the motor fuel tax. The amount of revenue coming in from the gas tax has pretty well peaked. On the repaving program, they spent over 100 million dollars this year and it should have been about 500 million dollars just to keep the system as it is today. This is an area where the public will quickly being to see the consequences of them not being able to fund the maintenance and preservation of the system at the level it should be. They have seen an overall quality of the condition of the state highway system deteriorate over the last several years and the projections are at this level of funding has been decreased. They are not doing much here at all is in the regional priority program and that the part of the budget where the counties that work through your local TPR to identify projects of local need and local interest. This budget has no money for projects and it will likely to be the same way next year. Some of those projects that have been prioritized through the intermountain TPR are probably going to have to wait awhile. There is a concern over the possible passage of amendments 60, 61 and proposition 101, which would have a dramatic impact on CDOT. If proposition 101 passes all of that faster revenue from vehicle registration will go away. The other thing that would be problematic from CDOT's perspective is the limitations on the ability to issue debt. Having the capacity to bond in both our bridge enterprise and in our high performance transportation enterprises, we think about what the ultimate solution on the I-70 corridor might be and having that capacity gone to issue to long-term debt for some large projects is very important. It would be unfortunate if they lost that. The federal program, the last 6-year authorization so called safety legislation expired a year ago September 30, 2009 and congress has extended that out through the end of the calendar year. The congress, for the first time in history, has been backfilling the federal program with general fund revenue because they made more promises in safety than they could fund. There's no sediment to raise the federal gas tax and he thinks they are precious on the federal budget and it doesn't seem likely they will continue to backfill with general fund revenue. There are discussions of a new federal 6-year authorization to 4 to 500 billion range; the problem is the anticipated receipts into the federal gas tax trust fund over that time are about 250 billion. There is a huge gap there and you will have much less federal programming. There is a lot of uncertainty around the federal program in terms of policy and uncertainty of what level the program is going to be funded and how it will be funded. That is making it difficult for them even as they think about planning for their next year's budget at CDOT. It will have a big impact on our budget if they end up with a lower level federal funding. CDOT works closely with their congressional validations and try to manage earmarks as best they can although it is becoming more and more challenging.

Doug said they are trying to keep a little money on the regional priority programs. They are internal optimists and want to have a few things on the shelf and ready to go; but it is a real struggle for the commission to know when to stop designing things they don't have money to build and just spend the money on the things they know are ready to go.

David – The largest of the 14 counties includes Garfield County. We have 5,800 lane miles, 659 bridges and 475 employees. They have two separate maintenance section with one managed out of the Craig area. Section 2 is managed out of Grand Junction and includes Garfield County. Part of their engineering sections are broken into two section, which they call their program east and west and essentially east is the 1-70 corridor short of Mesa County and Joel Ellison is the program engineer. It took four years of safe faster safety dollars to split that amongst their four TPR's. We have a bridge enterprise where there are 128 bridges in poor condition, which they are trying to and unfortunately, one is the Grand Avenue Bridge. In the book it talks about the ARRA funding; Colorado received about 384 million dollars towards highways, 120 million towards transit and 37 million towards aviation. Part of the ARRA bill they have to be very transparent; part of the reasoning behind the stimulus was to put people to work and how many jobs that created.

David referenced page 13 and 14 of the book - investing in the 21st century transportation system. This is CDOT's position paper that was put together for the federal government to show transportation in the 21st century. They talked to locals to see what they felt and what they see as transportation needs. This is their vision statement in support of getting a new federal authorization.

Michele Halstead gave a brief update on the study of the I-70 corridor for more than 10 years. In 2004 they released a draft; they got more than 2000 concerns identified from stakeholders primarily concerned that they a 4 million threshold of improvements, and they weren't looking long term in terms of a planned horizon. Last April there was dissatisfaction against CDOT; but the result was that everyone started talking to each other. In 2007 they formed the collaborative effort which the commissioners were apart of in Garfield County. Eight months of work resulted in a recommendation with twenty-seven diverse folks getting around the table with CDOT and federal highways and came up with a solution. It identifies high priority projects that need to be done sooner than later. They are doing a programmatic environmental impact statement, or a PDIS. It doesn't mean that there's going to be construction tomorrow; what it means is that it informs the future. They will do many more site-specific environmental studies such as environmental assessment or EIS's to actually see what the specific impacts are of the proposed transit for highway improvements to move forward. Every project, as you know, has a purpose and need and she won't go into it because the Board drives the corridor quite frequently, and know that from Glenwood Springs to Jefferson County they have a need to increase capacity and improve mobility, from auxiliary lanes to twenty plus interchanges, some potential six lane widening, and an advanced AGS for the length of the corridor. Those are things like truck parking, improved travel signs; that is what they call the minimum program. The maxim program, which is potentially the additional capacity that could be added later and that is a potential that could happen in the next 50 years. Overall, the deferral is the best solution that meets their purpose and need and meets the needs of the corridor. They are having three public hearing the first week of October, the closest one would be the 7th of October in Eagle. Once they receive all the comments, they will release a final draft at the end of the year. They will get a decision next spring, and that is the federal government's approval of their decision and it will allow them to move forward with projects. She would encourage the Board to attend a public hearing or provide them a letter or comments on line.

Commissioner Houpt – Randy Withee and Jeff Nelson are teaming together on the I-70 technical communities, so we have representation on the review through the I-10 Coalition. She wanted to applaud her, Michelle and Russ George in particular for taking the lead and putting the collaborative effort together. It really was an important exercise and it proved too many of them that if they sit around the table long

enough we can come to a consensus. She is wondering if there is anything built into future planning with CDOT that identifies the future budgetary needs for I-70.
Doug – He thinks the question is even broader than that; if you go back to the original list of strategic priorities; the good news is a lot of them are done. The bad news, in today's dollars their commitment to finish what was committed in the original list is about 3 billion dollars. About the biggest piece of that is I-70, about 1.8 billion. We all know that regardless of what they ultimately do up there 1.8 billion won't finish that corridor; but with the loss of the general fund revenue, all the other things he referred to earlier in his comments about the budget, right now there is no money to do anything about the I-70 corridor or any other of the other unfinished projects. The other question that the commission is starting to hear more and more is that the plan was developed about 15 years ago and the corridor is still the highest priority given the changes taking place over that 15-year period. His guess is that new lists are developing and the corridor will always be one of the highest priorities; but he thinks there are a lot of people in the metro area for example that are starting to rethink what the priorities are today if there are dollars available; really all over the state if dollars are available.
Chairman Martin – Doug, you sound just like we did back when we finished the MIS I-70 corridor, in the 20-20-30 planning. Joe was there too, they put years and millions of dollars into the planning process, which started the coalition. The same issue is there; there is no money. At that point, there was only 2 to 3 billion dollars; now we're talking 10 years later and it is now 11 to 20 billion and we need to wait. When we wait another 10 years it will be 40 to 60 billion and it will never catch up. That's always been the issue; he thinks they need to approach it in a whole different way, but he knows that the planning process and the federal bureaucracy with the federal funds require them to do this but they will never achieve it. We modified the MIS I-70 corridor to go ahead and to do the correlation. That goes back to the difference between the county and the state regarding putting those ahead with the capital improvement projects. Every year budget so much money to the capital improvement project with that plan in place knowing that you are going to accomplish those goals with the money you are putting aside. That's what we need to do state wide; not the way we are doing it now. Because we are spending every dollar and taking from the future by bonding, borrowing and what have you, and we will never be able to put money aside for capital improvements. It's a different approach that the counties have done to be able to accomplish all of the goals, most of the goals on capital improvement.
Doug – The demands on CDOTs system have grown at a rate so far beyond the ability of the revenue stream. They have made a lot of progress if you look at the original list. We are paying for that through the bonds. He thinks they have got to the point with the current stream, projected revenues available to them, he thinks it is clear that they are falling further and further behind. In terms of any capacity improvements and even to him more troubling in the maintenance of the existing system. He uses the analogy in terms of buying a new car and not taking care of it, eventually it will cost you a lot of money.
David – Under the faster tab, this is an overview of the program. The ARRA funds they receive about 40 million dollars in their region. There are two projects and a TPR; Glenwood Springs interchange, 116.
Joe – He thinks everyone is familiar with that project and it worked out great, traffic control they did the best they could. The other project is the Edwards interchange which is going on now and is in the final push; they are getting a little short on time.
Chairman Martin – Nice new cut they did; get the temporary so they can get that traffic out of that roundabout area.
Joe – The other one is an enhancement project for the City of Glenwood Springs for the bike path facility adjacent to Devereux Road.
David – They had a 100% obligation; anything that came back to them as project savings, contract savings, they had to re-obligate by the September 15th. They did expend or obligate all of their ARRA dollars. The only other opportunity for savings on air projects nationwide is there will be other money coming and there maybe another piece of that. The FASTER program they had approx 12 million dollars a year in their safety portion of FASTER. The TPR's they tried to break out evenly over the four years and the four TPR's. Each TPR was approximately 12 million dollars and they tried to find projects that the safety component with them. Fortunately, in our region, many of their projects have a safety element; a lot of theirs are shoulder widening, intersection improvements so they met the goal of the FASTER safety piece so they could stay consistent somewhat with the planning process. Rock fall mitigation is going on this year on Highway 82, there is a project on Highway 133, Carbondale shoulder widening, there is some design money. Next year into 2013, you will see there is Highway 82, intersection; what they did with the FASTER funds they took 5% off the top and said they wanted to talk about priority. You can see region three received about $600,000 per year.
Cathy – The FASTER local transit grants are being brought forward for the Boards consideration at this hearing. Those projects deemed worthy; there is an Inter Mountain TPR meeting scheduled for October 21st from 3:00 p.m. to 5:00 p.m. They are asking all that all the projects the Board finds worthy, fill out a one-page form and send into the TPR meeting. The TPR will then rank the transit projects; those projects will be advanced to a joint meeting with the three TPR's. They have alluded to the statewide transit grant process and that will be 23 million over next the next three years, and there will be a separate call for projects for those months. It is important to mention about the FASTER local transit grants, is that they do require a 20% match. The joint TPR meeting will be held in November and that date is yet to be determined. In December they will be having a statewide plan amendment and this plan amendment, it is not a major update it is just a minor amendment, and it will reflect the changes that have occurred since the adoption of the statewide planning, 2008. This amendment will reflect those changes from their plan so they expect it to be out in December. In 2011, the regions will put together their grafts into one document and then that will go in March; it will be released by the Transportation Commission for 45-day public review and comment period. In May the Transportation Commission will adopt a new plan. Pages 24 through 31 are the resource allocation amounts for the fiscal years.
Zane – One thing he wanted to highlight had to do with the 5% of FASTER money that is being allocated towards intersection. They will be kicking off their region three intersection priority list; they will be taking input from all the counties, the cities and looking at each of the intersections that this Board feels is a priority safety wise. They will be sending letters to each of the counties, give a presentation at their upcoming TPR meeting and then they will be asking for that input. Once they get the input, they will consider the intersection with all the others they get and come up with a recommendation. That is something the Board could look forward to participating in soon.

Commissioner Houpt – Is there a match to that money too?
David – No, it may help celebrate your project.
Zane – That is one of the criteria's; local funding participation. Bigger projects you need to bring money to the table.
Joe – Glenwood Canyon concrete phasing of paving phase II is one of many. In the Rifle area on US 6 a critical culvert repair; it has been a problematic area for maintenance people. A couple of miles of I-70 that needed some work and State highway 82 resurfacing was a super maintenance project. Hanging Lake tunnel had some cracking in it and they got Mays Concrete out of Grand Junction starting shortly to fix that. Two other projects; Grand Avenue Bridge is one bride that it is functionally obsolete. They will be scoping it; it's going to be project that will take a very focused stakeholder involved in it. RFTA and the community; it will be difficult to put this off. One of their biggest projects for both of them and the county is the West Parachute interchange, which has quite a combination of funds. He showed product delivery schedule. This was just with them to outline what they see coming out to really get the design request for proposals. They worked closely with Jeff Nelson; they have it with the procurement people and he and Don DeFord talked about this morning a little bit. He would like to see if the Board is willing to move forward, if Don is okay with it, they are really close to release that RFP if the Board approves it.
Chairman Martin would like to see it.
Joe – It should be coming to the Board next week and then they will move forward. Garfield County will be the ones who go under contract for that. The next things that come up are the survey work; get into design and utility coordination. They will have the plans ready in about a year. The things that take a little longer are the right-of-way, if things really go super smoothly with the right-of-way procurement it takes some time off.
Chairman Martin – And that's property acquisition?
Joe – That is property acquisition.
Chairman Martin – Better start working on it now; maybe a year to two years.
Joe – Another big component; this is 6 months of utility relocation. Look at the north and south side.
Chairman Martin – There's a big pipe that goes underneath there.
Joe – They actually have a meeting with utilities at the end of this month. They would be advertising this project in late summer of 2012. It is probably a little over one year for construction. He thinks they would like to build a little bit of contingency into these under the promise over deliver hopefully and get things moving along a little faster.
Chairman Martin – The Board is very interested in that project moving forward.
Doug knows they are all anxious to move it a long and he also understands the right-of-way and utilities and all these things; there maybe some things they can't control.
Commissioner Houpt – Absolutely and thanked them for identifying those projects. Do you think we will be seeing the MOU at the BOCC's next scheduled meeting?
Don – He and Joe did have a chance to talk this morning and Joe had sent him some e-mails. He would think the MOU would come to the Board at their next board meeting and should be ready to sign. The state actually signed off on a form of the MOU; it was somewhat altered from the form he or Jeff had seen. He doesn't think the changes are substantial; but there are some wordsmithing changing that need to be accomplished. He doesn't see any difficulty in moving forward with putting the RFP out for proposals at this point. He thinks they are close enough on the agreement. At this point, he would like the Board to authorize the contract administration staff, Jamaica has been working on this already to go ahead and release the RFP for public dissimilation.
Chairman Martin – Do you want to do that now without being on the agenda or do you want that in the next meeting?
Don thinks they need to go forward with it at this point; he knows it was not on the agenda today, but at this time, the only reason you need to take action is it is somewhat at odds with normal procurement practicing policy. Normally they would have the agreement in place and then go forward with RFD. However, because this is an exception to that policy he thinks the board should approve it.
Commissioner Houpt – So timing is such that it is important?
Don – Yes.

Motion

Commissioner Houpt – I'll make a motion to direct the procurement department to move forward on the RFP for the Parachute interchange. Commissioner Samson – Second.
Chairman Martin – Looks like the level of commitment is coming to the surface fast Joe.
Don – This is really for the board; there are some other agreements as we move through this they will need to work on but the first phase is to get the design underway.
In favor: Houpt – aye Martin – aye Samson – aye
Maintenance:
Chairman Martin – The monitoring of the traffic going through Glenwood Canyon on speed is one of the issues that has always come up; 50 mph is too slow. According to the standards, 80% of the people exceeding the posted speed limit. Do you have those figures they asked for that last year? He would say it is about 90% of the people, including the big trucks exceeding 50 mph. They need to look at that and it looks like it needs to be adjusted. Need to look and see what the overall safety factors are, get recommendations both from law enforcement as well as engineers and maybe they can make a suggestion to raise it. There is enough data from the State patrol to complete a speed study. He agreed with Tresi that there are many accidents in the canyon but turcks and cars exceed the speed limit.
Joe – One other thing he wanted to mention was the March 8th rock fall incident, there has been at least three emergency projects out there. Just wanted to let them know they are, some of the money that came from the Federal Government from this they are putting towards a study to see what they can do to address this more actively in the future. Ideas that have come out so far are like a snow shed, down on Red Mountain Pass to be a rock shed.
Chairman Martin thinks that rock would have gone through the shed.
Joe – Maybe it's a monitoring system that can be calibrated to put the red light out there to see something.
Doug – As they have a preliminary budget discussion class, some of the commissions want to shift more money into rock fall litigation because they had a number of incidents and have been extremely lucky in Colorado. They have fatalities in prior years; those identified as high risk they want to put money into that and do a better job of prevention.

- **B. Approval of Letter of Support – TDC (Thompson Divide Coalition) Board of Directors**

Chairman Martin – This is something that he and Dorthea have been working on for about two and one half years.
Dorthea Farris is here representing the Thompson Divide Coalition. The Board was sent a letter in the middle of September with an update on what's been going on for the last year and a half to two and one half years. Where they are and the fact they need to move to the next step and she thanked the Board for responding to the letter. During this time, the Thompson Divide Coalition has garnered support from groups, agencies, individuals, a variety of users, so they are now ready to submit legislation for discussion and to give it to Congressman Salazar and his staff. They have been kept up to date all along and support the activities and the mission and your county submitted a letter of support of the mission is very narrow. So the legislation the board has in front of them is simple single mission legislation that includes the comments that were made that support what is written in the legislation as purposes of the legislation. So it is just supported documentation that will go in with the legislation. This is where they have to go next to keep moving on this and they are working on contacting the leaseholders. You also have a sample letter of support for introducing that legislation. Today she hopes they will see a motion to adopt the letter of support for introduction of the legislation because they intend to introduce it the end of September.
Chairman Martin – On the very last page issue there were some issues that he and Dorthea went over after the last meeting; they put down one through four. He also submitted those to the different energy folks as well as some of the federal land folks. Of course, they won't comment on it but at least they know it's there. They are trying to go ahead and allow the management of the land, in the proper agencies to manage it properly. Also to keep agricultural leases in place so that was in there as well as the stipulations; they never talked about the oil and gas that are on the ground, but the stipulations that are there. Those stipulations are again are a contract between the holder and the federal agency that issued them. If there are issues that we truly need to address through those stipulations there's a process. That process can be amended again through stipulations. That's between the leaseholder and the federal agencies based upon science and fact so that we can go ahead and do that and those can be upgraded. When renewed they can be upgraded as well. It also puts in that it needs to be voluntary; you can't force anyone to do that because we have vested property rights. He submitted that again to the Colorado Oil and Gas Association and they are willing to live with that for this step. If they have issues, they will take it up with the legislation; but at least it gets an attempt to get up to legislation. We also have to understand just because they have it down this way as a draft bill it doesn't mean that is what the final product will be. He just wanted everyone to understand that is always the risk. The next step is what we would like to work with our framework, is it possible to do so and then it goes again through the process and it may be thrown right out.

Motion

Commissioner Houpt thanked John for working with Dorthea on this last page. I would make a motion that we sign the letter as presented today in support of Thompson Divide Coalition bringing this draft bill forward as recommended by TDC.
Commissioner Samson – Second. Commissioner Samson read the letter into the record.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Approval of a Resolution Repealing and Adopting Section 5.7 of the Garfield County Procurement Code: Bid Preference – Garfield County Resident Bidder – Gene Duran and Jim Hackett**

At the September 13, 2010 BOCC meeting, staff was directed to refine the policy to provide a definition of "headquarters" and to address federal funding of Garfield County projects. Staff provided redline changes to the Board and provided a definition of "headquarters". Staff anticipates the procurement code will be comprehensively revised within the near future. At the time of that draft, the definitions will be located within a central section. Section 5.3 "Sole Source Procurements" was explicitly excluded at the County Attorney's request, but it should be noted that Section 5.3 references other sections that are outside the formal solicitation process. The determination was made that Contract Administration should be granted the discretion to determine if the local preference rule is in direct conflict with federal grant or contacting competition procedures. If there is a direct conflict, the local preference requirements would not apply. With respect to the issue of vendor preference, staff recommends the above changes and adoption of the resolution.

Motion

Commissioner Houpt made a motion that we adopt the Resolution Repealing and Adopting Section 5.7 of the Garfield County Procurement Code- Bid Preference, Garfield County resident bidder as presented by staff. Commissioner Samson – Second.
Chairman Martin – Always remember that even though we put this into place, we can review it at any time and make any changes when we call it back up.
Commissioner Houpt – Just to clarify with that Resolution title, this is the adoption of a local vendor preference as part of our Procurement Code. In favor: Houpt – aye Martin – aye Samson – aye

PUBLIC HEARINGS:

- a. **8th Supplement to the 2010 Adopted Budget – Theresa Wagenman**

Chairman Martin verified the noticed public hearing was completed and Don stated the Board was entitled to proceed.
Theresa submitted the 8th Supplement and the Exhibit A for the changes. She is requesting these be approved.
Commissioner Houpt asked if the Silt Park was included and Theresa stated this has been approved in January.

Motions

Commissioner Houpt made a motion to close the public hearing. Commissioner Samson – Second
Motion carried.
Commissioner Houpt – I'll made a motion that we approve the Resolution concerned with the 8th Amendment to the 2010 budget and the 8th amended appropriation of funds.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Ed – Wanted to point out they are the reaching point where they are getting $20 million in the oil and gas mitigation fund; the question is when do you want to stop plowing all the mineral severance and mineral lease money into that.

Commissioner Houpt – We may find a need for it soon; there is going to be an issue that comes up that might qualify for those funds.
Chairman Martin – You can make adjustments to go ahead and make adjustments to go to the revenue and the distribution of that revenue without touching the fund.
Ed – For the foreseeable future all mineral severance goes into that fund.
Commissioner Houpt – Until we review that if you have a different recommendation, you could submit that too.
Ed – No, I was just raising a flag saying eventually we ought to think about it.
Chairman Martin – Can I give you an example of the State of Alaska that has over $40 billion dollars in the same fund and they actually don't have any taxes back to their citizens based upon the interest alone on that $40 billion dollars. And they get an interest check back to them because of that. Not to mention Wyoming pays for their entire state government with the same approach. It does have its positives we can look at that and again how we approach it.
Commissioner Houpt – Their tax is higher than ours too I believe. Alaska's to the industry.
Chairman Martin – To the industry; not to the citizens. I don't know if it is or not but it has a different format.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE –

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to go into an Executive Session; motion carried.
Don has a request for an executive session concerning a 1:15 item as it relates to the implementation of 1041 regulations, which you need to consider before you undertake that discussion this afternoon and we will need Mr. Jarman for that discussion.
Commissioner Houpt – I'll make a motion we go into executive session.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

REGULAR AGENDA

PUBLIC MEETINGS

- **a. To Consider a Request for an Extension to a Preliminary Plan for the Queen Subdivision – Applicant; Darryl and Cathy Queen – Fred Jarman**

Darryl and Cathy queen were present. Fred gave the background, Darryl and Cathy Queen originally submitted a Preliminary Plan application to split their lot located at 0889 Van Dorn Road off of CR 117 also known as Cheyln Acres Subdivision in 2003, which was initially set for the Planning Commission in 2004 but was pulled from that agenda due to water issues with the Colorado Division of Water Resources. No activity occurred on the application for over a year, thus that application was terminated in November 2005. Later, the Applicants tendered a new technically complete Preliminary Plan application in August 2007, which was eventually approved by the BOCC in December 2008. That approval had a 1-year expiration date for the Applicant to submit a Final Plat application to the County. The Applicant has not submitted any requests for extensions or Final Plat to the County to date.
REQUEST
As it stands, the Applicant wishes to move forward with getting the conditions met to submit a Final Plat application. The BOCC (last Monday) approved a text amendment that would allow an Applicant to ask for a 2-year extension to file the Final Plat. The BOCC could grant that extension <u>if it finds that the extension does not result in any inconsistency between conditions of approval, the Comprehensive Plan, the Unified Land Use Resolution of 2008, as amended or that any inconsistency can be mitigated by specific conditions. Should a change be required to any conditions of approval, they shall only occur in a noticed public hearing pursuant to Section 4-103(F) of the Unified Land Use Resolution of 2008, as amended.</u>
STAFF RECOMMENDATION
While this is not an overly complicated subdivision (lot-split) and there have not been any changes to the Comprehensive Plan that are affected by this project, Staff believes there have been a few changes to the Unified Land Use Resolution (the Code) that would be "inconsistent" with the approved Preliminary Plan and several of the required conditions of approval in Resolution 2009-01 as attached. Specifically,
The Code now requires a 24 hour water pump test (rather than a 4 hour test) and a water quality test for primary drinking standards (rather than just for bacteria and nitrates) in contrast with conditions 20(a) and 20(G); and The Code now has eliminated the "1 dog limit" plat note as well as the plat note limit that "no further divisions of land can occur within a subdivision". It is unfortunate that is has taken so long to move this project forward and that the deadline to ask for an extension occurred with no request. Technically, the Code doesn't allow the Applicant even to ask the question for an extension. In this case, the Applicant has had difficult health issues to deal with, has invested a fair amount of time and money into getting the water situation figured out with the DWR, and the conflicts with the conditions of approval appear to be minor. Staff does not have the authority to approve an extension, as it is technically not allowed in the Code. This is a decision to be made by the BOCC given the circumstances. There have been other recent requests that were similar in that the date had passed to ask for an extension and the BOCC granted the request due to the unique circumstances.
Should the BOCC grant an extension, Staff recommends the BOCC grant a 1-year extension from the time that a request is normally made which would have been in December 2009. This 1-year extension would equate practically to a 2-year extension from that same date to be consistent with the regulations just adopted by the BOCC last Monday. This new deadline would expire on December 1, 2011.
Discussion:
Darryl – Approximately 2 years they were here for the preliminary subdivision, the preliminary plan, at that time he was going to have surgery on his ankle. What he didn't know at that time was that surgery was going to fail and another surgery would ensue. The surgery knocked him out for 18 months.
Chairman Martin – You're doing the work yourself?
Darryl – Yes. He was remised and should have come in last year; there is no doubt about that and looks for some forgiveness. Having gotten back on his feet in July, he approached Fred about two weeks ago and asked what would be the easiest way; go back to ground zero; they were willing to do whatever. They have no problem with the about the 24 hour water test and he is not sure about the additional water testing but that is not an issue. They are asking for the extension to get this thing done. If that is the case, they are working right now to get the driveway permit. He has almost two years of life to catch up on.
Commissioner Houpt - Your suggesting an extension that would expire on December 1, 2011 and you would like to us to adjust the requirements for the final plat notes.

Fed – he would; on the same page, those are the two items they have to address because of new code regulations. So the water and the one dog limit.

Motion

Commissioner Houpt – I make a motion we approve the extension for the Queen Subdivision final plat to expire December 1, 2011 with the changes to the final plat notes as presented by staff. That would include the 24 hr water pump test and water quality test for primary drinking standards and the note that eliminates the one dog limit.

Commissioner Samson – Second. Why in heavens name do they have to have the 24 withstanding that the state says so, what is the reasoning for the 24-hour pump test?

Fred – That is what your new code requires; you may recall when that issue was debated with the planning commission they brought in water engineers to talk to the planning commission to talk about that issue. It was their best advice to that board that that was in fact the better standard to use and so they passed that requirement as a recommendation on to the Board and then this board codified that. That was the rule of the day. There has been however, discussion to re-examine that and that is pushed out in front of you today.

Chairman Martin – That was one of the issues they had from 30 some years; we had a 24 hour water test as one of the requirements as well as a water test to make sure it wasn't harmful to humans and plants or animals.

Commissioner Houpt – The quality issues over the years had been concerns as well. So there were reasons to support the planning commission on that decision.

Chairman Martin – I know I wouldn't have; he would like to have it go back to 4 hours.

Commissioner Samson – I see no need for that; but sorry you have to do that.

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

- **b. Consider a Letter Response from Elk Mountain Consulting, LLC Regarding the Request for 1041 Regulations as Applied to Oil and Gas Development in Battlement Mesa PUD – Fred Jarman and Don DeFord**

A letter was submitted as a response from Mr. Driscoll refusing to accept the BOCC's direction from his first letter. His response does not change the initial recommendation from Staff. However, this is an opportunity to respond should the BOCC choose to. Mr. Driscoll disagrees with three specific legal points raised in the County's memo to support the general conclusion that the county could not lawfully designate the development of Battlement Mesas as an activity of state interest pursuant to this law. Contrary to the memo's analysis, the county would be within its legal authority to specifically to designate the development of Battlement Mesa as a matter of state interest, and to regulate oil and gas operations pursuant thereto. Nor would the county's actions be subject to any greater level of judicial scrutiny, as the resulting regulations would fall squarely within the county's responsibility to ensure the health, safety, and general welfare of the community without infringing upon the respective authority of the Colorado Oil and Gas Conservation Commission. As shown in Mr. Driscoll's letter he listed are his three concerns. 1. Specific activities may be designated as matters of state interest, pursuant to HB 1041, without a prior general designation concerning the activity involved. 2. Battlement Mesa can legally meet the definition of a new community as defined in HB 1041 and 3. The proposed designation would not be subject to greater scrutiny because any resulting regulation of oil and gas activities within Battlement Mesa would arise as a matter of local land use planning.

Discussion was held regarding the legal staff's direction on this matter.

Don - We have the latest request, position he should say submitted by attorney for Battlement Concerned Citizens and this first came to his office last June. He asked Deb Quinn to review it and render an opinion and she did and provided that to the Board. The Board asked that she communicate with the attorney for Elk Mountain, which she did and the latest information. His staff and Mr. Jarman's staff are looking for direction from board now, which is appropriate for the Board to move forward or not as you choose regarding amendment of the land use code to include or not include a new community as an area or activity of state interest as a 1041 activity.

Ron Altero, Bob Harrington, Leslie Robinson were present.

Ron clearly stated their purpose for the designation of Battlement Mesa as an area of activity of state interest saying it is simply to seek a means that will provide greater local government control over any developments that may pose a risk or threaten the future growth and development of Battlement Mesa as a healthy and desirable residential community in which to live and this is precisely the reason we are appealing to you our county government to step in and fill that role until such a time Battlement Mesa has evolved and developed to the point it can feasibly establish a municipal government. He acknowledged the Garfield County had the foresight to require a special use permit for mineral extraction within that Battlement Mesa PUD. However, we do not feel that current regulations regarding that process are sufficient to mitigate all the possible impacts that such developments would impose to the long-term health and sustainability of a growing and vibrant community that is so important to the county and states future. Therefore, he urged the Board to move forward with their request of June 21st to designate the community of Battlement Mesa as an activity of state interest pursuant to House Bill 1041. Mr. DeFord mentioned you would have to decide to designate the site and selections of new communities as a county land use regulation or amend county land use regulations; however, Mr. Driscoll in his response didn't think that was necessary. He said that Garfield County could specifically designate the development of Battlement Mesa as an activity of state interest pursuant to House Bill 1041 without having first to separately designate site and selections of new communities as a general countywide matter of state interest. He goes on to say House Bill 1041 does not confine local governments in designating activities of state interest in this way.

Chairman Martin – It would be up to this board to make the determination as it is a policy issue and we have taken a position of not going with the 1041 powers and gave that direction to our staff.

Commissioner Houpt – Did not agree that a decision was made at that time and wanted today to make the determination on three different issues. Obviously there's a very different point of view on how you move forward with 1041and in our code we very specifically outline what falls under 1041. It's beyond her why they don't have certain criteria in there tools in the tool box; but we don't. She believes they would need to go back to the process and add that to our code so the question is really whether we in general terms move forward in starting a process to review the change in the code.

Chairman Martin – He would disagree with the attorney in saying it's a new community simply because it was started in 1975 but the PUD went through the process was okayed, land use authority was given and

zoning was put in place. Activity was defined in the PUD process, which identified ten different areas of oil and gas extraction areas and agreed upon by the person or company that put the PUD together. If the owners of the PUD, and most of it is still under that same ownership, they need to come forward to make a change in PUD to make it a new community and that's when he would consider it. Presently, it is following all the rules and regulations that were set down and the requirements of that PUD and there has not been a request to change by the owners of the PUD. The mass quantity of land is still under that ownership and the votes would probably be there as well.
Leslie – The County got involved with the discussion of incorporation of Battlement Mesa, which would make it a new community.
Chairman Martin – This has been a 20 year discussion of becoming part of Battlement Mesa, Parachute or Grand Valley overall or two different communities. There are obstacles they have to go through. BBC is working in the ability for the metro district to take over. That could cause changes if it's a new municipality. Then the PUD would have to incorporate and become a town, which would change it substantially from just a PUD to a community, and then you would have that opportunity to do such.
Ron – We are asking that Battlement Mesa be considered as an establishment of an urban growth center in an unincorporated area of the county. Battlement Mesa is only ¼ developed and it's still becoming a developed residential community. Mr. Driscoll believes that is one of the requirements of the law that the proposal would fulfill in that respect. As far as the gas drilling fights being approved within the original PUD, yes that's true. He thinks they need to keep in mind when the original PUD was approved and proposed the PUD at that time was envisioned as becoming employee housing for the oil and gas industry and that certainly is not the case any longer. Battlement Mesa is no longer the community it was in 1975. He thinks that is something that needs to be taken into consideration too.
Leslie –Let's talk about the tools the county is going to obtain under 1041and that's not just for Battlement Mesa but for the whole county. Other communities are being impacted by oil and gas development around our localities. The county needs more negotiation tools as oil and gas is being developed in more urban areas. That's essentially what they hope to accomplish with 1041, especially looking at the health impact assessment, the recommendations that the COGCC does not cover under their rules and regulations. So the county needs to have the power to address those.
Chairman Martin – That's always been a difference of opinion in that the Commissioners are in the land use business and not identified as oil and gas regulations. He thinks we can regulate those as much as they can in land use. As a county regulation of such activities under the proposed designation would arise solely to the matter of the land use planning and a matter exclusively delegated to local governments. We have that right now, we have rules and regulations, land use regulations that we have identified and we even put a booklet out on oil and gas as well as gravel extraction. We cannot make oil and gas go away.
Bob – He believes that is the there is a misconception and the tone set in the original staff memo that they were trying to prevent oil and gas, however, what they are trying to propose is 1041 to use to mitigate the effects of this but not to prevent oil and gas development - mitigation in this whole thing. In the letter from Mr. Driscoll, it outlined the negotiations with Antero about the oil and gas drilling and the stance that they should be concerned with. Those concepts really need to be considered because this went through the oil and gas committee and it was rejected in its entirety by Antero. In other words, they wouldn't negotiate on any of the points and these were reasonable. What he would ask for is at least the opportunity to sit down with the staff, the attorneys, land use people and see if they have a little further information to give to them as Commissioners in more of a joint presentation.
Commissioner Houpt – What do you think we can accomplish with the 1041, if we are looking at mitigation that we can't accomplish with the SUP process?
Bob – The first thing is the land use you are locked into the year of the ruling and with development in the PUD would be over a long period of years. With changing technology, equipment and everything else under present deal of the land use rules; this is the cheapest and easiest way without mitigating or protecting. Under a format where yearly you would review these types of things, and set up under 1041 by that token you could negotiate about the use of newer equipment, newer technology, whether as many pads are needed if the drilling gets greater and greater do they need.
Chairman Martin – Bob you are getting into oil and gas conservation commission rules, regulations and operations and permitting process, which we are not allowed to do.
Commissioner Houpt – Not exactly, because we do have the ability to review a special use permit on these wells pads.
Chairman Martin – On the surface not down the hole; what Bob is talking about drilling you have no authority on a down hole issue.
Commissioner Houpt – He's talking about surface impact.
Bob – If there is a process set-up they need to sit down and negotiate these types of elements when we have a working thing that is dynamic thing with the time it will keep flowing with the time instead of locked back to 2010 period.
Commissioner Houpt thinks they have an opportunity here that we have never had before with the special use permit process and she doesn't think they are as restricted as he is thinking they are. She believes that they have the opportunity to look at the opportunity to look very carefully at the unique issues that will be brought forward in this special use permit. She also thinks it is important that we as a commission look at 1041 rules and make sure they have all of the tools they need in the toolbox. She doesn't agree with the statement that was made earlier that they can just make that decision without it being in their code.
Bob thinks it would be beneficial if they could sit down with some of the staff. A classic point would be that didn't come up under oil and gas commission is expansion of the fire department to be able to handle chemical fires; special equipment there. Who pays for that?
Chairman Martin – We have no control over the fire district. The fire district is a government to itself with its own rules and regulations. We can't dictate to them. His point being; all the things that Bob and Tresi brought up, he agrees but it is under the comprehensive drilling plan and it is a negotiated land use between the PUD and the energy company and then approved by the state and then referred to the county to see if there are any issues. That already exists. 1041 powers don't really need to be there if you have a comprehensive drilling plan agreed upon by the development, the developer and the two governmental entities. You have accomplished your goal; you have addressed every issue that is possible. Public meetings, comprehensive general plan, owner of the land is compensated, mitigation and stipulations. All that other stuff is in the comprehensive drilling plan; we went through that whole rule and regulations issue

to put that in place and yet we don't want to use it because of that. We want to do 1041 powers its' two different things here.
Commissioner Houpt thinks that will probably be used; but we also as a county have an obligation to go through our special use permit process and that will be separate from the comprehensive drilling plan.
Chairman Martin – We should have made sure that the state who have been upholding that as well. That's nothing new.
Commissioner Houpt – So that gives us tools
Leslie – But the comprehensive drilling plan is voluntary; it's not the rule of law so that punches holes in your argument.
Chairman Martin – No it doesn't because we said we would follow this board and they will follow the special use permit process. To do that they know that will have to do that as well as the comprehensive drilling plan. We don't have an application and they haven't put a plan together. There is no movement whatsoever in reference to the energy development within the PUD. Those are already out there; both sides know that and this government is holding firm.
Leslie – We would just still like to sit down with the planning dept; at least to compare what is in the special use permit versus the 1041. Maybe there are some things you can extract from the 1041, which will upgrade the regulations under the SUP.
Commissioner Houpt – Of course you are always able to sit down with planning staff to have those discussions. Absolutely as a resident of Garfield County, we are here to serve you. She doesn't think they have to make a motion to have that happen and even direct staff on that. The doors are open to the public.
Leslie doesn't think there are enough tools in the toolbox to really provide enough protection for the residents of Battlement Mesa. We are not talking short term we are talking about long term, how about if this lasts for 20 years. There's going to be things that will be coming up in the future that we can't even look in the crystal ball to determine.
Commissioner Houpt is talking about planning; she is not talking about legal because the legal staff is here to advise us and you have an attorney you are working with.
Ron – We simply would like to see the county pursue every option available to protect the growth and development of Battlement Mesa as an important and valuable residential community. They feel this is a tool, as Leslie said that would help fulfill that request. If you don't feel that this is the proper avenue; it was suggested to them by another individual that maybe county would consider a special overlay district of Battlement Mesa to enhance the existing land use rules and regulations specific to Battlement Mesa. Maybe that is something they could discuss with the planning department too.
Chairman Martin – Again, the PUD puts everything in place from the zoning to the activity that takes place and then it is enforced by that PUD. To go ahead and make changes in the PUD require an application to make changes in the PUD. The owner has not come forward with an application to change. And back to another issue Tresi brought up; the letter from Mr. Driscoll's, next to the last paragraph "although Garfield County has tentatively decided against pursuing the 1041 of proposed 1041 designation for Battlement Mesa development is still the utmost concern." So we did make a tentative decision not to go forward. We did that; it was an open meeting, we had the same discussion we are having now and the policy is do we wish to go ahead and open up the 1041powers or not in oil and gas for Battlement Mesa. And I think that is the question you want us to answer; am I right?
Commissioner Houpt – She would like to have staff move forward in providing the commission with background information on their 1041 authority and what type of tool kit the statute allows because she thinks this is a part of the code that needs to be reviewed. We need to look at what tools we actually have but we haven't included in our code. She would feel more comfortable if she had one other person who was interested in having the staff do that.
Commissioner Samson – I don't think John is against that are you?
Chairman Martin – Heavens no, what we have already done is identified. This will be the third or fourth time we have done something.
Commissioner Samson doesn't think there would be any problem.
Commissioner Houpt – So let's do that; let's get a workshop scheduled as soon as we can get on the calendar.
Don – Do you want that presented in the form of a workshop?
Commissioner Houpt – Yes. I do because it will require a lot of conversation.
Commissioner Samson to Bob; who is on the oil and gas committee, is that the one where there are 11 members?
Bob believes it is about seven members right now. The oil and gas committee is a committee with BMSA and he thinks Chuck Hall is the acting Chairman of that committee.
Leslie – We look forward to the work session
Chairman Martin – Just to let you know we have identified them and we will be bringing the old documents back and looking at everything again to see what was not covered under both.

PUBLIC HEARINGS:

- **a. Consider a Request for a Rural Land Development Option Exemption to Create Six (6) Lots on a 179-Acre Parcel – five (5) 2-3-Acre Single Family Lots and on E (1) 167-Acre Ranch Parcel 0- The Property is Located East of the Town of Carbondale, South of County Road 100 on County Road 101 (White Hill Road) and is Subject to a Conservation Easement Held by Aspen Valley Land Trust and the Pitkin County Board of County Commissioners – The Site is Owned by Nieslanik Investments, LLC and Cecelia L. Nieslanik Bypass Trust – Kathy Eastley**

Mark Nieslanik, Doug Pratte, and Bill Southington were present.
Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Kathy Eastley submitted Exhibits A – U and Chairman Martin entered these into the record.
Planner Kathy Eastley explained that the John Nieslanik Ranch is seeking approval for a Rural Land Development on a 179.435-acre property to create six (6) lots, five (5) of which are proposed for single family development on ±2-3 acres lots. The remainder parcel, the sixth lot, is proposed to contain ±167-acres, which will remain in agricultural production. Four (4) new home sites are proposed to be located at

the northeast section of the ranch, outside of the Ranch HQ area, clustered in a pinion/juniper hillside area adjacent to Aspen Crystal River Estates Subdivision.
She submitted the 4 staff recommendations and stated that prior to recordation of the Plat the applicant shall form a homeowners association to accept construction and maintenance responsibilities for all roads and utilities serving the development.
Discussion was held regarding water distribution systems, the conservation easement on the ranch since 2006, a 9-acre building envelope and that is their ranch headquarters and it includes his dad's house. His brother's house has ponds and they carved that out of the conservation easement simply so they would have the freedom to put corrals in there.
The concern that Doug voiced was the payment of the impact fees for the school district and the Carbondale Fire Protection District at the same time. It really is at the time of the building permit rather than at the time of the signing of the plat. Because this is obviously going to be held in the design for their future, it may be a while until they build and it would be nice if those expenses occurred at that point in time as opposed to when they sign the plat. They would like a release of a plat restriction and that says essentially that no lot can be transferred or sold with the entire infrastructure to serve that property is in place. They did that at Tybar and worked with the legal and planning staff to develop that plat note. They put an improvement agreement together, which mirrored that language in this improvement agree. They feel like it works and they can work with staff to adjust that language as they need. He thinks conceptionally they are the same page as that but they did want to identify that the collateral as it is mentioned in Kathy's memo, collateral could refer to many things but the collateral they are proposing is a deed restriction on the sale of the lot until infrastructure is in place to serve that property and there are lots of documentation in their improvement agreement and their covenants. He has proposed a plat note that says due to varying site soil conditions all lots are required to have an individual site-specific geotechnical study application for a building permit. They are hoping that covers what kind of steel is used, what kind of foundation drainage is use, what kind of cement is used, so rather than spending to specify that kind of information on the plat; they would like to require that every building has to include a geology site specific study and that was a little bit of a variation on Kathy's recommended conditions. The last ones are those really relate to fire protection. They have proposed that all fire protection and establishment of wildfire defensible space around each home will be the responsibility of each lot holder. It must be approved by the Carbondale and Rural Fire Protection District as part of the building application. Again this is to make each of the brothers responsible for working with the fire district as they go forward with the building permit process as opposed to putting plat notes in about general conditions. They can certainly work with the board or staff to refine those. Conceptionally today they on are on board with the fire protection, the geology, the deed restriction related to a plat note on the sale of a lot with the infrastructures in place and we just need to work through the language.
Shannon Meyer thinks the Nieslanik have done an amazing thing in taking the option to do a perpetual conservation easement on their land. They did it a long time ago with the intention of going forward with these lots, which now they are slowly moving through that process. It is a long-term plan from the start of that just 9 years ago. That is something we should work on with this provision in the code allowing ranchers to use this as a family and estate planning process as one sibling might decide to move forward with a lot while the other aren't quite ready.
Chairman Martin – He can remember talking to Mark in the county building a long time ago.
Kathy has some serious reservations about removing recommended conditions regarding the fire sprinklers and the recommendation or the requirement for defensible space. The defensible space came directly from the Colorado state agency that reviews for wildfire hazard. One or two of these lots is in a very high wildfire hazard area and the Carbondale Rural Fire Protection District is the one who made the recommendation regarding the automatic fire sprinklers
Chairman Martin – By 2013 it will be required.
Kathy – Agreed it is in the new ones. The changes that Mr. Pratt is recommending may be sufficient but she doesn't see that's there's not any reason not to be very specific regarding the requirements that are going to apply.
Mark – One of the things that is irritating is the forest service; when they put this together they had never seen the property and we are agricultural. If they didn't have irrigation water that whole thing could go up; but if you look around 90% of the fires that happen are in areas not maintained by agriculture. If you put that stipulation on us, he thinks is wrong. If you really want this process to move forward you have to be flexible for those of them that are maintaining the land and coming in and trying to do a little bit of limited development. If they continue to have these regulations, there will be very few people who will go through this process. It's time consuming, it's expensive and even a sprinkler system, we have lived on that land since 1956 and that maybe a requirement that is coming down the pike but right now it's not. He thinks they need a little bit of flexibility; those that come in after them and building says they have to have a sprinkler system great. At Ty Bar, they have a pressurized system and they provide more water than they could ever imagine. During certain times of the year, they have that ability; it's just a mistake. It would be different if they had a developer that didn't know the land; but they know the land.
Commissioner Houpt – Doesn't the fire district typically work with the applicant on that too?
Kathy – They didn't receive a response to their referral request from the fire district. This was a letter the applicant provided in his application with recommendations for the fire sprinkler. She certainly is sympathetic with the requirements that they have to be met. Let's not forget this truly is a subdivision process; we are creating lots here and the lots in the future that can be sold and lots that can be built on. The intent of the county regulations is to serve public health and safety.
Chairman Martin – We protect ourselves from ourselves.
Doug – To clarify, while Kathy stated that some of the lots are a severe hazard and some low; the only reason they are trying to put this in is that there may be conditions that the fire protection district has for one lot that is very different from one lot to another lot. They would like to clarify that on the site-specific basis, whoever is applying for a building permit has to go to the Carbondale Rural Fire District with their wildfire mitigation plan and water supply plan for either sprinklers or otherwise. They are not disagreeing; it is just a site-specific deal and he thinks it is smart to make people go on site specifically rather than putting a blanket regulation down. Secondly, another note that Kathy made; this isn't a subdivision process, it's a subdivision exemption process. And part of the difficulty with this is that it is so close to subdivision engineering and standards which do protect the county and the owners. It is very lengthily and

difficult and expensive to do. It is an exemption process and doesn't preempt them from dealing with wildfire hazards but he thinks individually these folks can go to the Carbondale Rural Fire District and work out their wildfire hazard and mitigation and their water supply and have a very safe environment to live in on the Nieslanik property.
Chairman Martin – Instead of writing the check on the approval you look at the building permits and then that building permit developer would be responsible for that mitigation or fund. We have done that in the past on wording of all of the requirements or recommendations. He could accept those.
Don – He wanted to make a comment on the plat note and would recommend the plat note for the most part with some minor language changes should be limited to the first sentence. The remainder of 4D should be the substance of the agreement itself. In other words, the plat should provide that lots 1 through 4 should not be sold until there is a release of collateral. Then in the improvements agreement; that agreement should be fine when that document actually occurs.
Chairman Martin – You need to define what collateral would be; lots 1 thru 4.
Don – 1 thru 4 shall not be sold until a release of collateral is issued and then the remainder should be in the agreement so everyone knows when that doc should be tied down. That is his suggestion
Kathy – Up on the screen is the applicants proposed plat note restrictions.
Don - Yes, he looked at that and looking at theirs, there is a sentence that ends right about 1/3 of the way down those reception numbers; number, parcel block and so forth. Where it says reception number period and the next sentence starts no parcel block lot, unit. If you put a period there, strike the rest of that from the actual plat note, and put that language in the improvements agreement as the condition of releasing the collateral he thinks they might have a more functional plat note.
Doug thinks those are great suggestions; their only collateral as trying to define it, no lot can be sold before infrastructure is in place. As long as we are all clear, that is the definition of collateral.
Mark – Is that for all the lots or just the lot that is going to go because if Matt starts his first he is at the bottom.
Doug – We have partial release of collateral discussions too
Don – Part of the agreement whenever collateral a "release of collateral is released for a specific lot" would be his anticipation, you could do one at a time.
Fred Jarman - Question on the language; on line 14 you are missing the word the word not after the word plat.
Chairman Martin – May be conveyed – should be may not be conveyed.

Motions

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. Motion carried.
Commissioner Houpt – Do we have a copy of what you proposed for fire mitigation language?
Doug – Yes, last exhibit that was added.
Commissioner Samson – I would move that we approve the rural land development auction exemption to create six lots on a 179 acre parcel, five two to three acre family lots and one 167 acre ranch parcel with the following recommendations number one as presented by the staff, number 1, 2, and number 3 will have to change, is there a better way?
Discussion before the second to the motion.
Commissioner Houpt – No that was a question I neglected to ask in terms of; for clarification purposes, Kathy, when you do a subdivision and you have the school impact fees, or fire district fees, are those typically paid when the house is built?
Kathy – No, they are typically just as we do have added here; the check is due prior to the final plat be signed.
Chairman Martin – And the applicant has made a request because it is a family type trust that the developer of that parcel be the one responsible and not the trust itself, so when the lot is then conveyed and they move forward with the building permit they pay the fire department as well as the school dedication fund based upon the calculation appraisal you would have that because they would purchase that lot and go forward. That's what they are suggesting; I have an objection, it is going to happen anyway–
Kathy – The provision of an appraisal is necessary to calculate the fee so I guess we would need to know would we get an appraisal now, calculate the fee, and have the fee due at building permit.
Commissioner Houpt – The appraisal of what?
Kathy – The property.
Commissioner Houpt – Of the land
Kathy – Yes.
Chairman Martin – At that point then the whole idea that the family member who is doing the building will be responsible their share of the fees to the school and the fire department instead of taking from the family trust up front.
Commissioner Samson asked Commissioner Houpt if she was okay with that.
Commissioner Houpt – I'm trying to think back, I think it would be fine for the school calculation, the fees in lieu, for the school district because those are put in place to compensate for additional kids in the school district. The one I'm not clear on is on fire district, but if there is not new structure in place.
Kathy – There's a resolution that requires these fees; I'm not sure what the specifics are.
Commissioner Houpt – Well the fees are required regardless, it's just whether it's up front or when the house is being…
Commissioner Samson – When the fees are required in the resolution does it say it has to be paid in a certain time. It must be paid at a certain time; I have no idea.
Kathy – That's the fire dept resolution regarding the impact fees, it is not something that would be in the code. It's a resolution from the fire district that stipulates the fees, so it's not something you would be able to look in the code. We would have to get that resolution.
Don – I would have to get the resolution.
Commissioner Houpt – So we'll treat this like an exemption. I think this can be put off onto the people who are the family members who are building. They have to be paid so you have to make sure that the language is in there; but when those lots are developed.
Commissioner Samson – 3A and 3C will stipulate that those funds, fees will be paid at the time of the building permit is issued.

Commissioner Houpt – and do you want the appraisal within 6 months of today. Is that what this says; B say.
Kathy – But if the fees are not going to be paid for 10 years that appraisal the value of the property changes.
Commissioner Houpt – I know; so do you want to take that second sentence out?
Commissioner Samson – B should be removed to say that the appraisal will be.
Commissioner Houpt. – Just take that second sentence out.
Chairman Martin – Just take it out you don't need it; because the fees are based upon the evaluation.
Commissioner Samson – And that's not for free. 4 A, B and C stand; D we will strike everything except the first sentence. That okay?
Chairman Martin – With Mr. DeFord's wording.
Don – Yes
Commissioner Samson – F and G work with staff so that a geo study would be performed to make sure that...
Chairman Martin – Just put down that engineering must be completed with reference to geological issues.
Commissioner Houpt – you have wording items 16.
Doug – item 16
Chairman Martin – You don't want to specifically state what they want to do with their concrete.
Kathy - The intent is to require site specific investigation.
Commissioner Houpt – Right; a site-specific geotechnical study; okay let's use number 16 of the applicants proposed conditions and that's for F and G and H.
Commissioner Samson – And H also, okay. Then I and J we need to replace that; that basically would be done upon the issuance of the CO? Is that where we are at
Commissioner Houpt – 15 would require them to work with the fire district as part of the building permit application.
Chairman Martin – If its site specific on whatever they….
Commissioner Samson – And number 5 would stay.
Commissioner Houpt – I will second the motion. In favor: Houpt – aye Martin – aye Samson – aye

- **b. Consider a Request for a Land Use Change Permit for Limited Impact Review to Allow for the Storage of Supplies, Machinery, Equipment, or Products on 7.38-acres of a 4,312-acre Parcel Located off of County Road 211 (File No. LIPA 6428) Applicant; Chevron USA Inc. – Molly Orkild-Larson**

Julie Justice for Chevron was present.
Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Molly submitted Exhibits A – L and Chairman Martin entered these exhibits into the record.
Planner Molly Orkild-Larson explained the proposed site is located ¼ mile south of the terminal end of CR 211 and approximately four miles north of the CR 204/211 intersection. The storage yard obtains access from CR 211 by an access road. The site is to be situated on an existing well pad SKR-698-10-BV (10BV), which is 3.8 acres in size. This well pad was permitted and built in anticipation of continued drilling activity in the Skinner Ridge field, but the Applicant has since suspended its drilling program. The drilling program is expected to resume in the next two to three years and anticipated to be drilled in three to four years. Utilizing an existing well pad eliminates further land disturbance. The storage yard is accessed by an access road off CR 211. A locked gate is situated at the entrance of the storage yard for controlled access and can be remotely monitored by camera from a guard shack and Hiner Gate office. The site is to be used for storing larger equipment and materials

STAFF RECOMMENDATION

The Applicant has applied for a Land Use Change Permit for Storage of Supplies, Machinery, Equipment, or Products. As conditioned, the request addresses the ULUR requirements for approving a Limited Impact Review and issuing a permit for this specific use. Staff recommends the Board of County Commissioners **approve with conditions** the request from Applicant for a Land Use Change Permit for the Storage of Supplies, Machinery, Equipment, or Products on a property owned by the Applicant located in SW ¼ SW ¼Section 10, NW¼ NW¼ Section 15, Township 6 South, Range 98 West, in Garfield County with 11conditions.

Discussion:
Molly would like to remove condition number 10 and add two conditions 12 and 13 to address the growth or the lack thereof. Applicant shall reseed by November 1, 2010 and 13 she has talked to Steve about the netting on that and with this type of reclamation it takes time for vegetation to come up. They would like to see what it looks like in a year and revisit that and if it needs to be reseeded or some other kind of erosion control methods implemented they would like to address it at that time.
Chair Martin – Number 11 becomes number 10, 12 is 11 and 13 is now 12.
Molly – Staff recommends the board approve the request of the applicant for a land use change permit through the limited impact review process for storage of supplies, machinery, equipment or products with the conditions attached to the staff memorandum.
Julie – She pretty well covered everything; they do have a dry area during the summer especially in the southern portion. There is really no erosion problems with the site. Storm water management is in place, they are getting good growth in the potholes, and it just takes time for that to spread. They have no problem with reseeding slopes.

Motions

A motion was made by Commissioner Houpt and seconded by Commissioner Samson to close the Public Hearing. Motion carried.
Commissioner Houpt – I'll make a motion that we approve the land use change permit for storage of supplies, machinery, equipment or products for Chevron Inc. with the findings and conditions recommended by staff, deleting condition number 10, making condition 11 the new number 10 and adding 11 which will be a condition presented by staff on reseeding the 3 to 1 slopes and condition number 12 which is a condition presented by staff on requiring a site visit to review vegetation growth on 2 to 1 slopes.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **c. Request for Approval of a Preliminary Plan for Highline Ranch, SPP 2409, a Proposed Three Lot Subdivision Located in Grass Mesa – Applicant; Ryan May – Fred Jarman**

Ryan May owner of Highline Ranch subdivision was present,
Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Fred Jarman submitted Exhibits A – Y and Chairman Martin entered the exhibits into the record.
Planner Fred Jarman explained the site is located south of Rifle within the development known as Grass Mesa Ranch. Grass Mesa Ranch is a large lot development located west of CR 319 and accessed via a private road known as Grass Mesa Road. The owner proposes to divide his 39.63 acre lot into three lots; Lot 1 at 10 acres, Lot 2 at 13.386 acres; and Lot 3 at 16.29 acres. The owner's home is located on proposed Lot 1. He submitted the Planning Commission 7 recommendations.
Motions
A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing.
Commissioner Samson – I would move that we approve the request for approval of a preliminary plat for Highlands Ranch SPP 2409 and proposed three lots located in Grass mesa with the planning commission and staff recommendations, striking 3, 4, 5 and 6, I think we are going to have to leave the fee in place though.
Chairman Martin – The road fee stays in place.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **d. Consider Certain Text Amendments to the Unified Land Use Resolution of 2008, as amended – Fred Jarman**

Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Fred Jarman entered Exhibits A – D and Chairman Martin entered these into the record.
Planner Fred Jarman explained the text amendments in front of the Board. are broken into two types, which were fully explained to the Board.
Motions
A motion was made by Commissioner Samson and seconded by Commissioner Houpt to close the Public Hearing. Motion carried.
Commissioner Samson – I would move that we pass the recommendation of A for the text amendment to the Unified Land User of 2008 as amended for one inclusion location and extent provisions into section 1-303 and to a new section 4-112. Commissioner Houpt – Second.
Chairman Martin – The only note I have here says that the planning commission is responsible for reviewing and making sure it is in conformance with the comprehensive plan; that is their function.
Fred – That is state law.
Chairman Martin – That's the only comment I have. Have to revisit that with our land use, it must conform with the comprehensive plan. That is an issue that will be coming up.
Commissioner Samson – That's another issue for another day.
Chairman Martin – Again clarification, planning department, planning and zoning folks have to make sure that it does on the recommendation. In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson – I'll make a motion that we pass text amendments to the Unified Land Use by resolution of 2008 as amended to include number 2 clarification and amendments to article 1, 4, 7,13 and 16 as attached as Exhibit B with the understanding we will work on Article 5 and see if we can come up with some better language at a later date.
Commissioner Houpt – May I ask you, because you hadn't weighed in on that, what are your concerns are about 5?
Commissioner Samson – Well I think it boils down to a basic philosophical argument I have. You look at whether it is the BOA or the planning commission or whatever it may be; those people are appointed by us to fill those positions. We are elected; we are the final say. We will face the voters as you very well know being in the middle of an election now. I don't like the words arbitrary and capricious because to me I think to most laymen that signify that somebody is going to just help out the good old boys or to do whatever. The voters are smart enough to figure out if that's happening they'll take care of the situation. With that being said, I understand you have to have rules, you have to have guidelines, you have to have regulations and so on and so forth. But there are always exceptions made or can be made to regulations when you are dealing with people. I think we as a board have to make the final decisions in those types of situations. If we go against the will of the majority, the people I'm sure will hear about it and will pay accordingly. But I don't see on my tenure on this board, which has been short, where we have acted in such a manner. When we have done things, it's been that the three of us felt it was the best for the county. I think those decisions need to remain at this board because we are the ones who will open and pay the price if we are arbitrary and capricious.
Commissioner Houpt – I think you are opening up Pandora's Box. I think it is a huge mistake; I would agree to second your motion if at the same time we direct staff to set up a work session. Because this is a critical point and it needs to be really dealt with quickly.
Commissioner Samson – Well if you feel it needs to be a work session I don't have a problem with that. As Mr. Martin has alluded to that will be one of the big sticking point when it comes to the comprehensive plan. I think we both said our piece on that, doesn't need to be reiterated. But I feel at maybe a later date we need to instruct to also start thinking about text amendment that basically says that the comprehensive plan for this county is to be an advisory document and not a mandatory document. Well not that lends itself to this argument.
Chairman Martin – I think we have to find comfort for this staff and this board on article number 5. I think we need to work on that and find comfort for both of us. And if it's an opportunity to do so then we need to do it.
Fred – Can I ask just a follow-up clarification here right now, as it currently stands you all vote to leave it just as it is today? Who is doing the waiving as you guys read this?

Chairman Martin – This Board.
Commissioner Houpt – Well it says anyone.
Fred – That doesn't say anything. From your staff perspective, we don't believe it's the staff; because if you think about that for a second if all of a sudden you placed your director in that position as a sieve so to speak before they can get to this audience. I'm not sure that's where you want to be.
Chairman Martin – Because of all the issues that you call up and ask for clarification based on whatever; this is a request by someone following the process that person needs to put it in writing and bring it to this board and see if we agree with a waiver or not, and if we say no the standards remain the same because you don't have enough or can't be implemented or it can be implemented. That's the criteria we need and then you go back with the question yes you have to meet the standard.
Fred – Wait, which are the criteria?
Chairman Martin – It's written in there; we would have that in front of us. It has to be in written form it's inappropriate, it can't be met, are some of the criteria's. So that's what we need to do is following how it is written now, following this process until we have a work session until we make this change but this board is the one would make those determinations. That's the way I read it.
Fred – you can see why that's an important question
Commissioner Houpt – I can see why it is because it's a very big statement that's in place right now.
Chairman Martin – Direction on the floor is to go ahead all except the 5 on the recommended changes.
Commissioner Samson - With a workshop to be scheduled to discuss that.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Issues:

Commissioner Reports – Commissioner Samson wanted to report he had good news. He went over to the RAC committee and they had a very fruitful afternoon. They heard many proposals it was good. Tamara Allen and Steve Anthony did a good job. He called both of them the next day to tell them they did a stellar job. They were both approved; so they have an $84,000.00 grant through that RAC money to refurbish the campground, Rifle. They also secured a $30,000.00 grant for weed vegetation control. Commissioner Houpt – We all received a letter from Bill Spence requesting that we set up a commission for the evaluation and development of open space trails historic preservation and agricultural preservation. She thinks this is a good idea; they have had different groups come in on these issues. Commissioner Houpt asked Fred what happened to the historic preservation group that came in years ago. If we had a formal commission on these issues, it would probably be a good thing. She will give Fred letter she received. Fred – As far as the self-preservation effort; they were working a resolution, he thinks they brought to the Board, as far as he knows they haven't come back to wrap up. Commissioner Houpt - We should talk about another workshop. This is more a discussion; municipalities have many different commissions. We don't but there are a lot of people interested on working on issues for the county if they know their work won't be in vain. Chairman Martin is always for open spaces as long as its public lands. Public lands are 2 million plus acres of Garfield County. He is not in favor of government buying property and putting it into open space or recreation; we are not in the parks business. If we can overcome some of the hurdles then we can talk about it.
Commissioner Houpt – Well a lot of that would go to a vote of the people anyway.
Chairman Martin – And it has a couple of times and it hasn't been successful with funding. There has to be a funding mechanism.
Commissioner Samson – The last survey we had, if you want public transportation – yes. Do you have to pay for it – No.? Do you want open space – Yes? Do you have to pay for it – No.?
Commissioner Houpt – Well the majority did want to pay for it, which was interesting to her.

a. **Commissioner Calendar –** Commissioner Samson will be going to a conference Thursday and Friday.
b. **Approval of Minutes –** None discussed
c. **Commissioner Agenda Items**
   1. **Discussion of Official Record of BOCC Meetings –** Not discussed.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

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OCTOBER 11, 2010
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 11, 2010 with Chairman John Martin and Commissioner Tresi Houpt and Commissioner Mike Samson were 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.

VERBATIM MINUTES ARE AVAILABLE UPON REQUEST: jablerico@garfield-county.com;

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Concern of Human Resource Grant Allocation
Bruce Christensen, Executive Director of Mountain Valley Developmental Service was concerned that the Human Services Grant process did not grant him the full request he had made to them. However, he referenced the additional $65,000.00 the Board gave to Access Roaring Fork outside of the Human Services grant process. This is a concern for him in that since reading this morning that the Board was going to allocate an additional $100,000 to the Human Services Commissioner to be distributed to non-profits therefore he is here today to appeal the fact that 31% from its 2009 level of funding was cut in the 2010 allocation. That is the biggest cut of any of the organizations. He serves huge numbers of residents in

his program and they are spending in excess of $5 million dollars a year in Garfield County and have a payroll of around $3.5 million dollars in Garfield County. It is absolutely critical that they receive somewhere near the level of funding that they have historically received. His appeal is that the Board restores some of the cuts so that he would be cut the same percentage as the other non-profits.
Commissioner Houpt wanted to remind him that the recommended funding levels come from the Human Service Commissioner Grant Committee and then they take those recommendations to the Human Service Commission. This County Commissioners are not cutting your level of funding. That came from the Human Service Commission and she agrees that the pool needs to be equitable and make sure that people are not receiving cuts that are greater than others.
Chairman Martin reminded Bruce that Marian Smith and he made some changes to recommendations of the Human Services Commission one year and they never lived it down therefore, you should put your request in so the Board can consider that request.

ANTERO

Scott Balcomb is here on behalf of Antero Resource Piceance Corporation and fully explained the issues regarding the situation.
The Commissioners and Don DeFord stated they needed to go through the staff and this was not something the Board could become involved.
Scott explained the specific statutory authority in the Colorado statutes centering on the litigation Regulski is trying to delay which the result is it will hinder the pipeline from being completed on other properties as well as Regulski's. His request is for the county to designate someone to sign an affidavit to the effect that this is grading permit application required by Andy Schwaller.
Don –This matter will be discussed with the Board in executive session. Scott's request is on the table now so perhaps we can address it this morning.
Scott –We are trying to comply with the regulations and get it done right. But, in order to get it done right they have to be able to go on the land and fix it and right now they can't do it.
Bob Regulski - Reiterated in his letter he mentioned they had 6 months to a year to figure out which why they were going. That Xcel pipe has been there for 15 years. He gave them the easement, they went outside the easement. He submitted photographs and wants Antero Resources stopped from doing further damage.

COUNTY MANAGER UPDATE – ED GREEN

a. **Approval of Proclamation declaring October Conflict Resolution Month – Larry Dragon**

Larry Dragon submitted the resolution that encompassed mediation, arbitration, facilitation, and other peace-making process. The process empowers individuals, families, communities, organizations, and businesses to foster healthy communication and devise creative solutions that are acceptable to the needs and interests of all parties involved. He explained the skepticism originally by the courts and others but now it is widely accepted. This is their 6th year; it is (ADR) Alternative Dispute Resolution and the program stated in the 9th Judicial District in 1992.

Motion:

Commissioner Houpt - I'll make a motion to approve the resolution recognizing October, 2010 as Conflict Resolution month. Commissioner Samson – Second. It's very timely, especially in the political alignment that we have at the time. In favor: Houpt – aye Martin – aye Samson – aye

b. Colorado River Water Conservation District Update – David Merritt

Dave gave the Board a lengthy report and referenced a number of water court cases and negotiations, provided the Board with an in-depth report on the issues regarding the complex resolution with Denver and water. The big case driving this is Blue River decree issues, which is a water court case that has been in federal district court and being administered by a federal district judge in Denver since the 1950's. The principal parties to that are the Denver water, the Bureau of Reclamation, the River District and the Grand Valley entities mostly being driven because of the operations of Green Mountain Reservoir on the Blue River. Shoshone has been in the forefront of all these discussions and they have to find a way to ensure the operation of at least that water right or the assurance of flows through the Glenwood Canyon. The plant is more than a 100 years old and this fall it will be taken down completely again due to leakage issues. At this time, work is directed to alternative operations for Shoshone.
Commissioner Samson voice concerned about water quality issues in Rifle.
Dave - The biggest issues is in Grand Summit counties; those are the counties that are really being directly impacted as they go forward. A key thing is greater cooperation with Denver and operations and funding for mitigation projects for the future however, a dedicated funding stream is needed to assist. Another very interesting feature is Denver in cooperation with Grand County and actually pumping water into Granby reservoir for subsequent release in late season down the Colorado River. The flows from Granby after September 1 have been a big issue over the years in Grand County because the operating policy steps back those flows. That issue as well as resolution of the so-called 10825 water, which is 10,825-acre feet of recovery program water making a difference in the upper basin. The other issue for the West Slope is going to be Ruedi Reservoir to get the other 5412 component out of Rudi at a reasonable rate. The Bureau of Reclamation is working with them on an alternative interpretation of the repayment obligations and it looks like they will be able to come up with a 40-year contract. We need to keep the Shoshone call or that water flow at the 1250 to keep everything in balance. As we move forward with the Moffat and Windy Gap firming project this represents the last of the upstream projects. There is a concern about Lake Meade that has been slow to respond just by the demands placed upon it as Lake Powell continues to release the required obligation of 7 ½ million plus half of the Mexican Treaty deficiency that is less than the demand in the lower basin. Lake Powell has been at the 8.23 for a number of years now and he thinks that maybe 99' was the last year in excess of 8.23. Lake Meade has been falling triggering elevation for a greater release from Lake Powell making an impact on Los Vegas.

c. 3rd Quarter Oil and Gas Report – Judy Jordan

Judy provided the number of APD's approved by the COGCC for the quarter by county and added that Garfield County leads the state in numbers of APD's issued. If the permitting activity continues at the same rate for the second half of 2010, the total number of APD's for 2010 would be about 2,208. Since the natural gas boom of the first decade began in 2004, this year would mark the third highest in Garfield County history. The final chart shows the number of active wells in Colorado, broken down by county. Garfield County continues to trail Weld County by far in the total number of active wells, but also leads the other jurisdictions in the state.

Judy's report included the complaints, activity levels, market conditions, and other gas plays as well as the regulatory agencies charged with overseeing oil and gas development. She also explained the severance tax adding that on September 2, 2010 DOLA announced that the administration has decided to retain severance tax revenues ordinarily allotted for local government grants to use to balance their budget; therefore, they will not be issuing energy impact grants this year.
Pepi Langegger granted written access to his property on West Divide Creek for two monitoring well nests as part of the Hydrogeologic Study Phase II. Other landowners who granted access to their property for monitoring purposes include Mr. and Mrs. Protz and Mr. Currie.

d. Approval of Universal Waste Management Plan – Marvin Stephens

Marvin explained the process to protect the Board of County Commissioners and come in compliance with the state.
Don – Provided the Board information on the paten indicating that it must be operated in compliance with the 1995 as amended management plan.
Commissioner Houpt suggested the possibility of a work session to discuss wood freeze, splash, burning, the possibility of the compost facility as well as recycling of tires as well as liners because of unacceptable waste.
Chairman Martin – The paten they refer to in reference to the management plan and the other shredder is the money from Colorado State was supposed to keep it going and do a cooperative however, that money was absorbed to balance the state budget, so that project was shut down. The Attorney General still has not ruled on the pit liners as to whether they are they hazardous waste. We still need to have the Attorney General and the state make a statement on what it is.
Gary – Is accepting this type of waste a liability the county wants to accept because once that material ends up in that landfill the county is responsible if it were to contaminate another property. There are certain wastes that are exempt.
Chairman Martin Action we need to take in accepting the waste management plan for 2010.

Motion

Commissioner Samson – I would move that we approve the West Garfield Landfill Industrial Special Universal Management plan for 2010. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

e. Battlement Mesa HIA Public Comment Period Extension – Jim Rada

During the October 4, 2010 public meeting regarding the draft Battlement Mesa Health Impact Assessment (HIA), a representative of Williams Production made a request that the public comment period for the Battlement Mesa HIA be extended 30 days to allow their technical consultants to conduct a thorough review on the HIA and prepare written comments. In addition, a representative of the Western Slope Colorado Oil and Gas Association requested the report be subject to a peer review process. Dr. Witter indicated that she would share these request with her colleagues on the project team and return a recommendation to you within a week.
More discussion was held with the points being made that this was a study related only to Battlement Mesa and since Antero Resources have not submitted a formal development proposal, there is no harm in extending the contract until next year.
It was decided that the Saccamano Institute health study took almost 3 years due to the data, in-depth review, double-checking and for a better product they should take as much time as we need. It was suggested that more input was needed from the citizens, the operators especially Williams Energy who made the request for a peer review and since the CDPHE reviewed it thoroughly, it should cover the concern.
David Ludlum thanked Jim and the Commissioners and on behalf of Williams for the extension as the operators wanted to take a more aggressive look and expand the context the political implications, the political shelf life of this document extends well beyond its stated purpose potentially. It appeared that peer review was part of all the designs that set standard and the broad implications of what this document could mean for their sector.
This study was not meant for the Colorado Oil and Gas Conservation members to review this and to make application approvals or not as the Board made it very clear that this was for local input only.
A different point of view was expressed that even though it was local, the hope is that everyone around the State of Colorado would look at this study closely.
A telephone survey was completed during the political season asking citizens particular questions about the health impacts and the Board made it very clear that this is being politicized right now and that should end after the election on November 2. The HIA has made extra steps to make sure they emphasis that this study is targeted to the Battlement Mesa project and was never intended this to have a larger scope than stated which was for the Battlement Mesa group.
This is about health and it is for everyone's information.

Motion

Commissioner Houpt – I'll make a motion we approve the extension for the comment period to November 15th with the goal of completing the final report by December 13th and extending the contract study design to January 31st with an extension of the funds to go through January 31st and contracts will come in front of us mid December as staff completes those. Understanding that the design phase will continue the work that is being done on it now will continue through January.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

f. Weed Advisory Board Reappointments – Steve Anthony

Steve provided his report to the Board and included letters from each town nominating the two representing. If the Board chooses to reappoint both individuals, he would ask that they make the term go through April 2013 to keep it with when their term expired in April of this year. That would keep them on a three-year cycle.

Motion

Commissioner Houpt – I'll make a motion we approve the reappointment of Mayor Frank Breslin from New Castle and Trustee Sonny Fernandez from Silt to the County Weed Advisory Board through April, 2013.
Commissioner Samson – Do we want to add in Bobby Gibson as an alternate?
Steve - That's what they put in the letter, I don't believe we need that.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

g. Consideration of Re-vegetation Security Release Oxy USA – Steve Anthony

Oxy USA requested a re-vegetation security site inspection this summer for a pipeline project in the Conn Creek area. The bond was associated with a Garfield County grading permit (G-2008-67). The bond number is 22024939 through Liberty Mutual and the secured amount is $48,000.00. The site was inspected on August 18, 2010 and on September 23, 2010. The re-vegetation work has been successful and staff recommends release of the re-vegetation security.

Motion

Commissioner Samson – I would move that we approve the release of the re-vegetation security for Oxy USA. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye

Carolyn – I just have an administrative issue; how does this get over to the treasurer?

Jean – I usually take it to her; but I don't have an original to be signed unless you want me to use what is in my packet.

Steve - that would be fine.

Carolyn – This is the form we have used for a number of years.

Chairman Martin – It's been solved; the clerk relays to the treasurer.

h. Conservation District's Tamarisk Project and Intergovernmental Agreement – Steve Anthony

In December 2008, the Vegetation Management Department discussed with the BOCC a partnership between the Bookcliff and South Side Conservation Districts that would focus on the noxious weeds Tamarisk and Russian Olive. He explained the goals, the progress and the 2009 contribution of $75,000.00 to this project and provided an IGA for review. The term of the IGA ends December 31, 2010. In a separate IGA finalized in August 2009, the county contributed $150,000.00 for conservation programs and $37,000.00 for the noxious weed cost share program. Steve went on to explain the description of the issue and new developments. Staff and the South Side Conservation District seek direction from the board on a possible amendment to the IGA.

Brett Jolley was asked to join and he provided information on the Tamarisk and Russian Olive project as to the agreement. If anything is changed it would require an amendment to the IGA. He talked to South Side Conservation Board and they have had meetings with the landowners, while they did have good participation they didn't have the 100%. In 5 to 6 years, most of the tamarisk will be dead; it does work. Commissioner Houpt thinks it makes sense especially since the landowners really feel more comfortable with that approach to use the money for reclamation.

Chairman Martin – It will take a change of contract as well; scope of services has to be redrawn.

Carolyn –She is hearing that the money would stay the same it would just be redirected to reclamation. Brett clarified that half was going to be reclamation anyway or 1/3 of it; they weren't sure exactly how many acres. They did map it; they hired an intern for the summer and he literally walked every bit of Mamm Creek, knocked on everybody's doors and gave them information and GPS'ed every patch of tamarisk on the creek.

Carolyn – It sounds like maybe we are at the same place with the public health contact and should come back in mid December with a renewal and a change.

i. Process to Distribute Additional Human Service Grant Funds – Lisa Dawson

Ed – As you recall last week Commissioner Samson asked that we revisit this Human Service Grant fund. Lisa wanted to confirm first that Ed had the correct date for the budget approval. It is scheduled for December 13th, which is the BOCC meeting on a Monday. Regarding action by the BOCC on September 13, 2010, Lisa provided a possible scenario for distributing these funds in 2011 in accordance to the Board's direction. This is back on the agenda for further discussion.

Kay Vasilakis explained how in the past it has been discussed whether individual agencies should be allowed to come before the County Commissioners individually and request funds. The committee did not think that was a good idea.

Lisa gave a brief overview of the additional $100,000 and how it would be allocated.

Commissioner Houpt – Just to clarify specific organizations that have contacted the county but have been turned away because they were a day late, or there were two organizations that had their grants in but weren't funded.

Kay - There were other reasons why they didn't fund them. Did R3P, Salvation Army and Planned Parenthood give you an extra request?

Chairman Martin – No, no one has come forward other than the Junior Achievement and they have discretionary fund that the Board uses throughout the year for this Board to award certain things. That is on an individual basis. These are ones that were identified as not receiving full funds or did not get a grant and they need assistance.

Commissioner Houpt –It would be her preference that the grant committee be responsible for reviewing those applications again and make the determination on how that specific pot of money will be allocated and it doesn't mean the whole thing will be allocated to those organizations. And then staff is recommending that the balance of that money then go into the Human Service emergency fund.

Chairman Martin – The Board hasn't had a request from these other agencies yet to disburse any money whatsoever. Even with the advertisement or the article in the paper, news that has been going around.

Commissioner Houpt –Her big concern as we make a decision today on how these funds are allocated is that we respect the process that has been put in place and work with the Human Service Grant Committee. This morning Bruce Christensen requested to backfill his funding. She would still request that this commission take the staff's recommendation and stay within the structure that has been created for this type of funding.

More discussion took place with respect for the requests from Salvation Army, RSVP, SANE and Planned Parenthood as well as the request the Board granted regarding Junior Achievement from their discretionary funds.

Chairman Martin –The whole reason the Board created the discretionary fund was to make those decisions to help those individuals that didn't qualify for the grant program under Human Services. We still have a conflict here.

Kay has been on this committee for probably 15 years and the people that are on the committee have put in a lot of work trying to be equitable and fair to all the agencies. She knows the entire Human Services Commission is going to be affected by this and so they really need to come back to the table and work everything out. She is sure that the whole Human Services Commission would appreciate having an extra

$50,000.00 in emergency funding. Because having that whole amount of money depleted is scary for them too because of emergencies that come up.
Chairman Martin – We had this discussion regarding keeping an emergency reserve for those needs but the committee decided to proceed to use those funds. Therefore, perhaps you need a rainy day fund to carry over each year.
Kay - The grant allocation committee should be making the recommendations to the Board of County Commissioners as far as these five agencies. It would be based on their original request. If we let the other agencies like Bruce come back in and ask for additional funding that's going to blow this whole thing up.
Commissioner Samson thanked Kay for her organization commission and the grant committee for doing what they do. You offer a great buffer between them and us. We realize it's a lot of pressure. His request to Kay would be in her wisdom in doing that probably would be to put the surplus of that with the $50,000.00 for a reserve. The Board has money left over in discretionary funds, so we need to help some people who are in need. You take care of that as you have and buffered us in the past. His main caution is that, as you know times are getting rougher and there will be more requests to this Board for things. He would like the commission to stay within the budget on the sales tax.
Kay - We really do appreciate getting county money for these agencies.
Motion
Commissioner Houpt – Once we did make that decision on one that didn't make it on time it just didn't seem fair to those other two that were actually turned away; they didn't have that opportunity as well. With that said I will make a motion that we transfer the $100,000.00 out of BOCC and anticipated grants to Human Services contingency in 2010 with the conditions proposed by staff.
Ed – The money you are using, it's 2010.
Commissioner Houpt – So that's why it is worded that way; what we will have to do; do we have to meet before the end of the year?
Commissioner Martin – Yes, that's the whole thing; that was why we considered just having a review and then send back to the Board.
Commissioner Houpt – So with the recommendations set forth by staff.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Transfer that money; they will go ahead, meet, and put most of the money they have into contingency for the following year. But they are going to make recommendations on distribution on the one that are there that missed the deadline.
Commissioner Houpt – It's exactly as it is stated in your memo; do you want me to read that onto the record.
Lisa was okay.
Commissioner Samson – To Lisa; the $50,000.00 for the transportation survey that probably is not going to be spent. So that's anticipation that it will still be left over? Do you know what I'm talking about.
Lisa – No, I'm sorry I don't know what you are talking about.
Commissioner Samson – The one you gave me, the sheet you gave me with a breakdown of the discretionary funds.
Lisa – Yes.
Commissioner Samson – So that $50,000.00 you're not going to spend.
Lisa – So that would stay in your unanticipated…
Commissioner Samson - I would like for that to be carried over for next year for us, and then I had a question on, I can't remember what the, this one right here. $111,000.00 for south for Glenwood Spring, what is the status of that?
Lisa – That hasn't been paid yet; that's because we were waiting for an invoice from them.
Commissioner Samson –I'm just wondering why it hasn't been paid out because that was appropriated clear back in February.
Lisa – Yes and we requested an invoice from them and we haven't received it yet, so we can request that again.
Commissioner Samson – So my question is will it definitely be spent or is there problems with that?
Chairman Martin – I imagine it will be spent in reference to that study that is going forward. I think a request over to the city engineer, if he is going to ask for that allocation.
Commissioner Samson – I'm just curious I mean a long, long time that was appropriated and hasn't been requested yet.
Lisa - I will contact the city engineer and ask for an invoice or the status. Then you want that $50,000.00 for the transit.
Commissioner Samson – I want that kicked over to our discretionary fund.
Ed – Jeff Hesckel and I agreed a couple of years ago that because they had to pay the money back, remember? That they will not invoice until they actually occurred a cost.
Chair Martin – They need to make sure that there is no cost that has incurred because we had that money earmarked. If not then put it back into the general fund dollars.
Lisa – Right.
Commissioner Samson – That's where I was headed. Thank you Mr. Martin.
Executive Session:
Ed has one other item for executive session, negotiations and legal guidance regarding the solar panel project at the fairgrounds.
SHERIFFS UPDATE – Lou Vallario
Lou provided the Board updates on his department reporting on CARE, Divide Creek Animal Hospital and overall animal care control and the success of the program. The County Sheriff's of Colorado fall conference was here in Glenwood Spring and over 40 sheriff's show up. Sheriffs are request to attend 20 hours of training every year and during this conference that was accomplished. He reported on another case regarding child pornography and trafficking and arrested another individual that originated from the FBI who passed that on to them as the local jurisdiction. Thanks to our FRED system, we were able to obtain and collect those images for evidence; anyone who chooses to traffic in child porn is going to go away for a long time. He recognized the forensic recovery system and their ability. They are looking at the 2011 budget and getting ready to look at the 2011 budget. They have a kickoff meeting and some hearings it looks like they will return about $1 million to $1.5 million dollars of unspent funds out of the 2010 budget. He gave an update on the model traffic code and presented a brief statistical sheet. There is still a

considerable amount of citations that are written at the state court and that because the model traffic code is limited to what they can adapt to which is traffic infractions. Any criminal violations such as misdemeanor events, DUI, driving under revocation, no proof of insurance, still go into state court. There are many advantages in utilizing the model traffic code. The revenues through the end of September are about $43,000 almost $44,000 if they extrapolate that out you're looking at maybe $66,000 to $68,000 for the year for the first three quarters. It was never about the revenues although they are important because they help support the persons who mange the program, printing etc but the issues was more about local control over our traffic enforcement.

In response to Commissioner Houpt's question on the breakdown of what is generated from County Road ticketing Lou responded how the process works and the ability to break it down by county road, region, geographic area and they will know after the end of the year exactly where the ten most popular places are for traffic violations.

Commissioner Houpt – That's great because she thinks people would like to know.

Lou – You see more deputies out there now than there ever have been. He believes the visibility is important. Everything seems to be going well; although they have seen an increase comparatively to other quarters, he doesn't hear anyone having any issues, concerns that they are overworking or over flooding the courts. This was one of the goals they talked about at length when they chose to adopt the model traffic code.

Commissioner Samson can see that it is working out and feels it was a good addition. When was the date the Carbondale town counsel wanted to meet with them in a joint session and discuss panhandling on Highway 82?

Lou – Tuesday the 19th at 6:30 p.m. at Carbondale Town Hall and he would be there for the meeting. The town is concerned about the affects it is having and Lou is concerned about the people who actually stop and assist those people panhandling and how it affects the traffic flow.

The meeting in Carbondale and the issue of panhandling was discussed with Lou taking responsibility for contacting CDOT about the meeting. Lou explained the proposal of signage and the loitering statutes. The Supreme Court has decided it is okay to loiter whether you're panhandling or for various other things. They focused on it not from the panhandling thing that is obviously a constitutional right and we focus on it from a traffic safety issue. We want to make sure that whatever signage they put up really emphasizes it is a safety issue for pedestrians to be out there. They have to be careful because it is actually a crosswalk so they can't prohibit. They are trying to resolve that so they can tell folks we aren't telling you that you cannot go out and panhandle; what we are saying is this creates a traffic safety issue and you need to do it elsewhere.

Chairman Martin – That is one of the reasons they posted it down in Grand Junction off the freeway. That is a CDOT sign as well.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. **Executive Session: Litigation Update; Legal Advice**

Don requested an executive session to discuss a number of items which includes the need to provide advice and receive direction concerning the collection and refund sales tax and the Garfield County Treasurer is present to discuss as well; as Ed as noted they need to receive direction on contract negotiations on installation of solar panels; as indicated this morning his office needs to give an update on the code issues regarding the Antero pipeline as it crosses the Regulski property, there are a number of legal issues involved; Don's office and Human Resources needs to discuss implementation of administrative personnel policy regarding reduction in force; discuss the status of airport road, specifically County Road 319. Some or all of these may require public direction.

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant Lists
c. Authorize the Chair to sign a Resolution approving the Nieslanik Rural Land Development Exemption Option to create Six Lots on a ± 180-acre property located southeast of the Town of Carbondale – Applicants; Nieslanik Investment, LLC and Cecelia L. Nieslanik Bypass Trust – Kathy Eastley
d. Liquor License Renewal for Sunlight Inc. dba Sunlight Mountain Resort – Jean Alberico

Motion for approval of the Consent Agenda

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

Motion for 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. Chairman Martin – The only direction was given in reference to negotiation, no public action is that correct Mr. DeFord?

Don – No public action.

PUBLIC MEETINGS

a. Recommendation for Correspondence to RFTA/FTA in Regards to the Bus Rapid Transit (BRT) Environmental Assessment – Tamra Allen

At the October 4th BOCC meeting, staff presented an overview of the Bus Rapid Transit (BRT) Environmental Assessment (EA) and recommended the Board provide a letter to Roaring Fork Transportation Authority (RFTA) and Federal Transit Authority (FTA) indication "no additional comment" in regards to the EA findings and of general support for the BRT project. Member of the Board indicated a desire to review the EA and provide additional guidance to staff in regards to EA correspondence at this meeting. Tamar provided a project and a staff recommendation, which is the EA, has been prepared to assess the social, economic and environmental effects of the proposed BRT project in regards to a No-Action Alternative and the BRT Preferred Alternative. Staff has reviewed the EA and believes it adequately addresses areas of concern, adverse/beneficial impacts and proposed mitigation. The potential beneficial impacts far exceed the potential adverse and staff believes the county should support the assessment and the overall project. Based on staffs review, staff recommends a letter be submitted to RFTA/FTA on behalf of the county and the County has "no additional comment" in regards to the BRT EA and further expresses general support for the project. The public comment period for the EA will end on

October 15th. The complete EA can be accessed via staff or online at http://n.b5z.net/i/u/6137465/f/RFTA Bus Rapid Transit Environmental Assesment.pdf.
Tamra asked the Board be ready and interested in signing a letter and forward on to RFTA in regards to the review of the EA. That is the environmental assessment to look at the environmental and social impacts to Garfield County. She amended the memo they saw on the 4th to include both the summary as well as a project description and a draft letter. She also wanted to provide them the opportunity to give additional comments and she would incorporate those into the letter.
Commissioner Houpt had nothing to add. She supports the letter Tamra brought forward and appreciated the memo last week as well.
Chairman Martin – The BRT for Glenwood Springs is a true expense; they are already experiencing $2.6 million dollars that are spent. It also opens up the problem of it is supposed to be a BRT rapid transit; but the transit exchange from one bus to another causes a slowdown of the system and they really don't achieve anything other than in the southern part of the service, which is Aspen to El Jebel and that helps them tremendously because they have CDOT's approval to have their bus lane. It doesn't do much of anything from Carbondale to west Glenwood Springs; other than another transfer. He heard a whole bunch about that and he would say he didn't find any objectionable findings in the EA, but to add that we supported overwhelmingly, he can't support that particular statement. It says that the BOCC does not find anything objectionable in the EA and he thinks they should stop at that point. That's a difference of opinion and the people talked to him so he is expressing that point of view as well. Overall implementation is not supported overall and even some of the transportation commissioners on Glenwood Springs don't support the overall plan.
Commissioner Samson – What is that you would like to change?
Chairman Martin – We don't find anything objectionable within the EA study.
Commissioner Houpt – She would like to say that they support the findings within the EA and you can stop it there as well. This is an important project and she didn't realize it was as controversial as your saying it is. You start with this stage and you're still many meetings away from implementation.
Chairman Martin – You are in many ways because the statistics are there with the ridership down, the cost increasing, the deferred maintenance going up, the overall willingness for all of the communities to belong etc. It is getting extremely controversial because of the economic impact and the lack of sales tax dollars that are running the whole operation.
Tamra would ask in regards to this letter on behalf of the environmental assessment that the Commissioners look strictly at the environmental assessment as a document that has been adequately prepared and not necessarily at the BRT project as a whole. With that, it would be very easy to modify the letter and just take out the last section that talks about the project as a whole and just look at the findings in the EA.
Commissioner Samson – So John, you are okay with everything saying in the last sentence if we just put the BOCC supports the findings within the environmental assessment?
Commissioner Houpt – We could put a period after that and she would be fine with that.
Chairman Martin thinks that is a good compromise.
Motion
Commissioner Samson – I would move we approve this letter to be send with the amendment that in the last sentence and support the overall implementation the RT system in Garfield County and signed by the Chair. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye
b. Consideration and Approval of Airport Documents: **North Side and South Side Agreement, Airport Land Partners and BOCC** – Brian Condie and Carolyn Dahlgren
Carolyn – Reviewed the documents with the Board pointing out that they are looking for authority for the Chairman's signature pending execution by (ALP) Airport Land Partners. She pointed out what has to happen to finish negotiating the form of easements. The Board authorized expenditure of money by the county surveyor to do that and they have gone forth. Mr. DeFord has asked for some executive session discussion of certain things related to County Road 319. This is the first time they have actually included that language that says ALP and the county will cooperate to get the airport area roads descriptions cleaned up.
Motion
What they are asking is that Mr. Martin be authorized to sign this pending execution by ALP and that the blanks get filled in, and that we return only if there are significant issues in our negation of the form of easements. Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Last Chance Ditch: ALP, Loesch and Crann, and BOCC – Brian Condie and Carolyn Dahlgren
Carolyn – This one the Board has never seen but it has been discussed with the Board. Carolyn explained in detail the two exhibits she submitted and where the pipe will drop into the Last Chance Ditch. They have gotten this in front of the ditch company but they haven't had a quorum at one of their meetings. Mr. Schneider, who is a ditch company president, has a handshake deal with the airport engineers and this is the moralization. Howard owns the Moose Pasture on the other side of I-70 Mr. Stuver owns that land and he is happy personally to see it detained and then piped down. They are not expecting any problems; but until the Last Chance Ditch actually convenes, they can't get a signature.
Chairman Martin – You would like us to go ahead and accept in the form that this agreement is going to move forward.
Carolyn – Pending signature by ALP and the ditch company and if that doesn't work they will have to come back to the Board. Mr. Stuver who is the attorney for the ditch company is out of town; but he is communicating by e-mail.
Motion
Commissioner Samson – I would move that we approve and have the chairman sign the Garfield County regional airport and ALP and last ditch company water discharge and facilities installation agreement.
Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson – aye
Carolyn – The last two IGA's with the City of Rifle were approved in May.
IGA City of Rifle and BOCC (road and utility relocation) – Brian Condie and Carolyn Dahlgren
Carolyn –We are looking for signature authority pending finalization of exhibits, which she explained in detail. What they don't have yet are the actual survey descriptions from Olsen Associates surveyor. As soon as they get those, they will attach them so the city knows exactly what easements they are getting to go into their water and sewer system. They can't actually do the annexation de-annexation until after they

have a final rule and order on Continental Rifle. Because of that delay, the ALP PUD is going to do its annexation first. Then once the county has full title to Continental Rifle and it will happen it is just a matter of fighting over costs; then the actual annexation, de-annexation documents will presented to the authorities and you will see a series road vacation actions as well.
Chairman Martin – But you still want action on this IGA to go forward with it or do you want to hold it.
Carolyn – They would like signature authority pending the finals on the exhibits because this isn't actually annexation de-annexation, this is city and county agreed to annex de-annex.

Motion

Commissioner Houpt – I'll make a motion that we approve the Garfield County, City of Rifle Garfield County regional airport runway improvement and road and utility relocation IGA pending the finalization of the exhibits and authorize the chair to sign. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

IGA City of Rifle and BOCC (loop water system upgrade) – Brian Condie and Carolyn Dahlgren

Carolyn – Brian has a factual issue - the utility loop upgrade system on the airport with the emphasis being the County has adequate fire flows on the airport. This was approved by the City back in May and one of the major items was whether the county will get city rates for county buildings. Through the efforts of Mr. Samson and Mr. Condie, you will see in blue that we do have in city rates. A certain amount of ALP's future development will hook on to the mains and runway road, County Road 352A. Bottom line; ALP would like to market their land as though that is in place. They strongly believe they should not have to enter into any cost recovery with the city for payment back to the county because ALP has been in lock step with those development wise all these years. This IGA gets rid of all prior agreements between the city and the county that's why ALP is a signatory to it. It's essentially a clean-up of our old pre-annexation agreement, including making sure we do some conveyances under that old agreement that never happened for whatever reason. Brian needs to talk to the Board about the cost recovery language. It's easy to fix, they just say the cost recovery will only happen on airport as new hangars are developed. They just take out the off airport.
Brian explained when they developed the IGA; it was developed to protect the airports infrastructure so they couldn't tap into what the county had paid without them paying their fair share. ALP is part of the original agreement and they have asked that they be excluded from that and we are talking maybe 10% of the upgrade. He hasn't run the final number yet; but a $1.5 million dollar project, 10% is $150,000.00. What percentage of that would have to go through the City of Rifle? We are not talking millions of dollars and anyone else that comes on to the system would have to pay that improvement fee. They are asking for consideration and Mr. Howard and ALP have been amendable to all of the needs in a timely manner; the things that they have need to get this airport project done and haven't held them up. The only thing Brian doesn't have is the exact number of the cost recovery that the county would receive if we included that language.
Carolyn suggested binging this back to the Board with better numbers. The one outstanding issue because this is a clean-up of fire agreement with the city and ALP.
Brian has a punch list of 33 items and they are through about 20 before the city will accept it. Before they went through the extra work to find out the exact cost, they wanted to find out, because the ALP was part of the original agreement, if we are just going to waive that altogether or if the Board needs to know what they are waiving.
Chairman Martin thinks they have a good idea of what it is. He has no problem. Also they are going to annex into the city and we will be subject to a whole bunch of things. We won't lose anything on that.

Motion

Commissioner Houpt – I'll make a motion that we approve the Garfield County City of Rifle Garfield County regional airport sewer and water utilities loop upgrade system under governmental agreement pending specific costs to or numbers.
Carolyn – That doesn't have to be included; just changing paragraph J to remove ALP.
Commissioner Houpt – As presented by staff and authorize the Chair to sign.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

Airport Celebration:

Chairman Martin asked if they were still on cue for the 23rd.
Brian – Yes it is the open house 10:00 to 2:00 p.m. There is a brand new 7,000-foot runway and once they open officially November 18th the public will not be allowed on the runway. This is an opportunity for the public to come out and see what all the dust has been about for the last six months. They can actually ride, run, walk down the runway; they walked the runway Saturday and yesterday to let a couple of the local pilots back in early. It takes about 20 minutes to walk one way. Take your bikes, skateboards, you have to bring your personal protection equipment if you do that; but otherwise they can run. From 1:00 to 2:00, they will have rides in an airport courtesy vehicle; people who don't want to walk we can take on a tour of the runway. Lunch will be on the new ramp, the new apron. They have prizes for people who make it to the end and give a ways from the Rifle Airport. It is a celebration of an 8-year project.
Commissioner Samson asked if they had made a special effort to maybe send notification to the people that were adversely affected through this process to try and get them to be there. They could offer some kind of closure to them. We might try to do that and say once again thank you for your patience and please come with us to get closure.
Commissioner Houpt – It would be nice to invite elected officials from all of the communities as well.
Brian will make an effort to contact all the people in the affected areas and invite them out to see what the project was about. They did spent $47 million dollars on this upgrade and the county's cost was just under $1.5 million.
Commissioner Houpt – It's a fine investment and a great step toward economic development.
Brian – They had many local contractors at work in the county this year.
Commissioner Houpt – She would love to share it with all of the communities and introduce it to some who may not have been out there before.
Chairman Martin – Actually you should extend that to Eagle County Airport.
Brian can put it on the Colorado Airport Operators Association. Just so the public is aware; there will be no flying aircraft, the airport is still closed. That is the only reason they can get o the runway. They will have the runway lights on, and the approach lights and the beacons.

Commissioner Samson wanted to make sure the local papers, Rifle Citizen Telegram, Glenwood Springs Post and Sopris Sun in Carbondale were notified.
Brian – He has talked to newspapers and they are looking for a crowd of about 500 people. They have given him a two-week window to advertise; any more than that, they are not anticipating the 15,000 they get for an air show. It is just a small event for those who want to come out, see the construction, and help them celebrate for the completion of this large project.
Executive Session:
Chairman Martin – Let's go back to executive session with the items declared by Mr. Green and Mr. DeFord.
Antero Pipeline
Don would like to deal with the issue on the Antero pipeline**.**
Commissioner Houpt – I'll make a motion we go back into executive session.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Can I have a motion to come out of executive session?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Direction on Antero Pipeline
Chairman Martin – Direction on only one subject; Mr. DeFord, would you try to outline that?
Don – I will try subject to correction; we are asking the Board to consider giving us direction to undertake code enforcement action regarding the Regulski property as crossed by the Antero pipeline. Particularly in the vicinity at the intersection of Divide Creek Road and River Road generally; specifically authorizing them to take enforcement of our grading permit, any floodplain permitting violations, and the road cut permit as those issues specifically affect the road crossing and the need to correct safety issues where that pipeline; permitted pipeline crosses the county road. Also as necessary for that purpose to intervene in an existing preliminary injunction case between the existing partners.
Commissioner Houpt – So moved. Commissioner Samson – Second.
Chairman Martin – Okay this is for the road safety and the general traveling public.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Reports:
Commissioner Samson – On the AGNC there was a budget meeting with Keith Lambert and Doug Monger and myself. Jane has taken over things now. With the new budget, they no longer have an executive director so the budget has been cut drastically. They have worked out various scenarios and will present that to the AGNC regular meeting on November 4th. The main thing is there is no executive director. If they have enough money, would they want to hire a professional lobbyist? He thinks that will depend on if there is any money there. They paid their $21,000.00, the other counties $6,000.00.
Commissioner Houpt – You are proposing $6,000.00; but they haven't committed yet?
Commissioner Samson - They haven't committed yet. He doesn't know if Moffat County can do that; he was under the impression, in their last meeting, that Mesa said they were going to quit everything; Club 20, CCI, AGNC, everything. He is working on the Mayors forum; hopefully it would go off. He heard from Stacey, the Carbondale mayor and she has accepted the invitation to host this. October 25th from 9:00 a.m. to 1:00 p.m. at the 3rd Street Center. Wednesday they have an 8:00 -10:00 a.m. proposed budget; Valley View ground breaking for the Cancer Center, and from 5:00 to7:00 p.m. a community counts at the Holiday Inn.
Commissioner Houpt said she would be there.
Chairman Martin – Leaves for Montana tomorrow and back on Friday.
Commissioner Samson – On the 19th he has a Club 20 presentation at 5:00 p.m. at the community center.
Commissioner Houpt – We also have a meeting with the Carbondale trustees at 6:30 p.m.
Commissioner Samson – Maybe would could go to the community center for an hour and then they have to leave.
Commissioner Samson – On the 20th from 8:00 to 10:00 a.m. elected official budget.
Commissioner Houpt – It is from 2:00 to 4:00 p.m. She asked John if he was going to the TPR meeting on the 21st.
Chairman Martin has it down.
Commissioner Houpt - Tresi has oil and gas meeting that day. The Farm Bureau dinner is on the 22nd at the fairgrounds. She didn't know what time and would get the information for the other commissioners. The airport open house is the 23rd from 10:00 to 2:00 p.m. and they are cooking.
PUBLIC MEETINGS
a. Authorize the Chair to Sign the Subdivision Improvements Agreement and Final Plat for the Strong Subdivision. – Applicant; George and Leslie Strong
Karl Hanlon and George Strong were present.
Fred Jarman explained that on December 8, 2008, the BOCC approved a preliminary plan for the Strong Subdivision. The Board subsequently granted a 1-year extension to file a final plat. The applicant tendered a final plat application, which has been under review. During this review, the applicant has been working with Garfield County to determine their "fair share" for improvements required at the intersection of CR 300 and SH 6 & 24. This amount was recently determined to be $72,022.00 based on traffic studies. The Board agreed to this amount in September 2010 and the applicant is prepared to tender a check in that amount to be delivered to the county and applied to the improvements at this intersection. Now that the "fair share" matter has been properly addressed to the satisfaction of the county, the final plat and subdivision improvements agreement (SIA) may be signed by the Chairman and this project may be completed. Note the SIA also contains certain improvements still yet to be constructed. In support of those pending improvements, the SIA contain an engineer's cost estimate and letter of credit for $75,323.00 to securitize those improvements by Alpine Bank. Upon final review, the LOC has an expiration date of August 10, 2011. This is unacceptable, as it needs to have a life of at least 6 months beyond the expiration of the SIA, which will likely be October 11, 2011. Therefore, the expiration date of the LOC needs to be April 11, 2011. Staff recommends the BOCC direct the Clerk and Recorder to hold the documents and not record until a revised LOC is tendered with a new expiration date of April 11, 2012.
Discussion:
Fred – The request is that the Chair be authorized to sign the final plat, which you have and the SIA. He then pointed to the SIA that has a paragraph in it that is very specific to the fair share calculation. His

understanding is that George is here and has a check with him to be able to satisfy that amount. There was also an engineer's cost estimate attached to the SIA that shows here are the remaining improvements that still need to happen. He thinks it $75,000.00 of improvements. There is a letter of credit from Alpine Bank in place to secure in the letter of credit he believes goes until October of next year. Normally, as in the case in this county, an SIA is a document that lasts for a year. The security in place would extend 6 months beyond. In this case, and he will let the applicant and Karl tell the Board, they have a different approach to this which is an amendment to the SIA requesting a compressed timeframe for the SIA not one full year but back to 6 months so they can leave the letter of credit as it is currently. The staff memorandum states the error that it needs to be for 18 months. That is really the request in front of the Board. The applicant is going to tell you why they have done it where they have brought the Board unrecorded documents primarily because of a name change whose name is will be in the subdivision. It's a little different but he doesn't know if is a real issue per say. It is just a matter of how you have done business in the past. Fred believes all the documents are in order. He is recommending they sign final plat and the SIA.
Karl had nothing really to add. The improvements that are left will be done within the next 6 weeks. It just seemed easier to acknowledge and shorten the SIA to 6 months. The sequence of events will run down all the various documents and the order of reclamation. This is because the property is currently in the Strong's names individually. Ultimately, it will be in the name of Unit Development and that is what they wanted on the plat. None of those documents have been recorded and there is a particular sequence of reporting that makes transfers take place, records the final plat, the SIA and then the subsequent documents.
Don - Question to Karl Hanlon, the packet contains information on a deed to the Strong Owner's Association for Buds Way therefore, is the intent then to have Bud's Way as a private access easement?
Karl – The direction from staff was that it needed to be owned by the property owners association that there is also a conveyance of a public right-of-way before the County Commissioners.
Don - It should be a deed to the county.
Karl – There should be a deed in there, a special warranty deed conveying the right-of-way to the county.
Motion
Commissioner Houpt – I'll make a motion we approve the Strong Subdivision Final Plat and Subdivision Improvements Agreement as presented.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye
Karl asked if he should stop by and walk through with the recordation and Jean said yes. He will come after his meeting with Fred at 8:00 a.m. will be over after.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

OCTOBER 18, 2010
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 18, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Mike Samson being 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.

VERBATIM MINUTES ARE AVAILABLE UPON REQUEST FROM jalberico@garfield-county.com

COUNTY MANAGER UPDATE: ED GREEN

U. **AWARD OF SOLAR PANEL CONTRACT AT FAIRGROUNDS TO RC ENERGY GC LLC- GENE DURAN**

The Rockwell Financial Group dba RC Energy GC LLC proposal is advantageous for Garfield County for the following reasons, which Gene fully elaborated on in his summary.
Randy Withee and Gene Duran submitted the award for the Solar Panel Contract explaining that through the Garfield New Energy Communities Initiative the County was allocated $87,500 from the DOLA grand to develop a renewable energy demonstration project. $5,000 was set aside to be directed toward an educational monitoring component. These panels are to be installed at the Fairgrounds Riding Stables. Gene reviewed the former meetings and actions by the Board and the RFP that was issued and discussed the salient aspects of the agreement as they pertain to changes that were made the approved form agreement that came before the Board back in April or May of this year.
Motion
Commissioner Samson – I would move to allow DOLA funds to be used for the purpose of the phonetic array motion also to award the contract to Rockwell Financial Services and Solar Energy and approve the solar services agreement with Rockwell Financial Services. Commissioner Houpt - Second.
In favor: Houpt – aye Martin – aye Samson - aye

V. **LOCAL VENDOR PREFERENCE AFFIDAVIT IN ACCORDANCE WITH PROCUREMENT CODE 5.7- GENE DURAN AND JIM HACKETT**

Gene Duran and Jim Hackett presented the local vendor affidavit. There is a scheduled local vendor's education meeting on November 17, 2010 from 2:00 p.m. to 4:00 p.m., which will include discussion around completing and submitting the form as well as the process that will be applied during the award selection process. Staff requests the Board approve the use of the form and adopt the Local Vendor Affidavit Form. Gene explained the local preference in detail.
Motion

Commissioner Houpt – I will make a motion that we approve the Local Vendor Affidavit form and adjust the new section 5.7 to change the qualifying date to 10-days prior to the due date of the proposal or bid.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

W. **COUNTY ROAD 137 DRAINAGE EASEMENTS – JEFF NELSON**

Jeff Nelson submitted the Resolution accepting drainage deed and construction easement for the Gaechter Family Trust and Aspen Valley Land Trust. Jeff explained that on the 5th day of October 2010 the Gaechter Family Trust executed an easement deed conveying property to the county for the drainage pur

Motion

Commissioner Samson – I would move that we accept Resolution accepting the drainage deed and construction easement – Gaechter Family Trust and Aspen Valley Land Trust.
Chairman Martin – A question or two, this is a Board underneath there to open it up or is the cut that will open up the entire 137 for a culvert.
Jeff – This project is an open cut and then they box culvert placement.
Chairman Martin – There is a drainage pond at one side and a drop off on the other into the Canyon Creek.
Jeff – Correct. If you were to drive up there where they hauled out the material on the left, this is where this project is located.
Chairman Martin – It comes down that drainage and it's the lower end, not the upper one that I was concerned about – that's another one that has a retaining pond as well on private property.
Jeff – There are two project-retaining ponds, this is larger of the two. Commissioner Houpt – Second.
Chairman Martin – It's the lower one we are talking about.
Jeff – I would consider it the upper one myself.
Commissioner Samson – The one next to the road?
Chairman Maritn – Yes, not cutting the private driveway and the road. If it is not cutting the private drive, then it would be the lower one then to me.
Jeff – This is Bill Gaechter – he has a nice tree line swell that is heads right down to Canyon Creek and a cabin.
Chairman Martin – We don't want it washed away.
Jeff – No sir.
Chairman Martin – We already experienced a nice wash through that pasture and coral and everything else due to this drainage. We have a motion and a second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – There was a little contention about the other one cutting the private driveway and then the road so I just wanted to make sure we didn't do that and work out that deal.
Jeff – To comment on that we actually addressed each landowner and asks their information and their request and they said they would rather not have it cross the road.

Ed's Executive Session Item – Contact negotiations related to a prospective extension of time on an existing support service contract.

COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don – We need to continue our provision of legal advice with the Board concerning of the adoption of Reduction in Force Policy and would need Katherine for that issue; I need to provide you with legal advice concerning a 1:15 pm item as it reflects on CR 306; we need to discuss with the Board a code enforcement issue on an operation of property on Lookout Mountain and I have been advised that we may need to provide you with legal advice concerning certain personnel claims individual from a former employee. There may be public action on any or all of those items and Ed's issue on contract negotiation.
Commissioner Samson - I move that we retire to an Executive Session for the above discussions.
Commissioner Houpt - Second. Motion carried.
Commissioner Samson made a motion to come out of Executive Session. Commissioner Houpt - Second. Motion carried.

Action Taken:

Contract Extension Request – Historical Documents and Photogrpahs

Don – There is a contract that is administered through the Board of County Commissioners regarding the development of historical documents and photographs that Linda Morcom has been involved and we need a motion authorizing contract extension to the end of the year in order to use her skill set in developing those and completing the process of that project.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson - aye

Property Acquisition on 306 at CR 300

Don – Mr. Chairman I presented the Board a form of correspondence which is in the nature of a demand and settlement letter regarding property acquisition on CR 306, this is separate and apart from the issue you have set for later today – this is at the northerly end of CR 306 where it intersects with CR 300. I need authority for Marvin Stephens as the Road and Bridge Director to send correspondence in the form that we have discussed confidentially to property owners of the Bosley Spring Creek Ranch and the Grand River Ranches and including any interest holders on those properties that may interfere with development of the improved county road.
Commissioner Houpt – Are you anticipating sending to all of those parties or I thought we were close to an agreement on one of those.
Don – At this point, we need to send it to all parties unless I reach a resolution before that correspondence is sent, the reason I am doing this, you are aware of how long this has already taken by the time we initiate this and can't resolve it, we do want to get possession of properties certainly by next spring so that we can actually do the work.
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 List

Commissioner Houpt made a motion to approve the Consent Agenda items a-d as presented. Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson - aye

REGULAR AGENDA:

HUMAN SERVICES COMMISSION:

Mildred Alsdorf and with her are Mickey Neal – Coordinator for the Medical Reserve Corp here in Garfield County – Elderly Food Program and Hans Lutgring – Director of Clinical Services for Columbine Home Health.

PULSE OF THE SENIORS

Mildred Alsdorf – Senior Services with the Traveler, Council on Aging and Senior Advisory Board

Mildred - We all have a part in this and Mildred started with the fact that all of the seniors we have talked to want this Board to know to be thanked for the benefit checks they received. When we look at the fact that almost 2500 seniors received a check it came to $400,000 and all of this gave them that little extra they didn't have and they are very thankful for that. Also, all the food that came out from Farmer's Market – fresh fruit and vegetables that went to all the seniors through Judy, also last week we took a group of seniors to Vega Reservoir – 55 of them, we had a bus from RFTA and we also took one of our cut-a-way vans and we figured the colors would be gone up by McClure Pass so we went to Vega Reservoir and we had a 6-foot long subs and had that for lunch with cookies and pop and stuff. They want to know when we are going again.

Mildred – We are keeping a pulse on the seniors and none of their dollars are stretching far enough and then with the fact of not getting anything for social security is going to make it worst because they do not have enough for prescriptions, deductibles, even some of them have pets and there is no money out there to buy the food for the pets. These are just some of the things and there is also we need to bring up the fact that we need to safety for seniors, we need to look at modifications in their homes with ramps and things like that and I just found out there is a little bit of help out there for hearing aids through AAA, Friends of Man or AV Hunter. Alpine Legal helps some but there are many things that cannot do with elder law. They want to be sure that we keep the Traveler and the meal sites going so here again thank you for all that. They would really like to have a senior center because there is no place the seniors can go meet. We meet for the lunch at CMC but to do anything else there you have to reserve the rooms and it's a hard situation. They need a place where they can go and meet each other, play cards, bingo and things like that in the Glenwood area. Rifle has a wonderful senior center; Carbondale is doing well too with their different programs, etc. But we just need to do a study or do something to see how we could help the seniors do this. One thing that will be coming up, last year the Mountain Madrigals put on special program on a Sunday for the seniors and they are going to do the same thing this year on December 5, last year it was the worst day the weather could ever be but we brought seniors in from Carbondale and Parachute – all of them watched this program and it was wonderful. There was also be class for balance for seniors and balance is one thing we're finding out that is very important for seniors for their safety etc. So, what we have is an 8-week class for seniors for balance and so far we have it set up like in Rifle at the Senior Citizen Center and hopefully we can get it here at CMC and get is set up okay for that for a couple of hours after the meal. Judy and Debbie are in charge of doing that. These are just some of the things that we find out there that are happening and want to let you know and anyway that we can give them something to help them will be a windfall.

Chairman Martin – Other than a congratulations and a great big thank you to you guys in referenced to the seniors that were left out of the initial senior benefit package, there are 100 plus that you guys cleared that we will be sending a payment to by the end of the month. So, thank you for your hard work, your screening process.

Mildred said the senior were asking when would I get this check and I said, watch the mail.

Chairman Martin – We will sign them next week and then go out – they are being processed right now. So on Friday I will have them all signed and put a note on each one like I did before.

Mildred – We will announce that at the meal sites.

Chairman Martin – That is a lot of work that you guys did and I know that this Board called on you do that work – thank you so much for doing that.

Mildred – Judy did a lot of it.

Mickey Neal: Medical Reserve Corps and Elderly Food Program

Mickey – Coordinator for the Medical Reserve Corps for Garfield County but very well tied in to many senior programs with the different counsels. I would like to tell you about something that might be a solution to a little bit of the senior problem, whether we pay for medicine or whether we pay for food this month. And in April I received a call from the Commodity Program in Mesa County where they warehouse it and they said would you like to start something in your area. I said well let's talk about it and so I called the first person was Marie George, Marie we need some storage space and we need a little bit of your refrigeration space. She said bring it on. So we started the program there and we now have 31 people enrolled in the program, we held it a little bit at 35 but now we have decided to just go for broke and see how many people really need this – it is running well and smoothly and up at the center it is great. What we need now because we can get more of this wonderful food and I gave you a handout showing you the contents – it is 30 pounds of food that is shelf staple plus 2 pounds of cheese and that is good cheese, Land of Lakes often is the cheese that we get in that 2 pound box. But you can see that you cannot exceed a certain income and so there is an enrollment process etc. but we could bring that to Glenwood if we had storage for the amount of boxes that we needed and a little bit of cold storage, mostly we need 2 people who can run the program when it is time to dispense this out. My husband and I are very willing to come and help get the enrollment started and get the process going and see what we can do but Marie said there is just no more storage room for another 30 or more boxes so, if you know of any situation I would certainly love to approach them and if you know of anybody in this area that could do it we would certainly like to see if we get this food out to this area.

Discussion regarding chuches, service organizations and other places where storage could be available for this program were held. Chairman Martin stated that he was going to look into this to see what might be available.

Mildred – We had one other thing in your packet – the health care reform. This is something that we are trying to be sure that all the people in the area get to go to which will in Rifle on October 26 from 6 to 8 p.m. at the Colorado Mountain College in Rifle Campus; and here in Glenwood it will be at the Colorado Mountain College at 1402 Blake Avenue and that is 2 to 4 p.m. in the afternoon on October 27. Also on the

27th, it will be down at Mesa Vista Assisted Living because they have a nice meeting room down there and so if you don't have any of these forms around we will be happy to give you some so that you can get them out and the lady that has been going around doing this is fantastic. Everyone said she has answers to the questions for the seniors on Medicare and Medicaid. So, if people call you and say, I need to know what is happening with my Medicare and Medicaid, please tell them to attend these meetings. We will be taking a van in Rifle around to pick up people for CMC and also here in Glenwood if they need it.

Hans Lutgring: Director of Clinical Services – Columbine Home Health

Senior Link (Health Care Reform)

Hans submitted a handout for health care reform and what does it mean for seniors. There are several seminars scheduled for this area and at these presentations, they will help sort fact from misinformation. Colorado Mountain College – 2 -4 on 27th – 27th Mesa Vista living. Form available. Answers to the questions on Medicaid and Medicare. A van will be taking people to these sites.

Home Health Care – Keeping Seniors in their Homes – Columbine Home Health

The Social Worker on the Team helps me stay in close contact with our patients and families. Understand some of the unique struggles that they are having and a couple of things that I see that are challenging are seniors in the valley especially with the recession but also health care reform and it's uncertainty. Some of the things that we see with home health is that while we are a good tool in helping keep our seniors in their home we are only at times a small part of the puzzle when we come into the home of someone wanting to stay independent and what we can do is reasonably limited by Medicare and Medicaid insurance says we can do. One of the most important things is to try to prevent social isolation, which is a big concern for seniors trying to live at home alone. We do have some credible applicants in the valley that try to pay attention to what else do we need, what else can pay for these things. The AAA options for long-term care have programs that help partner towards the goal of keeping people at home. Everyone has unique challenges but it seems to the recession in and of itself kind of amplifies everyone's other stresses and how to do these things and how do we stay independent in the community. This some of the things we are trying to respond to and not just Columbine but I am part of the other groups who are trying to figure out how to keep people at home and keep people independent and not institutionally. We will continue to be a part of the process, which hopefully comes up with some solutions to these things. I think that is my take on the pulse of the seniors.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR SEPTEMBER 2010

Lynn Renick submitted the EBT/EFT Disbursements for the month of September 2010, client and provider disbursements for allocated programs, totaled $263,178.65. Client benefits for Food Assistance totaled $573,375.42. Total EFT/EBT disbursements for September totaled $836,554.07. A copy of the certification summary has been included in the Board 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

PROGRAM UPDATES

Program reports are attached for the Board's review.

TANF AUDIT

The Department's second TANF contract audit is scheduled on October 20 and 21. The State has subcontracted with a CPA firm to go statewide and complete a second round of contract audits.

BOARD OF HEALTH:

- **EHMS CONTRACT OBLIGATION ASSIGNMENT REQUEST – JIM RADA**

Mary Meisner, Jim Rada and Christine Singleton were present. Mary said this was a quick agenda item that Jim will bring before the Board and Christine will give an update on the Farmer's Market.

Motion

Commissioner Houpt made to approve that we approve letter regarding the letter regarding the Intergovernmental Agreement for provision of professional services design of environmental and health-monitoring study for Commissioner Martin's signature as presented. Commissioner Samson - Second.

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

- **FARMERS MARKET UPDATE - CHRISTINE SINGLETON**

Christine Singleton gave the update on the program the Commissioners authorized for vouchers for the seniors. She gave an indepth report and how much the senior appreciated these efforts. She gave a report on obesity and how families struggle to purchase fruits and vegetables versus Ramon noodles.

Locally with WIC, we are doing better in both Rifle and Glenwood Springs our clinic rates at about 10%. Another study is the 2009 Regional Health Profile that includes Garfield, Grand, Pitkin and Summit counties. It talks about adult health and some pediatric issues.

Farmer's Market

The Board gave me $10,000 and how that translated. The initial was that State WIC was going to pilot a program. Of the $10,000, I basically took $7,500 and turned that into vouchers for our clients. So $250.00 low income WIC clients have in Rifle and half in Glenwood Springs got vouchers for Farmer's Market participating. We had 4-markets participating, which is great because last year we only did the one market so it was Parachute with one vendor, Rifle and then Glenwood Tuesday Market and Carbondale so now people had some choices.

PUBLIC HEARINGS:

- **9TH SUPPLEMENT TO THE 2010 ADOPTED BUDGET – THERESA WAGENMAN**

Chairman Martin swore in the speakers.

Don confirmed the public notification was in order.

Lisa Dawson submitted the 9th supplement and Resolution for approval for the 2010 budget.

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

Commissioner Houpt made a motion to approve the Resolution concerning the 9th Supplement to the 2010 Adopted Budget and the 9th Supplement amended appropriation of funds.

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

Executive Session – Reduction in Force

Don explained that he needed to give legal advice on a policy and a Chip and Seal contract.

Commissioner Samson moved to go into Executive Session. Commissioner Houpt seconded.
Motion carried.
Commissioner Houpt moved to come out of Executive Session. Commissioner Samson seconded.
Motion carried.
Action Taken:
Information only and no action necessary.

- **C. CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT THROUGH A MAJOR IMPACT REVIEW FOR EXTRACTION OF SAND AND GRAVEL. APPLICANT IS THE DELORES BLUE REVOCABLE TRUST AND DEE BLUE – FRED JARMAN**

Fred Jarman, Bill Roberts, Shawn Mello, and Tim Thulson from Western Slope Gravel were present.
Don DeFord confirmed the public notice and informed the Board they were entitled to proceed.
Commissioner Houpt has a concern of the 1:30 posting and making sure everyone is here that needs to be here; but she understands Tim Thulson contacted people.
Tim – Friday afternoon he contacted, by telephone, Julie Edwards who represents the homeowners association and he also contacted the Crystal Springs Coalition and Christopher Coil by phone so he could get the word out that they were going to request a continuance today. That was followed up by e-mail, which was given to the Board today.
Chairman Martin – We will accept the notice and put into the record. He swore in the speakers.
Tim – In the course of preparing for today's hearing there were a few issues that were presented that they need to refine. He wanted to have more time to do that along with providing staff adequate time to review the supplemental materials. It is his understanding that November 8th is available for this purpose and that would be agreeable to them.
Fred has discussed this with Tim and there is availability on the schedule to do that so they are agreeable.
Chairman Martin – That will go along with identifying the exhibits; we will hold off until that period time.
Fred stated that would be preferable.
Commissioner Houpt – I'll make a motion that we continue this hearing until November 8th at 1:15 p.m.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye

PUBLIC HEARINGS:

- **A. CONSIDER A REQUEST TO VACATE A PORTION OF CR 306 (WALLACE / SPRING CREEK ROAD) AND ACCEPT A RIGHT-OF-WAY FOR A SEPARATE PORTION OF COUNTY ROAD 306 – FRED JARMAN, JEFF NELSON AND DON DEFORD**

Jeanna Keller present.
Fred was in charge of notification.
Don DeFord confirmed the public notice and informed the Board they were entitled to proceed. This was a regular mailing and no notice of receipt was necessary.
Chairman Martin swore in the speakers. Fred submitted Exhibits A – G into the record. Chairman Martin entered these exhibits into the record.
Fred submitted the request to vacate a portion of CR 306 (Wallace Spring Creek Road) and accept a new public road. The general location of CR 306 is approximately 4 miles southwest of Parachute, CO. The landowners and the Board of County Commissioners intend to vacate an old portion of the CR 306, which exists as an old right of way that loops through several properties that was deeded to the County years ago.
Fred submitted a draft Resolution vacating a portion of CR 306 for the board to review and comment.

Motions

Chairman Martin - Motion to close public hearing?
Commissioner Samson – So Moved. Commissioner Houpt – Second.
In favor: Houpt– aye Martin – aye Samson - aye
Commissioner Samson – I would move that we honor the request to vacate a portion of County Road 306, the Wallace Spring Creek Road and accept the right-of-way for a separate portion of County Road 306.
Commissioner Houpt – Second. In favor: Houpt– aye Martin – aye Samson – aye
Chairman Martin asked Jeff if there was any reason they couldn't open that road today.
Marvin – I can have it open in 15 minutes.
Chairman Martin – What is the pleasure of the Board; to leave in barricades or to open?
Commissioner Samson and Commissioner Houpt wanted it open.

- **B. CONSIDER A REQUEST TO AMEND THE TEXT OF ARTICLE XIII: AFFORDABLE HOUSING IN THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED - FRED JARMAN**

Fred Jarman was in charge of notification.
Don DeFord confirmed the public notice and informed the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Fred submitted Exhibits A – F and Chairman Martin entered these exhibits into the record.

Background

The Garfield County Housing Authority (GCHA) met with County Planning Staff to discuss several areas of concern in administering the County's Affordable Housing Regulations. This memorandum includes a letter from the GCHA, which describes the impetus for these changes, which is attached as Exhibit A.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission forwarded a recommendation of approval to the Board of County Commissioners with the following findings:

1. That the public hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard.
2. That the application has met the public notice and public hearing requirements of the Garfield County Unified Land Use Resolution of 2008, as amended.
3. That the proposed text amendments have been determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. The proposed text amendments are 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 amendments do not conflict with State statutory provisions regulating land use.

Motions

Chairman Martin – Do we have a motion to close the public hearing?
Commissioner Samson - So Moved. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Houpt – I'll make a motion to approve the proposed amendments to the unified land use code resolution of 2008 as amended which are attached as Exhibit A and that would be specifically regarding amendments to Article 4 review procedures and Article 8 affordable housing.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson - aye

D. TXTP 6557 REQUEST TO AMEND THE TEXT OF THE UNIFIED LAND USE RESOLUTION OF 2008, AS AMENDED, FOR ARTICLE XVI – TEMPORARY EMPLOYEE HOUSING DEFINITIONS,
ARTICLE 7-808 (D) (1), AND ARTICLE 7-808 (D) (2) - MOLLY ORKILD-LARSON

Molly Orkild-Larson, OXY USA WTP LP, Craig Richardson and Shawn Morris were present.
Don DeFord reviewed the noticing and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Molly submitted Exhibits A – I and Chairman Martin entered these into the record.
The Applicant, OXY USA WTP LP, is a property landowner in Garfield County within the zoning district of Resource Lands. Within this district, the Applicant has obtained Land Use Change Permits for Major and Minor Temporary Employee Housing.
Planner Molly Orkild-Larson explained the Applicant proposes text amendments to the Major and Minor Temporary Employee Housing regulations and definitions. The Applicant is specifically proposing a text amendment to the Minor Temporary Employee Housing (MTEH) to allow employees, contractors, and

Motions

Chairman Martin – Do we have a motion to close the public hearing?
Commissioner Houpt – So moved. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson - aye
Commissioner Samson - I would move that we pass the amendment text of the unified land use resolution of 2008 as amended for Article 16, temporary employee housing definitions, Article 7-808(B)(1) and Article 7-808 (B)(2).
Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson – aye

Executive Session:

Don – Need to complete the executive session regarding legal advice on a Reduction in Force policy with the potential for public action.
Chairman Martin – Motion to go into executive session?
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin – Motion to come out of executive session.
Commissioner Samson – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Don is asking the Board to consider giving direction to authorize the Chair to sign a letter recognizing that we have received information, a request from various former members of the Road and Bridge and landfill staff thanking them for that and informing their request is under consideration.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Special Meeting – Reduction in Force Policy

Don – Out of the same discussion, Don asked if they needed to consider whether or not the Board should set a special meeting for receiving additional legal advice and direction on the personnel policy on Monday, the 25th at 3:00 p.m.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Read to me Day

Commissioner Samson – Wednesday, November 17th at 10:00 a.m. is "Read to me Day" Garfield County Child Care Program.
Commissioner Houpt – Just call them back and say you want to do it and they'll assign you to a school.

ADJOURNMENT

NOVEMBER 1, 2010
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 1, 2010 with Chairman John Martin, Commissioner Samson and Commissioner Tresi Houpt were present. Also present were Attorney Don DeFord, Carolyn Dahlgren, Carey Cagnon and Marian Clayton, Deputy County Clerk.

CALL TO ORDER

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

VERBATIM MINUES ARE AVAILABLE UPON REQUEST – jalberico@garfield-county.com

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Antero spacing issue – Silt

Leslie Robinson with her Grand Valley Citizens Alliance reported that a committee called the Rifle/Silt Mesa/Peach Valley/New Castle Council (RSPN) is one that is recognizing today as a community between Rifle and New Castle begin impacted right now by drilling.
Speakers included Beth Strudley, Sandy Pickard, Nikki Fender, Jeannie Meador, Lindsay George, Nina Sonnier and Shirley Starr voicing their concerns regarding Antero's plan for drilling in the Silt Mesa area and requested the Commissioner intervene with the Colorado Oil and Gas Commission. They requested a special meeting to be held at the Colorado Mountain College on Tuesday, November 9 where the residents could participate with the Board in a full discussion regarding their concerns regarding health, safety and welfare of the citizens in this area. They expressed their concerns and gave specific examples.
Chairman Martin – Actually, this item is on the agenda, it is Letter H and Judy Jordan is giving a report on this very issue however, Judy Jordan was not present to give her report. He also informed those present that as Commissioners we have no authority to tell them to do that, the energy companies, as Garfield County does not regulate spacing but okay. He recognized this as a grass roots government and at that point we take that information, we have our health department which is our environmental officer Jim Rada and we also have Judy Jordan, oil and gas liaison. We take that information and then up the food change and that would be to the COGCC, State of Colorado who regulates that and also the Department of Health is there, the Division of Wildlife is there and that is a wildlife concerns, it's air and water quality permitting process, etc controlled by the State of Colorado and bring that forward. He also informed the citizens that the mineral right holders have gather together and came up with polling, had a big letter campaign in reference to Antero allowing them to develop the minerals in this particular area from Silt to New Castle, Rifle and north and south of the Colorado River, which this took place 4 to 6 months ago, they had their agreements, they worked with Antero to get everything accomplished. Therefore, he was not sure why it is a big surprise because there was a lot of information flying around for 2 to 3 months. We were inundated with the ability to allow them to go forward because of their property rights. If we need to get together on the other side, put both of them together and come up with some solutions, maybe we can do that in a special meeting.
Commissioner Houpt – I still think there is a disconnect between communication between the companies and surface owners and Antero actually years the lead with the community development plan but actually read in the paper that not everybody who is now living in that area is even aware for the terms of that plan and others are concerned that they plan may not be followed at this point.
Chairman Martin – Well, I understand that and that is a problem with a split estate because those property right owners deal directly with the companies to get that done because that's what they are looking at is developing of their property rights to go ahead and get their income based upon the holdings so again that is why they have the drilling plan in reference to Silt and they worked on it long and hard so maybe that just needs to re-upped and everybody needs to be aware of what's going on and a meeting is in order
Commissioner Houpt – And the reason it was successful in the beginning is because Antero sat down with community, the landowners and together they decided how best to move forward and it's really a great example of what everyone should be doing who is drilling in the area and I'm sorry that was only a one-time situation but we have seen many community meetings as well in other locations but you are right, it's is your land, it's your lifestyle which your health is being impacted and it's important that you step forward and communicate that.
Commissioner Samson – With that being said light on subject here, I have been receiving a lot of emails, phone call and personal contacts from various people on the Silt Mea area so I contacted Judy Jordan who is our liaison and asked her for some information and she has drafted a memorandum which is confidential at this time but she was to be on our agenda today on Oil and Gas Liaison report update regarding COGCC meeting and request for hearings on drilling and spacing units. We received some information that Judy has injured her back and she is not going to be able to make her presentation today. These people have come before us and they have asked for a more deliberate process I guess in getting more information and getting their say. In this memo I have see questions of restrictions that we have as we allow and as you all know that it's a Colorado Oil and Gas Commission that permits and enforces the rules and so and so forth. There is conflicting information within the COGCC if I read here memo correctly as to what we could do, what citizens could do etc. but she is not here to explain that today. So I have a suggestion and before I say that I want to say I do want to thank Antero for asking to continue the hearing and not going forward at that last Monday meeting. Now, it's my understand that the actual meeting before the COGCC is November 29th in Denver, which is where they hold their meeting so with that being said, I would ask you two to entertain that we have a special meeting on Tuesday, the 9th of November and try and get somebody suggested CMC talking about and we could get our questions answered and these people could have their due process before us and say what they want to say and Antero would be welcome to be there or anybody else, surface owners and mineral rights owners whoever.

Motion

Commisioner Samson – I would move that we set up Special Session of this Board of County Commissioners to be held Tuesday, November 9 at 8:00 a.m. at the Sheriff's Annex between Silt and Rifle for the purpose of discussing number one this memorandum and have Judy explain that and answer our questions or any questions about the things within that by anyone in attendance and then at that time the concerned citizens whoever they may be from wherever concerning he drilling at Silt Mesa have an opportunity to voice their concerns, Antero be invited to be at that if they chose to, all mineral rights owners invited as well as surface rights. Commissioner Houpt – Second.
Don – One point I want to make the Board understands, at that meeting we will probably ask the Board for direction given the deadline that Ms. Jordan has noted in her memorandum, if we are going to participate in this matter, we might need to file the next day.
In favor: Houpt – aye Martin – aye Samson -aye.

Library Trail

Dave DeVanney – Representing the Battlement Mesa Community Trails Committee and I noticed on your agenda this morning you have a contract to be awarded for construction for the construction of the Battlement Mesa Library Trail. I just wanted to come down and acknowledge Jeff Nelson and his engineering group for working with us in designing that trail and also thank the Commission and equally Commissioner Samson for your efforts in getting the funding and moving this along and so on behalf our trails users in Battlement Mesa I want to send out thanks and hopefully you will award that contract this morning.

Chairman Martin – Yes, I hope that it does get derailed and get two votes to say no, Dave. We have been working on that since about 1998 and finally we have come together. It took 12 years to get this done but we got it.

COUNTY MANAGER UPDATE – ED GREEN

- A. **Approval of Denise Chiaretta to Grand Valley Cemetery District Board**

A letter was received from Denise Chiaretta asking to be considered for this postion.
Commissioner Samson made a motion to appoint Denise Chiaretta as a member of the Grand Valley Cemetery District Board. Commissioner Houpt Second.
In favor: Houpt – aye Martin – aye Samson – aye

- B. **Consideration and Direction Regarding Funding Commitment I-70 West Parachute Interchange – Jeff Nelson**

Jeff Nelson - A letter of commitment from the BOCC to CDOT was presented committing $1,500,00.00 in 2010 for the purpose of acquiring a right-of-way for the I/70 Parachute Interchange. That same amount is included in the proposed 2011 budget for the same purpose. At minimum, the IGA must provide that the monies provided by the BOCC shall be utilized by CDOT for the sole purpose of acquiring the needed right-of-way, and no additional funds will be provided by the BOCC for that purpose and that CDOT will construct the interchange on or before December 31, 2013. This will be considered as part of the 2011 budget in December of 2010 so funds would not be committed this year.
Don – Right of Way acquisition is 2-step process and implies you have indicated you have budgeted the amount that they have the document puts forward $1.5 million and solely for right of way acquisition and cost for right of way acquisition and it does not involve the engineering design which is the subject of a separate MOU or other construction costs. It is possible that Jeff may want to comment on this and it is possible that the right of way cost may be less than this, but we wanted to make sure there was enough set aside to close the process of land acquisition. You will see this followed by an actual IGA of real contract. Gene Duran is actually working on that now and he has forwarded it to me. I will be reviewing that with Gene and get it back to you after our comments have been provided to CDOT.

Motion

Commissioner Samson – I would move that we authorize Chairman John Martin to sign the letter of commitment I-70 West Parachute Interchange land acquisition. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Award of Library Trail Construction to Martinez Western Constructors – Jim Hackett, Jeff Nelson**

Jim Hackett and Jeff Nelson presented. Jim stated that an invitation for bids was posted to the Rocky Mountain e-purchasing system on September 9, 2010, in the Post Independent on September 9, 2010 and September 13, 2010 and in the Citizen Telegram on September 16, 2010. At the time of bid opening, four companies had submitted bids and all four were subsequently reviewed for compliance. The low bidder was Martinez Western Constructors and staff is recommending they be awarded the bid in an amount not-to-exceed $291,494.80 for the Library Trail and drainage projects in accordance with Rule 5.1. We received four bids all were reviewed for compliance and with the terms, conditions of the IFB were found to be responsive, and Martinez was the low bidder.
Jim – We asked them to verify their bid and they have done so that it is correct.

Motion

Commissioner Houpt made a motion to award a contract to Martinez Western Constructors in an amount not to exceed $291,494.80 for the Library Trail and the Battlement Mesa drainage projects.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson – aye

- **D. Sweetwater Firehouse – Randy Withee**

Randy Withee presented.
Chairman Martin brought this issue to the attention of the Commissioners in a Special Meeting held on October 25, 2010 and requested it be placed on the agenda for discussion and potential approval.
Ed stated that Randy had completed the estimate with Bill Stephens, Jr. community representation about the project and work that needed to be accomplished in order to house the brush fire truck. Randy provided the Board with the cost estimates for a total amount of $17,950.

Motion

Commissioner Samson – I would so move that we waived the contractual agreement and work directly with the contractor John Groth and authorize the expenditure of $17,950 not to exceed for the completion of the Sweetwater fire house and may be it be a great blessing in their lives. Commissioner Houpt – Second. Funding was determined to taken from the Board's discretionary funds.
In favor: Houpt – aye Martin – aye Samson – aye

- **E. Consideration of 2011 Capital Improvement for Glenwood Springs Courthouse – Randy Withee**

Randy – There were a couple of items that we were looking at regards to the boilers at the Courthouse but right now the Courthouse is the service by a single board which is reaching it's service lift. Part of the energy audit recommendation was to replace the single boiler with several smaller high efficiency boilers so by doing so it would provide boiler back up if one goes down, the other ones could replace that one and keep the Courthouse up and running. He informed the Board of the cost savings over a period of 20-years at $13,000. It was budgeted for about $250,000. That is the boilers and then the generators looking at in regards to having generators sets for this building and the Courthouse by doing so it would provide uninterrupted electrical service, which we experienced last Monday. With the generators, disruption to the county would be non-existence or minimal. The other part would support the emergency command base during the emergency operations for this area. The cost for those was $3 million and it depends upon where you want to put the generators.
Commissioner Houpt – I know it is important to do both because they came to us and this is the first time we have talked about the Administrative building.
Charles elaborated, the phone system will go out when we have electricity go out – we do have batteries to keep them going for a limited handful of minutes but after that electricity is going.
Commisioner Houpt – So in your opinion it is important to invest in a generator.
Charles – In with our electrical and all of our systems, it is important that we get a system when it does come on-line that it doesn't create any spikes.
Commissioner Houpt – You need a motion just on the generators, the other one is taken care of.

Direction
Commissioner Houpt – I would just say that we should direct you to put it in as a line item for the budget and it makes a great deal of sense for both buildings after hearing from you guys.
Commisisoner Samson and Chairman Martin – Agree.
Chairman Martin – I think it is proper planning and putting our priorities to continue the operation of the government during a crisis and that is our main function to do. So please return it to the capital projects.

- **F. Amendment to CH2M Hill Contract – Brian Condie**

Congratulations on the runway, we had between 700 and 800 who attended the open house and Commissioner Samson received good complements.
Commissioner Houpt – The runway was fabulous.
Brian received many emails for opening that up and we are glad they were able to come out.
Brian stated that on September 27, 2010, the BOCC approved an increase in contract time and an increase in the maximum not to exceed funds under Release to Contract No. 3 along with Construction Contract Change Order No. 5. The BOCC appropriated, budgeted and made available an amount that not in exceed of $635,475, which included $112,947 in the increased contract time. This above amount shall be the ceiling/not to exceed amount for performance of the 2010 Scope of Services under this Amendment No. 2 (Contract for Extension related to Change Order 5) to Release to Contract No. 3. He further stated that this work shall be done under this Release to Contract No. 3 prior to December 31, 2000 and the time for performance of the engineering services to be completed under this amendment No. 1 Release to Contract No. 3 is anticipated to be 165 working days in 2010, expected to be completed by November 30, 2010 with the provision that the 2010 work shall be done under this Amendment No. 2 to Release to Contract No. 3 prior to December 31, 2010. Brian requested approval.
Carolyn noted a change on page 2 of the contract.
Motion
Commissioner Houpt made a motion to approve Amendment No. 1 to Release to Contract No. 3 to be effective on the 7th day of September 2010 no matter the date of execution of this document to CH2M Hill, Inc and is subject to review and approval by the FAA. Listen to motion. As presented.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson – aye

- **G. Proposed 2011 Schedule of Off-Site Meetings for BOCC – Mike Samson**

Commissioner Samson submitted a request to have the BOCC meeting in different locations every other month beginning in 2011 in order to be able to reach out to the entire County. The purpose is to reach out, serve the entire county, and meet in facilities where we don't have to pay fees. His proposal included the following scheduled meetings: There were set as follows.
January 10 – Battlement Mesa – Fire Station
March 14 – Parachute – Library
May 2 – Rifle at the Sheriff's Annex.
July 11 – Silt – Fire Station
September 12 – New Castle – Fire Station
November 14 – Carbondale – Town Hall
Commissioner Samson confirmed that some have been arranged and Dawn is working on the rest of them. Charles feels confident in this and Fred says this works for him in planning. I think this is a good schedule. Regarding the Antero application for Battlement Mesa met with them last week to revise the pre-application conference and the summary and they indicated to us that it would probably a couple of weeks before they would submit and we talked with them about coming to you to see where you felt it was most appropriate to set that hearing physically. Our view is it would make sense to have it in Battlement Mesa somewhere. It may not jive with this schedule and they understand that. That was Mike's point and we will just have to shuffle around and make it make sense.
A decision was made to leave the schedule as proposed.
Don – You do this by statute setting a schedule in a Resolution and you could direct legal staff to draft a Resolution.
Commissioner Samson – This schedule is not final so he suggested waiting until we have these dates certain.
Fred – We should know by next Monday and then we could put forth a Resolution with the dates and times.

- **H. Oil and Gas Liaison Report – Update Regarding COGCC Meeting and Request for Hearings on Drilling and Spacing Units – Judy Jordan**
  Postponed
- **I. Ratify the Chair's signature on the Development Agreement by and Between the City of Glenwood Springs and Valley View Hospital – Jean Alberico**

Carolyn Dahlgren presented on behalf of Jean Alberico saying that this had been discussed but not actually approved for the Chair's signature on the Development Agreement between the City of Glenwood Springs and Valley View Hospital for their Cancer Center on land owned by Garfield County.
Commissioner Houpt made a motion to ratify John's signature on the development agreement by and between the City of Glenwood Springs, Valley View Hospital and the Board of County Commissioners.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson – aye
Ed – Executive Session Item – Request for legal guidance regarding the pipeline stop work order and need Fred Jarman in that session.
Chairman Martin – In reference to that did you receive the letter of October 28 from the Oil and Gas Conservation Commission in reference to that subject. Mr. Neslin did you receive a copy of that letter.
Mr. Neslin – Yes I did.
COUNTY ATTORNEY UPDATE – DON DEFORD
EXECUTIVE SESSION: LITIGATION UPDATE; Legal Advice and receive direction, Ed has noted one and that is Antero/Regulski code enforcement matter and also provide an update on the litigation in the H Lazy F code enforcement matter and need Fred for that, and we need to receive direction concerning property acquisition within the city of rifle and we may need Fred for that, we need to provide you with legal advice concerning a personnel issue within the road and Bridge Department similarly need to provide you with legal advice on the ACLU litigation vs the Garfield County Sheriff and need to provide you with advice concerning claims and the status of claims on county road 311 and lastly if you desire to receive legal advice today on the participation of well density proceeding although what has taken place you may not want to get into that. There may be public action necessary after the session.

CONSENT AGENDA

eee. Approve Bills
fff. Wire Transfers
ggg. Inter-Fund Transfers
hhh. Changes to Prior Warrant Lists
iii. Authorize the Chair to Sign a Resolution for Certain Text Amendments to Article IV: Review Procedures and Article VII – Affordable Housing within the Unified Land Use Resolution of 2008, as Amended More Fully Described in Exhibit A attached thereto – Fred Jarman
jjj. Procurement Code Section 5.7 Update to Change Section J. Timing to Receipt of Affidavit 10 Days Prior to Bid Opening – Jim Hackett
kkk. Authorize the Chairman to Sign a Land Use Change Permit to Allow for Storage: Supplies, Machinery, Equipment or Products, on a 8.6-Acre Portion of a 645-Acre Property Located on State Highway 6 Approximate 2.5 miles from the Intersection with County Road 300 – Applicant; 5-Mile Ranch, LLC – Kathy Eastley

Commissioner Houpt asked to pull item e on a question about the policy. It was my understanding that when we talked about this change we were not making it a temporary fix but it was going to become part of the actual policy.

Jim Hackett - It is part of the actual policy.

Commisisoner Houpt – I was confused by the memo as it looked like it was only to accommodate the transition.

Jim Hackett – No it should not accommodate the transition, it is part of 5.7.

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

A motion was made by Commissioner Samson to retire to Executive Session and discuss the items as presented by the attorney. Commissioner Houpt - 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:

Settlement on H Lazy F – Code Enforcement

Commissioner Houpt made a motion that we authorize the staff to move forward with settlement on the H Lazy F.

Chairman Martin – They have satisfied everything. Commissioner Samson – Second.

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

REGULAR AGENDA

Public Meetings:

- **A. Bookcliff, Mount Sopris and South Side Conservation Districts Annual Report – Charles Ryden and Jeff Nieslanik**

Charles Ryden provided the annual report and booklets prepared showing the details were handed to the Commissioners and included in the packet. Reports were made by Charles Ryden on the Bookcliff Conservation District

Jeff Nieslanik gave the report for the Mount Sopris District.

Larry Sweeny – Member of the Bookclift Conservation District and a representative of the Colorado River watershed on the State Association of Conservation Districts as well serving on the Basin States Salinity Advisory Committee gave a report.

Sandy Jackson with the Mount Sopris Conservation District added details about Farm Week. We partnered with that with the Division of Wildlife, the Farm Bureau and NRCS.

Charles said he survived with that many kids present at the last three days have been rough and last night it was about 11:00 p.m. when we arrived home and about 2500 people went through the maze and got to answer Ag questions this year and like Sandy said many kids got a lot out of the extra things that we do in that Farm Week and we thought it was very successful – he weather was good.

Commissioner Samson – Just on a note I know that you are having your dinner on Friday night at 8:00 p.m. and I've been there the last two times but I will be out of state and I apologize – I would love to be there but I cannot this year.

PUBLIC HEARINGS:

- **A. Public Comment on 2011 Proposed Budget – Theresa Wagenman**

Chairman Martin verified the public notice and Don advised the Board it was timely and accurate and they were entitled to proceed. It was published on the 14th of October in Citizen Telegram.

Don said the notification speaks for itself and it was stated the Board would conduct its initial public hearing today to receive public comment and for consideration of the 2011 budget.

Chairman Martin swore in the speakers.

Theresa presented the 2011 proposed budget officially for the Board's consideration. It is in books.

Back in October, the budget was presented to the board and at that time, no public comment was received.

Discussion was held on the issue of another public notice for the citizens to comment.

Chairman Martin – On the adopted budget we will have that as a public hearing as well as we are doing the adopted budget so that is a noticed public so we will take comment at that time from the public. The other one is that you have heard that there have been some changes in reference to the elected official's offices one way or the other also priorities on Capital Projects today for this building and the Courthouse. Those need to be added in and it will change your overall budget so you'll need to make those adjustments before the final budget is adopted. The Commissioners agreed there would be a public hearing on the final adoption and at that time, I think notice will go out and we will hold that public hearing at that time.

Lisa explained that to the Board increase of 40% in the the building and planning department and said there were two reasons for that, one was a carry forward for the intersection project so those monies were budgeted in 2010 and carried forward for 2011. That cost is actually a pass through because once the development is done, we send those bills to the developer and they reimburse us for that cost. That is primarily the reason for those increases.

Chairman Martin – That is the explanation that we need to make sure is public.

Theresa – There was originally an engineering position, which was eliminated. That was the reason for the reduction in wages and then they decided to outsource that. Another confusing piece is that if you just look at operating and not post at all, not capital there operating expenses total maybe $300,000 so a 40%

difference is not as much as you would think mathematically, small change can just amount to a larger percentage.
Ed – So we are going to add the emergency generators to the tune of about $400,000 and we will correct the amount for the increase in our medical benefit, it will not be $900 it will be $450.
Chairman Martin –Anyone who wants to be here and make a final comment December 13, 2010 should do so as this is your last day and then we will look at adopting the budget.
Commissioner Houpt moved to close the public hearing. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Martin – aye
No other motion was made and a the budget hearing will be held on December 13, 2010.
Executive Session items – Discussion of Personnel item and legal advice on that as it concerns the Road and Bridge Department, legal advice for the Board concerning participating in the well spacing hearing and one item not mentioned before but I need a brief discussion on potential property acquisition in Glenwood Springs. Ed is needed.
Commissioner Samson moved to go into an Executive Session. Commissioner Houpt – Second. Motion carried.
Commissioner Houpt moved to come out of Executive Session. Commissioner Samson – Second. Motion carried.
No public action taken

COUNTY ATTORNEY UPDATE – DON DEFORD
EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -
None for the afternoon session.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Chairman Martin – There is an announcement in reference to the special meeting on November 9, 2010 in Rifle at Colorado Mountain College Building that starts at 8:00 a.m. and runs until noon.

PUBLIC MEETINGS

- **A. Authorization for the Chair to Sign a letter to the Planning and Zoning Commission Chair Requesting a Location and Extent Review of the County Road 300/U.S. 6 Intersection Improvement Project – Betsy Suerth**

Phil Long provided the Board with a letter explaining and requesting a location and extent review before the Garfield County Planning Commission on January 12, 2011 at 6:30 p.m. Should the Commissioners approve our request then the Garfield County staff will present the proposed transportation improvement at the intersection of CR 300 and US 6 and its relationship to the County's Comprehensive Plan. (A complete letter is on file in the County Clerk's office and would be given out upon request.)

Chairman Martin – We will go into our public meeting to authorize the Chair to sign a letter to the Planning and Zoning Commission Chair requesting a locate and extent review of County road 300 US 6 Intersection improvement project and Betsy is in charge of that.
Betsy Suerth explained the necessity for a review of the of the location and extent and how that is a Planning and Zoning review. She commented that this was consistent with the Comprehensive Plan of 2000 and was included in the Comprehensive Plan currently under review. This review is actually a mandate in Title 30 of the Colorado Revised Statutes and it is required under the Garfield County Unified Land Use Resolution of 2008 as amended. The reason why this project is subject to the UNLE is that it is going to widen a road that of US 6 and it is also going to slightly alter County Road 300. The P&Z packet will include the construction plans not included in the Board's packet but they will be furnished as well as a vicinity map when this comes before the Board. Another goal is to assess the projected traffic impact associated with the areas activity and to mitigate those impacts proportional to those contributing factors In this case, staff believes that the project is consistent with both comp plans because the design is based on CDOT standards, we've use the traffic projections for the activities out there and looked at those future projections so we have created a design based on that activity and the county has created a partnership with the surrounding landowners and the partnership is funding the project in a shared way which those dollar figures are still to be determined absolute but I think we're on our way and the proposed improvements are going to mitigate the impacts on the roadway and the intersection.
In response to Commissioner Houpt's concern regarding financing Betsy explained before you can break ground on the project, the funding is partially in place and the funding does not need to necessarily be in place before you go ahead and have a location and extent review.
Motion
Commissioner Houpt – I make a motion that we authorize the chair to sign the letter of request to the Planning Commission for location and extent review for construction improvements at County Road 300 and US 6 including the widening of US 6. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson – aye
PUBLIC HEARINGS:

- **Consider a Request for a Combined Preliminary Plan and Final Plat to Allow a Four (4) Lot Subdivision for Roc and Mary Gabossi Located at 44523 Highway 6, Glenwood Springs, Colorado (File No. CPFF 6341) – Applicant: Roc and Mary Gabossi – They are Requesting a Continuance – Molly Orkild-Larson**

Molly submitted a request for a continuance for a combined preliminay plan and final plat for a 4-lot subdivision. The public hearing date was not specifically requested.
The memo in the packet is requesting a continuance until 12-20-10.
Motion
A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the request and continue this hearing until 12-20-10 at 1:15 p.m.
In favor: Houpt – aye Martin – aye Samson - aye

- **Consider a Request for a Land Use Change Permit for Limited Impact Review of the Berry Petroleum Company and Marathon Oil Company Application for Material Handling/Water Impoundment on 16.881-Acres (Berry Petroleum) and 21.291-Acres (Marathon Oil Company) of a 880-Acre Site Located Approximately 17 miles North of the Town of**

Parachute, Colorado off of Garden Gulch Road (File No. LIPA 6377). Applicants; Berry Petroleum Company and Marathon Oil Company – They are requesting a Continuance to January 3, 2011 – Molly Orkild-Larson

Molly, Chris Hudson with Marathon Oil, Mike Markus with Olson and Associates and we are the project representative were present.
Chairman Martin stated they are requesting a continuance today and do we wish to open the public hearing for that continuance or are we going to renotice.
Molly – We are going to open the public hearing.
Don reviewed the proof of notice of, proof of mailing, and advised the Board they were entitled to proceed.
Molly submitted a letter of request dated October 20, 2010 received from Mike Markus, Project Scientist with Olsson Associates that this be continued until January 3, 2011.
The proof of publication was not presented.
After review of the posting, notice and mail receipts, it was determined that there was inadequate notice and Commissioner Samson suggested in order to protect us and the applicant it would be better to renotice.
Mike Markus stated the intent was to renotice the property owners.
Chairman Martin – What we will find is that we have a defective notice, at the present time, and we are not accepting and not opening the public hearing at this time. You will need to renotice and make sure that everything is in order and as you know the system now and all the paperwork that will go with it and staff should help you in any way to make sure that you have documents in place.

- **Consider a Request for a Major Impact Review for a Solid Waste Disposal Site and Facility to Treat Produced Water for Reuse in Gas Well Production – Proposed Facility will be on an 11-Acre Site Located in the NE ¼ of the NE ¼ of Section 12, Township 7 South, Range 93 West – Applicant; Greenback Produced Water Recovery LLC and NE by NE LLLP – Gale Carmoney**

Gale Carmoney, Carey Cagnon, Dan Packard Chief Executive Officer of Greenback Produced Water LLLP, Joe B. Adams the principal of the engineering company and Larry Green from Balcomb and Green in Glenwood Springs.
Don DeFord – It is my understanding that we will conduct a combined public hearing this afternoon regarding both a major impact review and a certification of designation. Those are actually two separate processes normally but given in this application given the facts will be similar if not identical for both applications and my belief that the applicant would like to proceed with a combined hearing. For the Board, I also have in-hand a proof of publication indicating notice of the major impact review for this afternoon published in the Citizen Telegram on September 16, 2010 so in regard to the major impact review it is in my opinion that notification is adequate and I would like to move to the certificate of designation notice.
Don completed that review and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Gale Carmoney submitted the Exhibits A –R and Chairman Martin entered Exhibits A –R into the record.
Gale stated the property owner requests approval to construct a commercial "Solid Waste Disposal Site and Facility" to treat, store and reuse produced water from oil and gas operations. The proposed 11-acre site is located approximately four miles south of Interstate 70, southeast of Rifle, with access to County Road 319/West Mamm Creek Road and County Road 322/Schaeffer Road. Access to the site follows a private and controlled access roadway. This site is at the northeast corner of the 40-acres subject property and south of an existing compressor station facility operated by EnCana. Gale fully explained the staff report.
As a matter of procedure, the BOCC should first make a determination of approval or denial regarding a Land Use Change Permit for the Major Impact Review application. If it is found that the request for a Land Use Change Permit is in compliance with all applicable regulations as established within the ULUR of 2008 as amended, the BOCC should then make a determination regarding the Certificate of Designation. Staff recommends that any conditions, which are a part of the Land Use Change Permit, should also be conditions of the Certificate of Designation in order to maintain consistency.
He further provided that the Planning Commission reviewed this application, made revisions to the conditions and voted to forward a recommendation to the Board.
Planning Commission Recommendation is to approve the request from NE by NE LLP and Greenback Water Recovery LLS, for a Land Use Change Permit for a Solid Waste Disposal Site and Facility on property owned by NE by NE LLLP., in the NE ¼ of Section 12, Township 7 South, Range 93 West, in Garfield County with the following conditions. The facility requires a certificate of designation, the state has completed its review and provided a letter of approval for this certificate of designation and as I mentioned they have already done the public comment so now during this public hearing it is up to the Board to determine whether or not they want to issue the certification of designation after approval of the land use change permit for the major impact review. In your staff report, you will notice the Planning Commission forwarded four recommendations for approval to the land use change permit and those recommendations are outlined in the staff report. Following that the staff met with the applicants to tweak a few of those to make sure there was clarity in what those conditions were in particular to the use of potable water and produced water on site in the time of issuance of different permits. Those conditions will have to be incorporated not only with the land use change permit but in the certificate of designation along with and I want to emphasis this because I did not put it in the staff report, so I am telling you again in this presentation, the certificate of designation should include those conditions from the state. Staff recommends that the Board will make findings that proper notice was provided as required for the public hearing for the Board and the hearing before the Board of Commissioners was extensive and complete and all pertinent matters, issues were submitted that could be submitted and all interested parties were heard at this meeting. That the above stated and other reasons land use changes certificate of designation for solid waste disposal site and facilities are in the best interest of the public and the application made and in compliance with applicable sections of the county's land use regulations. Those are the motions and as I emphasized before two different topics and two different motions but it is important that we include the state's recommendation and conditions for the approval for the certificate of designation.
Dan Packard explained how the system performs and Joe B explained the process for the produced water.
Dan Packard – The largest operation is in Pinedale, Wyoming, they can process 16,000 gallons a minute, all of their water that comes out of their RO units is held in ponds, given to ranchers for livestock watering, things of that nature.

Commissioner Houpt had concerns regarding the traffic issue referring to the application of 50 trucks a day for the life of this project 24 hours, 7 days a week for 30 years.
Dan Packard – If the facility expands we would probably apply for a different traffic count; we also there is a number of producers that are also looking at pipelines to our facility so as the facilities mature you may very well see reduction in the number of trucks and pipelines and that is what our hope is eventually. The trucks are virtually there now, they are collecting the water and then instead of coming south of 319, they are going north on 319. It is commercial facility and it will be open to anyone who wants to access it. Dan Packard recognized the truck trips, committed to return to the Board if there were to be more truck traffic than stated in this application.
Chairman Martin – This is a system we have been asking for I think as a County, something to do with produced water instead of sending it down I-70 and up 13 across 40 to Richfield, Utah because they are getting tired of having that produced water up there and they have real impacts. We need to take care of our own – this is one of the facilities that probably could do that and it is one system and I think there a couple of other different types of systems, all have been proven to work, we need to put it in place so that we can take of our problems and not burden other communities with it.
Larry Green – I would just ask that if the Board is contemplating placing a clear limitation on the number of truck traffic, number of truck trips, that it be done on some sort of a 30-day average because I think as Dan or Job B said it maybe that one day where there 61 truck trips and the next day is 18 or something like that, so that rather than if we exceed 50 in any one particular day that it would not a violation but it has got to be some kind of a continuation or an average where the truck trips are exceeding the 50. If it turns out that we are impacting a particular neighbor, perhaps we can redirect truck traffic to a less impactful route and to just say if you exceed 50 in one day you have to come back to the Board is an unrealistic condition to allow the applicant to address the market response to this program.
Chairman Martin – Well the overweight and oversize permit process is already through the road and bridge and they also designate routes that can and cannot be used and also weight limitations in different seasons are there as well, any kind of impacts will be seen either physically or again in the areas that have high density. But that is also to be regulated but the average of 50 trips, that is what is in the application and I think that is what it needs to stay as and using CDOT standards, Average Daily Trips, ADT over a period of 12 months.
Dan Packard stated they would have records as this is a commercial disposal facility and we have to manifest every load in and out and so you will have very accurate documentation on what comes in our facility and what goes out.
Chairman Martin – That is what the standard has been is AADT, Average Daily Trips.
Fred – It is actually the comfort level of you all as a Board on what you feel if this commercial facility has the mechanism to show you trips count at any one time and you feel confident in that then that is the way to go. It is certainly a lot cockier that a hard line drawn in the sand of 50 trips a day. That is a lot easier to deal with from a regulatory standpoint but I'm not saying that is able – this is their approach but you have for example with your gravel operations you have done that.
Chairman Martin – Yes, and that manifest is checked once a year and if that is the average that is one thing, if you are over the average you need to come back in and make amendments and make a new application for more trips.
Fred – The only other side comments I was going to make is tendered the application you have from the applicant has a traffic study that was performed by a traffic engineering and your code does allow that to happen. They didn't call out any specific improvements, having traveled those roads I think that study is accurate and the presentation has happened on the ground. That does lie within the ambient of what the code requires.
Commissioner Houpt – Then you have this list of inventory of people living along these roads and there's really no way to indicate what kind of impact this use is going to have on a 24 hour 7 day a week use for 30 years – that is why I questioned that.
Chairman Martin – Look at I-70 too that runs through different communities and have the same type of impacts with the large trucks and increased traffic.

Motions

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
Chairman Martin – Recommendations have been made by the Planning Commission as well as staff.
Commissioner Houpt – I will make motion that we approve the land use change permit through the major impact review process for a solid waste disposal site and facility on a property owned by NE by NE LLLP with the staff recommended findings and conditions with the recommended staff and applicant changes to Conditions 10, 11, 14, 15, 17c, and 26 with a change in 17c to read "the applicant may be required in the future to contribute" instead of 'maybe asked' and also the condition that states that the use for this project/application will not generate in excess of 50 truck trips per day on a Average Annual monthly trip basis so that it's clear. Commissioner Samson – I will second the motion.
Chairman Martin - Discussion: Need for clarification on staff's report. None.
In favor: Houpt – aye Martin – aye Samson - aye

Commissioner Houpt – - We have another and I will make a motion that we approve the certificate of designation for a solid waste disposal site and facility on a property owned by NE by NE LLLP with the staff and state recommended findings and conditions. Commissioner Samson – I will second the motion.
Chairman Martin – Referring to exhibit R.
Commissioner Houpt – I want to make a comment before we vote, this is really, I'm hoping that this type of process is what we move toward in this industry, I think it is really a great step forward, my concern as you heard today is the location for land use and the impact to the neighbors in the area and the traffic issues so as you move forward and I think we have talked about this before, I think it is really important that you keep those things in mind with the land use application so that there is least amount of impact possible on neighboring landowners.
Dan Packard – I want to assure you we always take that into consideration and as we are starting this project it doesn't become static for us – we are a leader in the DJ Basin as I've shared with you – I think we were 15 years without competition because we did it better than anyone and that will be the case with

Greenback – we don't stop with one or two or three and do them just well enough – we do them better than anyone. In favor: Houpt – aye Martin – aye Samson – aye
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Samson - Special work session scheduled for 11-9 – 2010 as a special session.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MONDAY, NOVEMBER 15, 2010
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 15, 2010 with Chairman John Martin, Commissioner Samson and Commissioner Tresi Houpt were present. Also present were Attorney Don DeFord, Carolyn Dahlgren, Carey Cagnon and Marian Clayton, Deputy County Clerk and Jean Alberico County Clerk for the 10:15 items.
Call to Order
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Beth Strudley and Jeannie Nutter were present and presented a Resolution of the Board of Commissioners of Garfield County establishing the maximum allowable drilling and spacing units for the production of CH4 gas and associated hydrocarbons from the Williams Fork and Iles Formation to one (1) well per 160 acres for certain herein described lands in the Silt Mesa and Peach Valley areas of Garfield County.
On the request of Carl McWilliams who is ill otherwise he would be present. The McWilliams believe that if the County Attorney argures at the November 29, 2010 with the COGCC suit using the COGCC rule 5.09 Garfield County will lose will lose and Peach Valley and Silt Mesa will soon suffer irreparable harm and injury. McWilliams believe the constitutional crisis exists in Garfield County but the friction between Garfield County and the COGCC is not yet right for adjudication. The adoption of this Resolution by the BOCC while following open meeting laws before the Thanksgiving weekend will make this constitutional controversary right. By sending the County Attorney through this Resolution with the full force and political power of We the People of Garfield County greatly strengthens the probability of success for the County Attorney. Carl included in the packet the transmittal presented to the Board.
The request is for the Board of County Commissioners to support these citizens before the COGCC meeting scheduled for November 29, 2010 in Denver.
No action was taken on the submitted Resolution.
REGULAR WORK SESSION:
County Manager Update: Ed Green
West Elk Cross Multi Use Club financial support – Tod Tibbetts
Tod Tibbets presented the request for financial support for the West Elk Cross Multi Use Club and fully described the mission of promoting trails in the White River National Forest north of Rifle, Silt and New Castle. The request is for financial assistance to solidify our ability to continue servicing the current trail system we have suilt and to further our efforts to fulfill our mission. Our financial request is for operational funding to cover our annual insurance, equipment maintenance and other operating costs. The amount of the request is $3,0000 for the calendar year 2011. Tod explained that is a unique area in the backyard of the communities in Garfield County.
Chairman Martin noted that we have participated with the Forest Service to the top of Buford road in terms of winter maintenance, we lease a building in the Gravel pit and share that with the Forest Service and this is accomplished through the School Rules Act however, we gave away most of that money to the school systems this year.
Commissioner Houpt noted that we have more in our grant program.
Motion
Commisioner Houpt made a motion that we approve for West Elk Multi-Use Trails in the amount of this in the
$3000 and identify those funds from the Commissioner's grant funds for 2010. Commissioner Samson – Second.
Chairman Martin – It means you have to take this year and not wait until after January 1, 2011.
Don – Quickly, so the money is spent for 2010 and don't you have an existing agreement for 2010 so that will require an amendment to that agreement and I assume your motion identifies that as well.
In favor: Houpt – aye Martin – aye Samson - aye
Tod thanked the Commissioners for their support.
Refinancing 2001 COPS – Lisa Dawson
Lisa Dawson submitted a memorandum to the Board saying Garfield County currently has $21.6 million in COPS debt, which consists of $16 million in principle, and $5.6 million in future interest payments. This debt was incurred to help pay for the jail, administration building and road and bridge facilities. We have $1.2 million budgeted in 2011 for principal and interest payments.
As part of our role in Finance, we periodically investigate refinancing or early payment options. Current interest rates are low so it is a good time to ask if you'd like to consider refinancing or paying off some of the debt. She submitted a letter from RBC Capital Markets who refunded a portion of the 1999 COPS series in 2006.
Lisa gave a summary of three questions to consider and two questions for the Board.
Discussion on the memorandum:
Refinance - Option 1 – Refinance the 2001 COPS at 3% interest rate creating a gross savings of $715,000 at $50,000 per year.
Option 2 – Pay off one of the COPS at $7 million with a savings of $2.9 million in future savings in interest. – 2006

Option 3 – Pay off debt entirely at a cost of $16 million saving $5.6 million in future interest payments.
The two questions:
Pursue either of the three options as above?
Discussion was held.
Commisioner Houpt - To investigate refinance the 2001 COPS and pay off the 2006 COPS. It just seems to me we pay so much in interest, these large numbers so it might make sense to investigate so we know what kind of impact it has on the budget is we are able to do that option.
Lisa – There are only certain times you can refinance during the call period and so we have the opportunity to refinance the 2001 and not the 2006.
Chaiman Martin – The only way we could do that would be to pay off the entire amount which is about $16 million.
Commissioner Houpt – That would be my suggestion to look at refinancing 2001 and paying off 2006.
Chairman Martin – That would be $7 million saving about $2.9 to $2.7 million dollars in reference to interest payments.
Commissioner Houpt – No it would be $ 9 million and you would save $2.7 million and then you would also save $700,000 a year on the 2001 COPS so you are saving it on the combination, you would be saving a tremendous amount of money.
Chairman Martin – 2001 COPS says it is $7 million dollar pay off.
Commissioner Houpt – Yes but we are looking at refinancing 2001 and we cannot refinance 2006 so what I was suggesting is having staff look at refinancing 2001 and paying off 2006 because I think it would be cost prohibitative to pay off both and that would be $16 million.
Lisa – The direction was given for Lisa to investigate.
Chairman Martin – I think we need to start paying off debt totally.
Ed – One nice thing about this is the difference between debt service reserve that we currently have and what we would be required to have would actually fund the actually issuance would find the actual so it would be no cost to do it.
Chairman Martin asked Lisa to run the different scenarios.

Award of EECBG-C Grant "Energy Ramp Up" to CLEER (Clean Energy Economy for the Region). Jim Hackett and Betsy Suerth

Jim Hackett and Betsy Suerth submitted the Board action being requested to either approve or disapprove the award of a contract in an amount not to exceed $545,000 to CLEER to provide executive of the Clean Energy Retrofit Ramp Up program for Garfield County and authorize the chair to sign that contract if approved.
Betsy – This proposal was before the NECI board and they made a motion to approve CLEER as a contractor. The proposal was well written and hit all the points needed.
Motion
Commisioner Houpt made a motion that we approve the award of the contract $545,000 to CLEER to provide execution of clean energy Ramp Up program for Garfield County and authorize the chair to sign the contract. Commissioner Samson - Second.
Discussion:
Chairman Martin said this is not all Garfield County money it is a combination of the community.
Ed said, no, the Ramp Up Grant is just that, it is a grant from the Department of Energy.
Chairman Martin – But it is to be used for all.
Ed – Yes, it is administered by Boulder County but will be used by Denver and us. I think its $25 million so this is just one segment of that.
Betsy – Yes, $545,000 is the Garfield County portion; the project is basically to ramp up the efforts of retrofits in both residential and commercial properties across the County including all the municipalities.
Chairman Martin – The source of the money happens to be the federal government.
Betsy and Ed agreed it is part of the EECBG – part of the economic stimulus money.
In favor: Houpt – aye Samson –aye Opposed: Martin – aye I opposed not because of the project but because of the source of the money – it is your future and everyone else's future.
Commissioner Houpt – It stimulates much activity in the county and I appreciate everybody's work on this project.
Chairman Martin – I appreciate the work but not the source of the money because it is the future of the country that we have just spent again.

Sole Source Approval to enter in to and negotiate a contract with Martindale Consulting for continued Oil & Gas Industry Audits - Jim Hackett and John Gorman

Jim Hackett and Sean McCourt submitted the necessary Board action to either approve or disapprove a sole source contract in an amount not to exceed $200,000 to Martindale Consulting, Inc. to provide auditing of Oil and Gas Company verse reported values and authorize the Chair to sign that contract if approved.
Jim provided the justification for the sole source award saying the original contract was competed as a RFT 3 years ago and the only company to answer the RFP was Martindale Consulting. Additionally, a strong argument that a logical follow on to bring the County current in its back audits with the current knowledge would be the best value for the County. The recommendation is to award this to Martindale for a base year with a 2 one-year option.
John Gorman submitted rationale, facts and history to support the request as well as some information on the company that the Board might find useful in their decision.
Discussion:
Motion
Commisioner Houpt made a motion to approve a sole source contract in an amount not to exceed $200,000 to Martindale Consulting, Inc. to provide auditing of oil and gas companies reported values and authorize the Chair to sign. Commissioner Samson - Second.
Discussion:
Commissioner Samson would like to enter into the record that the point they make on the determination, the company has uncovered enough tax revenue for the County to pay for them and only be about 10% of that value.
In favor: Houpt – aye Martin – aye Samson - aye

Approval to enter in to one year contract with Correctional Healthcare Companies, Inc based upon current service allowing improved acquisition planning for new base plus two options RFP- Jim Hackett, Gene Duran, and Lou Vallario

Jim Hackett, Gene Duran and Lou Vallario were present for the discussion.

This is for approval or disapproval to award a sole source contract in an amount not to exceed $1,046,432.40 to Correctional Healthcare Companies, Inc. for the timeline of 2011 for the inmates housed at the jail. Jim stated that currently the contractor is out of option periods for their contact but due to staff turn over the acquisition process was not started timely. Jim explained that the Procurement staff along with the Sheriff's Office better defines and produces a RFP for a new base plus 2 opion years startin 2012. Currenlty the contractor is out of option periods for their contract, but due to staff turn over the acquisition process was not started timely. This is a complex contract with pending litigation attached to it and deserves a high level of scrutiniy from March through September of next year to put out a quality RFT and select a quality service provider. To compress all that this allows the mistakes while we try to finish the task and therefore we are asking for a sole source one-year contract.

Discussion:

Chairman Martin stated this is a requirement of the Sheriff to provide medical services.

Commissioner Samson – It appears we are over a barrel and he does not like to spend this kind of money.

Motion

Commisioner Samson moved that we approve the contract with Correctional Healthcare Companies, Inc. not to exceed $1,046,432.00 to provide healthcare and mental Healthcare to the jail pending approval of the 2011 budget. Commissioner Houpt - Second. In favor: Houpt – aye Martin – aye Samson -aye

Resolution and update to Procurement Code 2.2 C Delegation of Signature Authority for Change Orders - Jim Hackett

Jim Hackett submitted a summary saying there is a gap in the Procurement Code that Change Orders on contracts above $50,000 should be signed by the original entity that signed the contract meaning the Chairman of the Board of County Commissioners. It is the intent of this change to allow Change Orders on contracts $50,000 that are below that amount to be signed by elected officials or department heads while putting in place management oversight constraints.

The staff recommendation is currently the Procurement Code envisions Delegation of Authorities stratified for under $10,000 and from $10,000 to $50,000 for contracts, but is silent on Change Orders. This matter has come before the BOCC on several occasions the last of which appears to be April 6, 2010. The oversight provisions to be allowed would be a monthly project managers meeting with the County Manager. There are two gate percentages that are also in place to prevent uncontrolled cost increase to contracts; 25% of original contract amount a meeting would be held with the County Manager, the Director of Finance and the Director of Procurement, the outcome to be on the next consent agenda of the BOCC and 50% at which time a review of the project shall b done at the next available BOCC working session. This allows the flexibility to the onsite project managers to maintain schedule and also allows the adequate amount of management oversight that the county is completing projects for a reasonable amount. It is staff's recommendation that the board approve the Resolution to adopt 2.2 C to the current Garfield County Procurement Code.

Jim stated he had added caveats to this and those are such that 1) this only applies to $50,000 and above; 2) A Garfield County Change Order report would be generated monthly and briefed to the County Manager; 3) When change orders in the aggregate amount greater than 25% of the original contract amount are contemplated by a single change order or a series of change orders, that change or change orders shall be brought to a committee for review and approval. The committee shall be comprised of the Director of Finance, the Department of Procurement, and the County Manager. The results of the meeting shall be placed on the consent agenda for the next regularly scheduled BOCC Board meeting; and 4) The above process for review shall remain in effect until change orders for a cumulative value greater than 50% of the original contract value have been reached. At this time, a review of the project shall be conducted in the next available working session with the BOCC.

A draft Resolution was submitted for the Board's review with Exhibit A of the 2.2 C Procurement Code in draft form.

Carolyn – I would like to point out that the use of the term 'Change Order' because I am sensitive as to how the word 'change order' especially in the airport contracts. A term 'change order' in this context could mean amendment, revision or anything that changes in the contract so don't think of it in terms of a construction contract arena.

Ed – But that certainly is a big player because construction contracts must be kept moving unless there is a change in the materials and work scope where you have to re-evaluate it.

Commissioner Houpt – We've had this conversation, did you look at the past minutes because I haven't seen those past minutes and I thought we had come to a threshold and I cannot remember that was at the time.

Jim – The last one brought to you was to increase the county engineer to $99,990 and Ed to $199,990 and that is not this is not the intent of this, the intent of this is consent of this is to keep the same amounts under contractual contract authority but to now include change orders.

Don – Jim and I have had extensive conversations about the language in this alteration and Carolyn brought out a point that I would like to emphasis again and that is the question of what does a 'charge order' mean. Jim's and my office recognizes that we need to get a definition of 'change order' into the code, we just cannot do that all at one time, so we need to do that but it is my understanding in the context of this amendment is that it means any alteration to a contract that would vary or increase the price of the contract so it includes all those things that Carolyn noted and specifically on construction contracts that is Ed's concern that not only include 'change orders' as those are included in out as those are included in our contracts but change directives in a change in price as well. Ed is correct when you have those kinds of changes in a construction contract you are covering a broad area, almost any alteration that could change the price you need to keep that project moving forward or the end result is that the County would pay more money for delays if you can't get it done.

Ed – You cannot stop work on a construction contract or you will be in trouble.

Commissioner Houpt – So what happens if there are three changes that are $40,000, are those going to be brought to us for informational purposes because the numbers start adding up.

Jim – And that is one of the reasons for the 25% now obviously if you have $1 million and play the scenarios out and you have a million dollar contract and you have $40,000 that doesn't meet the 25% but that is also part of the reason that every month we have a project manager's meeting, we generate the report, you could request a copy of the report from the County Manager at the time and the 'change order' will state how many change orders, the value of the change orders and then the reasons behind those.
Commissioner Houpt – It seems to me that the authority of those reports of the change orders should go to the BOCC.
Commissioner Samson agreed because otherwise we would never know, so can you put that in there.
Jim – Absolutely.
Ed agreed as well.
Chairman Martin – Do we wish to go forward on this today or do you want to hold this up for the changes?
Commissioner Samson – Did you say you had some other changes to make as well?
Jim – To the Procurement Code, there are numerous changes but in relation to 2.C other than to make the change that it would be delivered to the Board of County Commissioners after the meeting, no there would be no other changes at this time.
The consensus of the Board is that this has to be done that is not so vague before we can approve it.
Ed – We can probably have this to you in December.

Approval to renew IGA between County and University of Colorado Denver School of Public Health- Jim Hackett and Jim Rada

Jim Hackett and Jim Rada submitted the renewal of a contract based upon previous discussions regarding the Health Assessment Study in Battlement Mesa.
The current IGA between Garfield County and the University of Colorado Denver School of Public Health is to expire on December 31, 2010. Currently there are funds that will not be expended prior to the end of the IGA term. The request today is for the Board to approve by Letter of Renewal a second term to the IGA from January 1, 2011 through December 31, 2011.
Motion
Commisioner Samson so moved to extend. Commissioner Houpt - Second.
Chairman Martin – Do you mean we go ahead and approve or disapprove?
Commissioner Houpt – We're approving it.
Jim Rada – When this was before you a month or so ago, it was only for one month extension. This is for another year.
Carolyn – This is just in case it takes a week or two longer and obviously it will need the Chair's approval and it would need to be after approval of the budget because this is not just a roll-over for 2011.
In favor: Houpt – aye Martin – aye Samson - aye

Releasing Heyl Construction from Liquidated damages on South Canyon Trail completion date to be next year - Jim Hackett

Jim Hackett and Jeff Nelson presented the summary of the South Canyon Trail saying the contract between the BOCC and Heyl Construction is currently set liquidated damages for November 2010 on the South Canyon Trail Project at a rate of $1400 per day for non-completion of work. Part of these funds was a contract from CDOT "Disadvange Business Entity" DBE percentage of 14%. Heyl selected a DBE from a preapproved CDOT list. That vendor has failed to perform the contract. Heyl would have been able to compete on time had CDOT waived the requirement and allowed them to finish the project themselves. However, CDOT has procedures for either removing or having a contract withdraw themselves from the project. Due to several factors and the work performance of the DBE, the contract was not able to be completed on time. Heyl will be asked to hold current pricing good through completion of the project. The project will have a finish schedule of 3 weeks approximately starting on April 15, 2011 to allow adequate time for asphalt plants to reopen. The completion date will be set during negotiations and liquated damages clause will be updated with this date, but should be around May 9, 20100.
Staff recommends that the Board negotiate with Heyl Construction and extension of the liquidated damages clause and finish work in early 2011.
Discussion:
These start today on the South Canyon Trail project. In accordance with Rule 6.3 scope of work in the contract between the BOCC and Heyl Construction, they are beginning to occur a $1400 a day liquidated damage for non-completion of work on the South Canyon Trail project. The basis of what happened was part of the funding is CDOT funding, CDOT required that they have a 14% disadvanged business enterprise requirement and they were provided the list of disadvantaged businesses and they picked a contractor called Guild contracting out of Denver to do part of the work around the fencing. After repeated attempts to get Guild to show up on site, Guild failed to show up on site. About 3- weeks ago we contacted CDOT first of asking CDOT to relieve Heyl of the 14%, they would have for the work that had been completed to date they would probably have been about 7% to 8% of the total contract spent would have gone to a DBE. CDOT at that time did not want to release Heyl from the 14%, they have procedures that they must go through to remove a contractor for non-performance. CDOT sent a nasty gram and talked to Guild on the phone and got them to come over, finish part of the work however it is my understanding that they still didn't show up timely and do a lot of work causing Heyl not be able to finish on time due to the fact that the asphalt plants were closing down. It is our intent to enter into negotiations with Heyl at this time for probably a 3-4 week extension sometime starting in the springs 2011 for them to finish it, put the liquidated damages back on after the date that we give them on the extension but we just wanted to bring it before you for your attention.
Commissioner Houpt – You just need direction.
Jim – Not so much that we need technically direction, I think if I look at the powers that I have been renumbered with I can waive that but since it is such a high visibility project we wanted the Board to be aware of what was going on.
Chairman Martin – There was no way they could put asphalt down whatsoever.
Don – Will this actually require an amendment to the contract?
Jim – Yes it will.
Don – Just to be sure since the Board signed this contract, perhaps we should have a motion to authorize the chair to sign any necessary amendments to accomplish the recommendation.
Motion
Commisioner Houpt so moved. Commissioner Samson - Second.

In favor: Houpt – aye Martin – aye Samson -aye
Chairman Martin - It is not yet completed, part of the fence was up, just a little bit, the poles and wire are ready to go up. Fencing and asphalt, drainage gives me some concern in reference to where they are going to plow the snow and how it is going to affect that particular area, looks like it is going to be a sheet of ice where the trail is now from South Canyon to the east since they can't pass the guard rail and now they have the trail there. We'll see how it goes.

Wounded Warriors Program
Chairman Martin put this under Ed Green's time. Wounded Warriors program is one of the most successful that we have seen in reference to amputees and their family coming and making the transition and we have been a host to those for the last couple of years. Cities have now hit the hard times and we have money left over in discretionary funds and to help them make it through the 2011 season I was hoping that we could increase about $5,000 donation this year so that would cover all of the programs under Wounded Warriors programs that are in Garfield County and I am hoping we can use some of our discretionay funds to assist them this year so they can use it in next year and make it throught their season.
Carolyn – I think it was Mr. Rachesky saying you started this and I believe that that the BOCC entered into a non-human services discretionary grant with an organization that was involved with one of the local service clubs.
Chairman Martin – It's the Sunrise Rotarians.
Carolyn – I believe you did have either Don prepare a purchase order or it may have been 3 purchase orders so it was probably an actual contract for services.
Chaiman Martin – Yes and we donated to them this year through our discretionary grant fund and I was hoping to increase that donation to make it so that they do not have to come back next year and ask for more money.
Ed – We have a little less than $360,000 or $370,000.
Commissioner Houpt – Is there a reason why this didn't go through the Human Services grant cycle?
Chairman Martin – It is above and beyond the Human Services grants, what it was a program in reference to our veterans and we elevated that to the discretionary funds to the Commissioners directly.
Ed – That is the way it has been treated in the past yes.
Commissioner Houpt – But I thought when you first came to us we suggested that Human Services is a good avenue to go through.
Ed – You did not. Did you say $5,000 or $15,000.
Chairman Martin – It's an extra $5,000 this year.
Commissioner Houpt – Is it a 5013C?
Chairman Martin – Yes.
Commissioner Samson – So are you going to make a motion?
Chairman Martin – I would like to make a motion that we consider out of our discretionary funds an added contribution to Wounded Warriors of $5,000 of 2010 dollars.
Commissioner Samson – Second.
Commissioner Houpt – This is no different from Junior Achievement, I really think this should have gone through the application process. I think it's a good program so I'm not going to vote against this but I would warn you guys against doing piece meal funding for non-profits when we have the Human Service Grant program in place.
Chairman Martin – I think this is higher and greater than any Human Services, this is our veterans that have no other funds whatsoever to get support from the US government. I think it behoofing us to come forward and to be good citizens and to take care of our veterans above and beyond what the US government does. These are our own citizens and that is why I'm bringing it forward to not take it to the Human Services. This falls on local government as a top priority.
Commissioner Houpt – I think there are children and seniors and disabled in need who are very important to this County and no, I'm not going to say that one group is more important than another. I think that all of the services that people receive in the county are very important.
Chairman Martin – I definitely do not disagree but the fact is –
Commissioner Houpt – It seems like you were prioritizing one group over another.
In favor: Houpt – aye Martin – aye Samson – aye
Carolyn – Can we assume your signature is authorized on whatever document we need and do you want it back on your Consent Agenda.
Chairman Martin – What's the consent of the Board, Consent Agenda or not.
Commissioner Samson – Consent Agenda is fine with me.
Lisa – I have a question, does this get paid to Wounded Warriors or the Sunrise Rotarians.
Chairman Martin – Whatever the contract is with.
Ed – I think it is Sunrise Rotarians.
Chariman Martin – But it is for that program.

Ed's Executive Session item
I have some executive session items – contract negotiations with NEGI IGA renewal and funding associated with that, also land acquisition issues.
Set Bond for County Treasurer – Georgia Chamberlain
Don DeFord submitted HB10-1062 regarding the ability to allow counties to purchase Crime Insurance in Lieu of Surety Bonds signed by Governor Ritter on April 21, 2010 explaining the application.
Surety Bonds were originally meant to protect taxpayers against wrongdoings on the part of the county officials, now that is outdated and HB 1062 allows counties to purchase insurance that protects taxpayers in a more comprehensive manner than a surety bond.
It is preferred because in the past, county officials could be held personally liable for court costs resulting from a frivolous lawsuit. Indemnification clauses in the surety bond contracts require the county or the county official to reimburse the court costs that the surety bond company takes on, even if the lawsuit is thrown out of court. Insurance contracts do not have such personal indemnification clauses.
Under my time, requested action before the Board to set the bond for the Treasurer, just a quick couple of things to preface on, by law the Treasurer's position is a little unusual among elected officials in the county. The Treasurer actually has to take office and be sworn in by the 1st of January every year in

exception of all other elected officials that are sworn in and take office on the second Tuesday in January. By law all of the elected officials including the Treasurer must have a valid bond in place prior to being sworn into office, the Treasurer is the only office whose bond is not set by statute but must be set by the Board of County Commissioners and we do that regularly each time there is an election. In the last session of legislature, there were some changes made in the requirements for bond, most significantly allowing the substitution of appropriate statutorily defined insurance for a bond if the Board of County Commissioners and the elected official decide that was the better approach. There are a number of reasons why insurance may be a better substitute and protection of the taxpayers and the official bond. The Board has had some experience with this in the past but when a bond is set it does provide an amount against which the County Commissioners can make claim their tax coffers and the taxpayers of the county are made whole as a result, of some action of elected officials that would have very monetary price. When that occurs however, what has not developed in the state is a bonding company now has personal recourse against the elected official. So it puts the Commissioners in a very difficult position practically of collecting on behalf of the taxpayers knowing that the elected official may have to pay that bill. So that was the impetus that I think for the legislature to make this change. With all that said, in your packet is an informational handout that CAPP, your insurance pool has prepared for all counties that describes the crime insurance that is available through CAPP currently available that qualifies under state law as a substitute for the bond. The reason the treasurer is not here today and it applies also to other elected officials as I have some discussions with Pati at CAPP who oversees this particular program for CAPP to make sure that the insurance provides the same type of coverage for the taxpayer that a bond would provide. She is relatively certain that it does, it is explained in the handout but I did have some questions that she was not able to answer last week and she needs to have further discussions perhaps with the board of Directors for CAPP to make sure where they stand. She will have answers later this week so we still have time to act on this and discussing this with the Treasurer we thought it would be best to get the final answers from CAPP so they the Board has the advantage of the latest information. So I would like to reset this matter not only for the Treasurer but for all elected officials at your first meeting in December at which time we will raise this question about substituting insurance for a bond for all officials. By the way, that will apply to County Commissioners and any required bond for Commissioner positions as well. With that said, I would like the matter continued until your first meeting in December.
Chairman Martin – That is fine and we will go ahead and allow that to happen.

Consent Agenda:

1. Approve Bills
2. Wire Transfers
3. Inter-Fund Transfers
4. Changes to Prior Warrant List

Commissioner Samson made a motion to approve the Consent Agenda items a – d. Commissioner Houpt Second.
In favor: Houpt – aye Martin – aye Samson - aye

County Attorney Update: Don DeFord

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Set on the agenda for public action is proposed contract extension for my office and I need to provide you with advice on that a personnel matter in Executive Session before you take public action; I also have need to provide you with advice concerned a personnel matter in the Road and Bridge Department, an update on litigation on the Antero Code Enforcement matter, and also on the matter that Ed mentioned on contract negoation for executive session. On the Road and Bridge and Antero matters, I will need other members of my staff present as well.
Commissioner Samson moved to go into an Executive Session. Commissioner Houpt - Second.
In favor: Houpt – aye Martin – aye Samson -aye

Commissioner Houpt moved to come out of Executive Session.
Commissioner Samson - Second. In favor: Houpt – aye Martin – aye Samson –aye
Two items - ACTION TAKEN:
Road and Bridge Personnel Issues
Chairman Martin – Mr. DeFord we have a letter in reference for information.
Don – We do, the Board has had a chance to review of draft of a letter to certain employees of the Road and Bridge Department concerning a request for documents. I would like the Board to actually consider authorizing the Board to sign that letter of transmittal on those applicants.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Samson – aye Martin - aye
Approval – 2010 Contract Extension – County Attorney
Don – The Board has had a chance to review a draft of a proposed extension of my 2010 contract into the 2011 and I would like the board to consider taking action of that draft and incorporating the terms of conditions as discussed.
Commissioner Samson – I would so move. Commissioner Houpt –Second.
In favor: Houpt – aye Samson – aye Martin - aye
Scope of Services
Lastly on that issue we discussed a proposed scope of services for professional services contract to provide services to the County Attorney's office on my behalf and I would like the Board to consider whether you want to move forward with that today.
Commissioner Samson – I would move that we accept that scope of services. Commissioner Houpt – Second.
In favor: Houpt – aye Samson – aye Martin - aye

Request for Glenwood Springs City Council comment regarding demolition of rental properties for additional parking at 8th Street and Pitkin Avenue – Betsy Suerth
No action was taken on this issue.
Betsy presented a letter drafted to Mayor Bruce Christensen and the Glenwood Springs City Council Members c/o of Jeff Heskel, City Manager requested consideration and comment on the demolition of four

rental properties located at 809 and 811 Pitkin Avenue to provide additional vehicle parking capacity that front 8th Street in Glenwood Springs.
The request is for the Chairman to be approved to sign the letter and submit it to Jeff Hecksel.
REGULAR AGENDA:
Assessor's Office - Abatements:
Lisa Warder presented the abatement for **RENO PRETTI – ABATEMENT NO. 11-048 – SCHEDULE NO. R020394** and stated the petitioner states the taxes assessed against the property for tax year 2009 are incorrect after a meeting with Mr. Zimmerman earlier this year. The amount of the abatement is for $269,550.

Lisa Warder presented the abatement for **ERIC BAR WEAVER BRANDING, LLC – ABATEMENT NO. 11-047 – SCHEDULE NO. R040988** stating that the petitioner states that the taxes assessed against the property for tax years 2007 and 2008 are incorrect based on the fact that the petitioner protested the value of this property in may of 2009. His value was lowered at that time due to the incorrect square footage of the condominium on the Assessor's records. At some point following the successful appeal, Mr. Frolicker inquired about an abatement of taxes for 2007 and 2009 based on this 2009 appeal. No abatement papers were ever filled out; however, it is the Assessor's potions that office policy to abate up to two prior years taxes were based on incorrect inventory. The amount of the abatements for 2007 is $106,810 and for 2008 the abatement is for $ 106,810.

Lisa Warder presented the abatement for **TANBERG/BLEVINS, INC. – ABATEMENT NO. 11-039 – SCHEDULE NO. R080495** stating that the petitioner states that the taxes assessed against the above property for tax year 2009 are incorrect as the petitioner filed a "late protest" in 2010. The assessor's office physically inspected the property and adjusted the classification and valuation of the property for 2010. According to Colorado law, the valuation should be the same in both years. Based on the adjustment for 2010 the request is to abate taxes for 2009 in the amount of $248,890.00.
Motions
Commissioner Houpt made a motion to close the public hearing; Commissioner - Second. Motion carried.
In favor: Houpt – aye Martin – aye Samson –aye
Reno Pretti
Commissioner Houpt made a motion that we approve the abatement for Reno Pretti – Abatement No. 11-048 – Schedule No. R020394 for $ 2009 for $269,550. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson -aye
Eric Bar Weaver Branding, LLC
Commissioner Houpt made a motion that we approve the abatement for Eric Bar Weaver Branding, LLC – Abatement No. 11-047 – Schedule No. R040988 for 2007 is $1990.92 and for 2008, the abatement is for $1984.56.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson -aye
Tanberg/Blevins, Inc
Commissioner Houpt made a motion that we approve the abatement for Tanberg/Blevins, Inc. – Abatement No. 11-039 – Schedule No. R080495 for 2009 in the amount of $248,890.00. Commissioner Samson - Second.
In favor: Houpt – aye Martin – aye Samson -aye
Commissioner Samson asked if there was a statute of limitation of the abatements.
Lisa – Usually, it is for 2 years and she spoke to the Department of Local Affairs and they said to go ahead and put it through, however, they may not approve it. She has notified the petitioner of this fact.
Human Services Commission:
Minority Services – Marian McDonough, Martha Fredendall, Susan Ackerman
Marian McDonough, Amy Barr and Valarie Carlin presented.
Marian presented the Commissioners with a "Living in the Aspen to Parachute Region – Newcomer's Resource Guide" book sponsored by the Community Integration Initiative building cultural understand. This guide was put together one year ago and it currently being used through the valley. It is printed in English and Spanish and is a great tool for all agencies. It covers the following Adapting to a new place, Family, Automobile issues, employment, Legal issues, Community including public libraries, Official documents such as Marriage Licenses and Power of Attorney, Money issues, Health, Environment, Public Transportation, Housing and Services. All the information is very helpful. An informational sheet for Minorities in the Valley, Stats and Trends of the various agencies was also presented.
A shared story was about a gentlemen who fell while shoveling snow, didn't think much of it, next day he went to the doctor and the diagnosis was to save the man, they needed to amputee his leg. He was airlifted to Denver due to severe blood clogging and on top of all of that he was kicked out of his trailer with only a week's notice. Various agencies assisted this man in obtaining additional housing, SSCI and he is due to obtain his citizenship in 6-months. This is a primary example of how the agencies assist people in time of need and they wanted to thank the Commissioners for their support.
Presentation of 2011 Human Services Grants – Grant Committee
Jane McCollar, citizen representation on the Human Services Commission submitted a proposal and request to the Board of Commissioners grant recommendation: CMC RSVP - $7,000; Planned Parenthood - $5,000; Salvation Army - $18,000l; VVH SANE Program - $8,000 (for sexual assaults), totals were $38,000 with the $3,500 for Junior Achievement with a grant total of $41,500 leaving the remaining balance in the contingency fund of $58,500 where the former allocations will be re-examined.
Commissioner Samson has had calls regarding concerns about Planned Parenthood that they do abortions. Jane McCollar informed Commissioner Samson that this is not a surgical clinic and they do not perform abortions at Planned Parenthood.
Commissioner Houpt made a motion to approve the recommendations provided on the list.
Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson - aye
Human Services:
Approval of EBT/EFT Disbursements for October 2010
Lynn submitted the month of October 2010 for client and provider disbursements for allocated programs, totaled $273,814.59. Client benefits for Food Assistance totaled $588,852.79. Total EFT/EBT disbursements for October totaled $862,667.38. Lynn requested approval of the disbursements.

Commissioner Houpt so moved. Commissioner Samson– Second.
In favor: Houpt – aye Martin – aye Samson -aye
Program Updates
Lynn provided the Board with the updates.
The Department submitted a proposal for additional Core Services monies to fund Evidenced Based Services to Adolescents a new County Designed program. Garfield received full funding in the amount of $16,200 for Multi-Systemic Therapy.
The Department has received its SFY 11 Chaffee Foster Care Independence allocation. Garfield County will receive an additional $2,215 for the program above the initial request bringing the total allocation to $19,294.00.
The Department of Local Affairs conducted an on-site review of the county's CSBG-Community Services Block Grant, which is utilized for our Senior Transportation/Traveler program; and the one-time CSBG-ARRA grant, which provided $70869.00 for the implementation of the Job Search/Work Keys Program that was collaboration between CMC, the Workforce Center and Garfield DHS. Although we have not received written feedback, the outcome was positive in regard to both programs.\
Board of Health:
EPR Contract with Mesa County
Mary Meisner presented the MOU EPR contract between Mesa County and Garfield County Public Health explaining the purpose is to define the working relationship between the Mesa County Health Department and Garfield County Public Health Agency in preparing for and responding to potential disasters. She fully described the contents of the MOU in a document in the Board's packet. The MOU is to describe the EPR – Emergency Prepardedness Scope of Work. It defines the working relationship between Mesa County Health Department and Garfield County Public Health agency and preparing for response and potential disasters, The EPR funds is actually no exchange of money in the MOU between the two because those EPR funds flow directly from CDPHE to Mesa.
Carolyn – Mary and I had some amount of conservation about this because even though it is called a MOU and there's no money, it is an IGA between the two counties and it is based on the underlying contracts with State that this Board has seen but they are not in the packet. I found the document to be confusing and we discussed whether or not you as a board may want to sign it even though arguably Mary as director of the agency has signature authority since it does involve the two counties and the state. What I didn't understand the 6 FTE's are actually state employees and I do not know if they would be open to our penciling that in, it's important to me as a lawyer to make sure you're not responsible for those folks that they are under the state merit system and under the state is paying their salary and the state is doing everything, not you and if they should misbehave it's a state and not a county problem.
Commissioner Houpt – Would it work out with the other partners to work with Carolyn and make this into an IGA and include all of the details that need to be in there.
Carolyn – The name of it matters so much as clarifying who the employees belong to. Mesa has a separate contract with the state whereby the money flows from the state down to Mesa County so I don't know if Mesa County would be willing to let us pencil in state employees in accordance with the contract between Mesa and the state.
Mary – It is confusing and it's the northwest all hazard region and Ed and I talked and we had the option to hire our own person have the money come through Garfield County Public Health. We could have joined in with Summit, Grand as they have their own EPR person but we felt with our close proximity to Mesa we have been well served by Mesa County. Whenever we needed consultation or technical assistance they have been there for us and we want to continue that so what they have done is some of the counties were frustrated and didn't feel that they had as much help as they would like and so what I think they tried to do is define this to really identify the scope of work. I think another EPR person is actually located in the northwest region which is Steamboat and Routt Counties. We just felt that it made sense to maintain our linkage there.
Commissioner Houpt – I think it makes sense I just to make sure that everything is in here that needs to be.
Carolyn – To the Board, do you want Mary to sign this or do you want the Chair sign.
Chairman Martin – I think Mary can sign this. It is fairly well defined as to what she is going to supply in reference to the public health agency will supply these items and that is where it needs to be. I will probably signing it up anyway.
Carolyn – We can get on the phone to see if they are willing to clarify who the 6 FTE's belong to.
Mary – We have no responsibility for the 6 FTE's, that is all coming through the Emergency Preparedness Section of the Colorado Department of Health. They also have reporting activities to Mesa County as well.
Program Updates
Mary gave the updates saying there is a community outreach flu vaccine push and all of our community partners have ample supplies of the vaccine and we are encouraging people to get their flu vaccination. We have given out about 3,000 flu vaccinations so far and staff is also coordinating with the school nurses to get out immunications to school children. It is that time of the year when they are getting letters that they need to be updated on their vaccinations so we're very busy with those two programs. I wanted to talk to you about our pre-meal program to let you know that over the last 6-months that we had a model shift in that area, we no longer do the intial intakes on prenatal clients from Valley View Hospitals, prenatal clinics and ini the past week we've done that initial intake for the nurse midwives. With all the shifts and changes with electronic medical records, EPR, it just made sense for some model shift to occur. We are working closely with all our community partners, we have quarterly facilitated meetings with them, active participation with our community partners, we have also entered into just a letter of agreement with the Bright Beginnings Program of Colorado and above your name plates there is some information about that program. I wanted to let you know that I had signed a partnership agreement and this has quality standards in it, it provides home visits to all Colorado families and children with a potential age of 36 months, prenatal are eligible for these home visits, also, our partner agency is the Family Visitor program also providing some of these home visits. But to have more ability to get out there and push this program forward is excellent. There is a list of training that is required of anyone in the Bright Beginning Program, the length of visits, it talks about the materials that each family receives, so it is a win win situation, there is no charge to the family to have this home visit, there is not charge to us, no grant or any money that exchanges it is all foundation funding. It is another way to get services out to people.

Staff members have all received the training and this program will be beginning soon. The other program to update the Board on is we put forward a proposal to CDPHE and it's a pilot project that the Colorado Department of health is looking at what agencies to participate in and it's a breast feeding peer counselor project and it will train our successful WIC clients who breast fed to work with other clients who are just starting this endeavor and it will give them a stipend to do that. The funding is all through CDPHE so I will let you know when we receive that funding. It also provides some staff relief because we have a caseload of 1,420 clients so our WIC caseload is at the highest level ever and I think it depicts the community need. We have one patient specialist in our WIC program and this will help so we can serve more clients as there is a lot of demand in that area.

Public Meetings:

Middle Colorado River Watershed Partnership Presentation and request for matching grant funds – Clark Anderson and Donna Gray

Clark Anderson, Sonora Institute and Donna Gray presented the overview.

Clark Anderson provided a Powerpoint and is on file in the Clerk's office.

Donna Gray, Jim Rada and Tamara Allen are on this committee. This is the first public step to move forward.

Last spring, Chris Treese and Clark Anderson, both members of the Middle Colorado River Watershed Partnership steering committee provided a brief introduction to the 'Partnership' at a regular BOCC meeting.

Representatives of the Partnership provided a more thorough introduction, update recent progress, and request the County remain engaged and provide modest financial support for matching requirements for a watershed-planning grant the group is currently pursuing.

A history was provided stating that until recently the section of the Colorado River running between Glenwood Canyon and DeBeque Canyon, often called the Middle Colorado, was one of few stretches of river in this state without a "watershed group" focusing on its health, management and educating residents of its values.

On September 24, 2009, the Colorado River District, CSU Extension, Colorado Watershed Assembly and 2009 Sonora Institute convened local stakeholders to explore the idea of forming a watershed group for the Middle Colorado. This was the first of three scoping meetings in which over 50 people from different agencies, businesses, organizations and the general public came together to discuss the potential value in forming a "watershed partnership" as well as what needs or issues it might address, how it might operate and what benefits might be realized for different stakeholders.

Looking ahead, the Partnership wants to develop a watershed plan to assess existing conditions; identify and prioritize needs and issues; and outline projects, activities and best practices to address those needs.

The good news is that the watershed is quite healthy. We can be proactive in addressing potential concerns to ensure that we sustain the health of the watershed and the resources it provides.

Garfield County's role and our request is to show local support and leverage existing resources, the 319 Watershed Planning grant requires significant local match (cash or in-kind amounting to 40% of total project costs). A significant portion of this will be made up with in-kind donation of time, resources or assistance to the project. We hope to attain financial assistance in meeting the match, which will not only strengthen the proposal but also improve the quality of the project.

Being aware that the Commissioners have nearly completed the 2011 budget cycle, we propose the following:

Sustained engagement of Garfield County staff in the partnership (monthly meetings, occasional conference calls and occasional reviews of materials);

$7,200 in funding from the FY 11 budget to support the Partnership and on-going activities;

Consideration of a funding request of $15,000 for the FY 12 budget;

A letter of support for the 310 Grant that outlines the county's level of support for this effort.

Donna Gray – Clark has been our guide for a year now. Clark and his collegues at the institute were instrumental in helping put this partnership together and Jim Rada and Tamara Allen and I are on the steering committee and have been from the beginning to help guide this group in its formation. The idea was actually to form a group in an area that surprisingly does not have one. You are aware of the Roaring Fork Conservation which is a similar model that is being used on the Roaring Fork River between here and Aspen. The group has come up with a watershed plan of identifying issues on the river and projects to enhance the health of the river and that is what we have planned. The underlying vision for us is a collaborative effort to bring some diverse stakeholders together and we have, I represent the oil and gas industry, we have private citizens, we have members of groups as diverse as Trout Unlimited.

Clark joined in and said the whole spectrum from environmental groups to business and local government agencies, water providers so it been a good effort to make sure that everyone is at the table which is a constant effort because even still we want folks at the table and aren't always.

Donna – Probably our prime purpose right now besides getting some funding in place so we can carry on is to expand our stakeholder group and that is a constant challenge but the more public we go and we are starting to go to local government to introduce ourselves and we have done some educational seminars with meetings open to the public but we know that we have to do some broader outreach.

Clark gave his power point. Chris Treese and I came before you just to say hello we are out there this spring. This presentation will build more on that and as Donna was saying we have gotten the partnership to a point where it's standing on its feet and we are able to start taking on some activites, looking at opportunities going forward and continuing at the same time to strengthen and expand the stakeholder group and the diversity the stakeholder group which is a core part of this entire thing is to get the players out there talking to each other.

Clark ran through some slides and asked the Board to interrupt if there were questions.

The slides presented an overview as well as some of the issues that we're interested in and some history of the process. What is a watershed is an area of land and inside of a watershed all of the water lands on the ground drains to a common point, so it really is hydrologic system at the same time it is a land area. They are amazing systems and have the ability to do a lot of good stuff for us free, like providing water supplies, capturing our water supplies for us, natural processes that take place as water moves through the system to help cleanse the water supplies and some very important systems. Watershed groups like this as Donna alluded to are being featured throughout most of the country and increasingly most river systems or watersheds have a group like this that works on collaborative efforts to protect their health. This is our

watershed we are interested in and as you can a lot of this is Garfield County so this is very important. The Colorado River runs right through the middle of it and as you can see again it is a much larger land area as well and includes a lot of tributary systems. The Roaring Fork River which is technical a part of this watershed is not included here because they have a functioning and an effective water organization already. As does the Eagle watershed upstream and there is also a growing effort just like this one down in Mesa County. The Colorado River obviously is the focal point of the watershed and this is sort of the top end of what we're looking at around No Name. It is amazing to imagine that we running through out back yards this river system that is one of the most important in the Country certainly in the west. This river ultimately provides water and power to 27 million people in 7 states and 2 nations and we get to fish on it and boat in and it is part of our livelihood. This is an amazing asset we have. Many of us get to drink it too. Beyond the main stem there are a lot of tributary systems – Rifle Creek actually below the new part in Rifle which is amazing and again builds a lot on that creek and so you can see in addition to the main stem these tributary systems are incredible assets obviously irrigated agricultural is very important to Garfield County and an important part of the west. It remains an important part of our landscapes and our economies and obviously it's increasing difficult and it's a challenge. Agricultural remains one of the most demand sectors for water usage typically it runs throughout the west about 80% of water demand is going to agricultural but it faces a difficult and uncertain future and water transfers from agricultural to urban usages is a big part of that, so questions about how we can sustain agricultural in Garfield County and the watershed is important to this. Obvioulsy beyond our basic needs it gets to that quality of life idea we always talk about and the Whitewater Park in Glenwood Springs is a playground for many people both who live here and those who come to visit. It is an important part of our tourists and recreationally economies in place that a lot of us love to play. Fishing is obviously, the river and its watershed in the gold medal of the Roaring Fork attract a lot of people and a lot of dollars to the area and are real important assets and it is critical to the viability of our communities. The watershed provides the water we need to grow and it's interesting as you look through this river valley and this watershed particularly because it runs right throughout communities. It is interesting in that watersheds connect land and water resources and here it obviously connects our communities from top to bottom in West Glenwood and here in Silt and this photo captures a lot of the various things going on in the watershed and you have agriculatural, growing communities, I-70, public and private lands, energy development and a lot of things occurring and many assets and many potential stressors, but it is important to note at this point it is pretty healthy system and one of the things we are interested in is trying to understand how healthy is it, what are the potential issues we need to be concerned about so there can be more clarity and understanding when we are talking about water issues and the health of the river to say, what are the real issues. What should we be concerned about and what maybe we should not be worried about? A list from some of our earlier meetings where we talking about some of the challenges and needs within the watershed and some opportunities. This is a long list and some things have risen to the top as topics that people are interested in but by no means definitive – this is the stuff everybody needs to be worried about, again this is what we are trying to figure out but it points to the fact that there are many important things going on and these are things that have come up time and again. As we look at this list it runs from treatment costs to regionally water management, infrastructure capacity, water quality protection, invasive species, and many stuff going on and he displayed visuals to paint that picture. Water demand and increasing demand on a finite supply of water is obviously a big issues not only here in this County but in the west. Invasive species like Tamarisk is a huge challenge throughout most of the Colorado River system; the County has been playing a huge role in efforts to address that issue here. There are many efforts to address Tamarisk here. It is costly and constant enterprise. There are rich natural resources, Gavrell is one and many Gavrell operations tend to take place in the Riparian area but not all of them, so the implications for water and then of couse reclamation of mined area is another important topic and the opportunity to create habitat and benefits to water quality and reliability. Energy development is an important part of our economy and our landscape and it has shaped many of our communities in many ways. The water implication of energy development are important questions for us and the group and not something new to this partnership, these are things that have been looked at for a long time – this effort would be able to add information to those discussion and provide opportunities for dialogue around these and other issues. Another interesting throughout the west is growth and despite the current downturn the west is going to be the fastest growing part of the nation. Projections have the west drawing about 11 to 12 million people by 2035 but the point is there is some growth coming. We'll see some of that here in this valley. Colorado is expected to add about 2.5 million people with the West Slope so you have be at ½ million of that number. Again it's really tough in this economy to know how any of that will flush out but it is an important issue especially as we look at the water implications of different types of development, one of those is storm water runoff in Glenwood and so you know there are issues like this that we just need to be thinking about going forward. Interestingly for regulatory perspective this is of growing concern as well as the Clean Water Act phases in regulations on local governments to control stormwater runoff from communities. Municipal sewer and wastewater systems is another important issue and not only for the water shed but certainly for rate payers and the capital costs, the operational cost of these systems and are there ways in which we can work together more effectively to keep those costs stay and stay ahead of regulatory requirements etc and in areas where we don't have central water and sewer service we rely on wells and septic systems so understanding the water implications of those area as well. Even beyond the watershed forest health and issues of that nature that are outside of the scope, forest health is obviously an issue even within this watershed but as you look into places like Grand County where we have huge questions about wildfire and beatte kill and what are the implications of that. Our ability to work with other agencies and efforts in those areas because they will ultimately affect us as we're connected to them by the water resources. About the watershed partnership, the history of the process, early conversations between the River District, the Sonaro Istitude, CSU extension and some others that basically resulted in folks saying yes, this might be something we want to look at but the 5 of us are not going to do anything, so maybe we should get some other people together resulting in a series of scoping meetings where we spent some time talking with many stakeholders, is there any value in this, is there a need, is this a worthwhile thing to do and what ultimately became three meetings resulted in a decision that yes, this is a good idea so let's start meeting regularly and form a steering committee that can ultimately become a decision making body for the group and initiated a first set of activities which was an inventory and assessment to create a state of the watershed. The purpose of the Middle Colorado River Watershed at this point – "The partnership represents a strong collective voice to protect and enhance the health of the Middle Colorado

River Watershed. The Partnership works collobaratively to address water quality and quantity issues and seeks to increase community capacity to ensure the long-term health of the Middle Colorado River Watershed." Some potential benefits of collaboration we identified things like sharing information, engaging the community, ensuring the viability of water supplies, habitat protection and sustaining habitat, improving habitat, water quality desecrations, cost of services, development impacts so a lot of different concerns and it looks like on the flip side we said okay what is the benefit of collaborating. Are there benefits where our working together with different groups and trying to coordinate efforts might add value and it came into four different topic areas, one is increasing our understanding having greater knowledge about some of these issues; the other is just improving communication and relationships – many of these are topics that we don't understand very well, water resource sometimes leads to some heated discussions and so being able to have good communication and relationships and build some trust between different stakeholders is of great value if nothing happens, that is beneficial. Being able to take on some conservation and stewardship efforts and promotion best practices along with groups like the Conservation Districts that already do a lot of work on that front; and then coordination and efficiency and I think many of the local government partners that so far are sitting on the steering committee find this is a potential area of benefit where if we are working together we can try be more efficient in the work that we are doing. The makeup of the Steering Committee consists of Colorado River District, City of Rifle Utilities, City of Rifle Town Council, City of Glenwood Springs, Citizen Volunteer Glenwood, Citizen Volunteer New Castle, Garfield County Planning, Garfield County Public Health, Grand Valley Citizens Alliance, Mesa County Water Association, NRCS Conservation Districts, Schmueser Gordon Meyer (SGM) West divide Water Conservancy, Williams Production/West Slope COGA and facilitation/Coordination/Support consists of Sonora Institute, Colorado Watershed Assembly, CSU Extension and Colorado River District. One area we want to continue is the agricultural community but they are busy folks.

The current activities we want to talk to you about the top two: Watershed Planning and an Inventory and Assessment of the watershed which are basically two parts of the same. In addition to those we are also getting inot the education work as Donna noted, we started some basic seminar series and we want to do more of that, we're doing outreach such as before you today to local jurisdictions and we want start going out to community groups and throughout this of course we are coordinating the work of the partnership and local stakeholders with monthly meetings.

Inventory and Assessment: The idea here is to get us a better sense of what is going on and provide information so we have a clear sense of the what the potential issues might be, are there stressors that we want to be concerned about and also ideally to help be able to track over time what changes we might want to be looking for as we go forward – this is a healthy system at this point. And also what that helps us do is have a roadmap for future activities so are there other priority projects, restoration projects we might be most interested in, are there other of the river where erision is a problem and we feel like there might be some things with bank stabilization would do for us at this point. So why a watershed plan – well I think there are four main objectives we have in mind; 1) try and build capacity through this idea of hammering all the increase coordination and working with one another through partnership but also again jut having that more information to be able to act on; 2) characterize watershed conditions, 3) Identify existing or potential projects and prioritize projects and 4) then set up an implementation program that outlines our activities and what do we actually need to do to accomplish these things, what type of resources is it going to take and the timeline. There are more outcomes.

The point of the final slide is to that these pieces all go together, the inventory and assessment becomes a part of the State of the Watershed Report which again is to have a better understanding of what' going on and that allows us to create a watershed plan and gives us a vision for the watershed - how do we want to maintain the health of this system and what are we oing to do to make sure we do that.

How can we continue to work with Garfield County on this and it has been great and important to have staff both from the Planning and Public Health attending our monthly meeting. We would also like to talk to you about the watershed plan that we are going to be putting an application in for in December and find out whether you have interest in helping us with matching funds. That was part of your packet and a potential draft letter of support.

Chairman Martin – This is what we ask for, getting involved in water and I think everyone is coming through, the conservation districts that we've been supporting for years, they have their priorities and projects and they made us and gave us a partner award this year. It is going down the path that we want to be involved in and we need to sit with staff and a member of this Board needs to be sitting there so we can do that.

Commissioner Samson – Have you been in contact with the Conservation Districts and are they in your partnership?

Clark – Dennis Davidson on behalf of all of them has been representing them on the steering committee not just part of the stakeholder group. Several members form the individual conservation districts have also attended some of the meetings. I think the biggest challenge is just they are busy especially during the summer and those months – it is hard for them make all of our meetings, so we want to continue to work with them on that and making sure we provide the opportunity to get there. Dennis is very much involved.

Chairman Martin – They also have a bank stabilization project between Peach Valley and Silt going on the Colorado River presently and it's a big project.

Donna – Those are the kinds of projects we want to pull together so we can see the entire picture and get the global view of what is actually going on, what data is out there.

Clark – It's real important that we don't duplicate efforts too. They are doing a great job on the work they're doing and that has been a topic throughout and let's know reinvent the wheel and coordinate and support each other.

Chairman Martin – From the town of Silt inake to th stabilization of a wall that has been there fore 95 to 100 years – they are redoing that. Those are the kinds of things from Rifle, Parachute, New Castle.

Commisioner Houpt had a question about the structure of your funding request. It looks like you anticipate a 2 year project and that is why you are asking.

Donna – It's 1 ½ year project.

Commisioner Houpt – Would it be easier for us to identify those funds as a lump sum and then extend that if we need to.

Donna – Yes. We are looking for letters of commitment at this point but there are entities to submit in our grant application.

Commissioner Houpt – We cannot guarantee anything for fiscal year 2012 yet, but if we could just do the 2011 instead of splitting those up for two years it might look stronger for you all.
Clark – Certainly for the letter of support and I feel I moved through the 319 Grant quickly trying to be respectful of this board's time. It will look better for the grant to have that as part of the letter of support.
Commissioner Houpt – Is there a require matching percentage?
Clark – 40% match which between some of the support from non-profits, some of our time and the volunteer time that everyone is putting in we do need some cash support from local governments, it is very important for one to obviously show that we have that support and that we are working together on this and also because it helps get the project done.
Commissioner Houpt – So you have already looked at the other stakeholders and partners and this is what you need from us.
Clark – It's a difficult conversation right now when you are thinking about how to go to the local governments for money because of the fiscal situation.
Donna – Yes, because it is spread out over that period of time - 18 months but our plan was to go to the local municipalities, to the County, the Colorado River District has committed some in-kind as Clark said we have calculated what the volunteer time, so it is a moving target but we are zeroing in on it.
Clark – We are aiming for about $100,000 to $115,000 dollar project. The budget is moving and Donna and I are part of the budget group and we met last week. It is autually closer to $100,000 now. That leaves us with aobut $40,000 to raise in in-kind.
Commissioner Houpt – Well, I guess I would make a suggestion that we support this but that we allocate the 2022 in the fiscal year 2011 budget instead of breaking it out.
Ed – Do you want to do it in 2011 or do you want to 2010.
Chairman Martin – I don't know if they are set up to receive those funds right now.
Donna – We are not looking to receive the funds.
Chairman Martin – So it would be in 2011.
Donna – If we do get the grant we'll get it in October 2011 – the money will start coming in.
Chairman Martin – At that time hopefully we have some discretionary funds that we could probably use for those particular issues and that is where it would be coming from – discretionary funds.
Commissioner Houpt – But if we've identified the money ahead of time then.
Ed – Do you want it to come out of your discretionary funds in 2011, $125,000 you have designated?

Commissioner Houpt – Yes.
Chairman Martin – I think so we would have to look at that, we're not committing to that, we have said that is where the potential source would be from.
Ed – I understand, I'm just trying to work it into the budget.
Commissioner Houpt – Agreed you need to work it into the budget and I would say it should come from the discretionary fund line item.
Ed – It is already budgeted.
Chairman Martin – It is, that is what I'm trying to say, it's already there. We just have to make it a priority based upon the information we have to go forward.
Motion
Commissioner Houpt – So I would make a motion that we support the Middle Colorado River Watershed Project 319 Watershed Planning Grant and identify $22,200 to go toward the matching funds for that grant proposal and support staff to continue working on this project because I see you have some in-kind funds in there as well, and that the letter of support be adjusted to illustrate $22,200 since we can't talk about 2012 yet.
Commissioner Samson – Do you want to add on there that those funds should be taken from the discretionary funds.
Commissioner Houpt – Yes and authorize John to sign this letter. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson -aye
Clark – Please let us know if we should keeping this Board up-to-date periodically.
Chairman Martin – Yes if you want to see a favorable closure on your money.
Clark – We want to make sure is on a time and manner that is helpful for this Board – we can come and provide occasional updates.
Chairman Martin – We need an invitation to go to your meeting, that way you wouldn't have to come back, we could put that burden upon the ones that went to your meetings.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Floyd Diemoz – I didn't go to your meeting on the 9th but Commissioners you did a great job of a it, a very exciting, entertaining and you should make a movie on it. Well, I wanted to tell you that my family the Diemoz have a ranch on Silt Mesa and I thought it was important that you Commissioners knew that one of the wells which is being drilled and that would be on CR 233 and the Harvey Gap road, right at that point, that is where our family is and what does it consist of – its me, my sister and four of our children. We've had that property for something like 45 years and truly feel that we have taken care of that property. There's been land changes of course, that has happened up there and to some it's good and to some it's bad. And part of that would I guess would be called subdivisions on ranch land. It's unfortunate but that is the thing that is causing and fueling some of the dissention that we heard at that meeting. But I wanted to really give you an idea, well first of all, there were two things that happened. One was really I felt almost vilified from the standpoint of the damage that I would be doing to children, we found out the profits were evil, and the main thing was there is no benefit to the community whatsoever from gas production and some of the people felt that way, not very many. But, I wanted to tell you what happened in our situation. We owe probably a little over 50% of the mineral rights on that ranch. 360 acres so it's fairly large somebody else owns less than 50%. But I again was vilified because I didn't stop drilling on it – there was no way that I could but again I had someone tell me that you know I was going to cause harm to the children and health to the community and that really disturbed me because I'm not that kind of a person – we are people who really felt that we properly tend the land. But what happened and really what I wanted to explain, is we spent about $350,000 on the sprinkler systems that you see. We came from the ditch clear from the north, quite a distance but it was really a tremendous amount of money. Where did that money come from – it turned out that $150,000 came from the USDA the federal government and this all had to do

with a treaty with Mexico where our government is saying we have to take salt out of the water and irrigation waters and so they have their formulas and they look at it and say if you put this system in we feel that is worth this amount of money. Where did the other $200,000 come from – well part of that a fairly large part came from Antero and besides that the 3rd parcel of money came from us so we had to dig in even though on the ranch you don't make any money – you barely can really make anything on it. So, we took that and put it in. Now we are in a situation where on a ranch like that it was old irrigation system that we were using 100 years ago by hand with skilled people that really knew how to tend ditches because you know in those days if you would look to see how well they could cultivate a field and it's really beautiful but you don't have people that really know that today. And so the ranch was going downhill so we said we were going to put all of Antero's money, so after we paid the taxes to the federal and state whatever was left was to go into it and a lot of our own money, so from that standpoint when someone says there was no benefit whatsoever to the Mesa that is just not true and maybe some people would not see that as a benefit. Health wise I just like to say something about fracing and you all know this, but there is really a fear that I think is irriational and one of it Fort Worth Texas, did you know and probably all of you know they have 650 gas pads and on those 650 pads they have about 1800 wells; now if you want to divide that out and see how that means per person 650 pads is one pad per 1100 people and 1800 wells is one well for 400 people. Now obviously they are not all segregated to the point that they are evenly in this town in this city but I guess the point of that is what is the problem that Fort Worth finds with children being found to be ill and all things of that nature, so how can you have so many years of drilling within the city limits, some of the right in the middle of big city areas, block of buildings and yet for some reason they have no concerns and I think you all know that really from fracking there just has been nothing that has really proved that it is a problem but I guess is what I wanted to tell you there was a great benefit in my mind to be us to be able to reclaim that land rather than just take the money and ah hah we've got the money. So I wanted to say that there was benefit to Silt Mesa and I will say that Antero has been very very good and I think that I just hate to see the way they have been vilified so I guess that is what I have to say.

REGULAR AGENDA: BUILDING & PLANNING ISSUES
PUBLIC HEARINGS:
CONSIDER A REQUEST TO MODIFY A CONDITION OF APPROVAL OF A SPECIAL USE PERMIT RELATED TO WATERFOWL PROTECTION ON A WATER EVAPORATION FACILITY. APPLICANT IS ENCANA OIL AND GAS, USA. – FRED JARMAN

Renata Busch, EnCana and Christopher Durant were present.

Don reviewed the notice requirements with Renate Bush and advised the Board they were timely and accurate and they were entitled to proceed. The posting was visible from CR 304. Land Use Code of 2008, as amended, Exhibit C Application and Exhibit D – Staff report dated November 15, 2010.

Chairman Maritn entered A – D into the record. Chairman Martin swore in the speakers.

Fred gave the description of the proposal saying the application is a request to amend a specific condition of approval required by the Board of County Commissioners ion resolution 2005-57 which ultimately was an approval for "Storage, Processing, and Material Handling of Natural Resource" in order to construct a series of three (3) lined water storage ponds on a 30.45 acre property owned by EnCana Oil & Gas USA, Inc located approximately 4 miles south of Parachute in the High Mesa area, along County Road 304.

The specific condition of approval is condition #9(b) as follows:

The Applicant shall comply with the following requirements in order to mitigate adverse affects of this operation on wildlife:

> The Applicant shall install a waterfowl deterrence system that consists of the placement of high-tensile wire at regular intervals across the pond. These wires act as a visual deterrent to birds attempting to land on the water, and as a noise deterrent, as the stretched wire creates an ultrasonic (inaudible to humans) sound.

SITE DESCRIPTION / ZOINING / ADJACENT USES

The facility is located on a mesa sitting above the south side of the Colorado River. The site slopes gently at about a 4% grade, from the east to the west. The site is underlain by Potts loam, an alluvial soil derive from sandstone, shale and basalt. Pete and Bull Creek runs to the northwest, about a ½-mile southwest of the site. Some other unnamed intermittent drainages lie to the north and south, but will have no effect on the site.

The subject property is zoned Rural. The type of use requested falls under the definition of "Process, Storage and Material Handling of Natural Resources" which were identified as special uses in the A/R/RD (now Rural) zone district. The pond is located on approximately 2 acres of 30.45-acre property. The neighboring uses on those lands appear to be rangeland grazing, farming, and resource extraction (natural gas drilling).

DISCUSSION

The original Industrial Performance Standard from the Land Use Resolution of 1978, as amended (the old code) that was the reason for the condition of approval was as follows with the original staff response:

5.03.07(C) Impacts on wildlife and domestic animals through the creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.

Staff Response

The facility sits in an area identified as by the Colorado Division of Wildlife as winter range for mule deer and elk. The applicant acknowledges that that facility is incompatible with continued wildlife access, but the entire facility will only occupy two (2) acres. The entire facility will be fenced to prevent access from deer and elk, and a deterrence system will be installed, if waterfowl end up trying to land on the ponds.

As a result, the BOCC elected to require the following condition:

The Applicant shall comply with the following requirements in order to mitigate adverse affects of this operation on wildlife:

> The Applicant shall install a waterfowl deterrence system that consists of the placement of high-tensile wire at regular intervals across the pond. These wires act as a visual deterrent to birds attempting to land on the water, and as a noise deterrent, as the stretched wire creates an ultrasonic (inaudible to humans) sound.

The Applicant has provided an application that contains evidence from the Colorado Division of Wildlife (CDOW) that EnCana's proposal to treat the produced water entirely before it enters the ponds is a great

concept to remove any possibility that an illegal waterfowl take will occur. CDOW believes this technique will accomplish their goals if implemented properly.
Staff agrees and finds that this is an ideal concept understanding that the necessary engineering precautions are in place so that the only water in the ponds have been fully treated and are non-threatening to water fowl.

STAFF RECOMMENDATION

Staff recommends that the Board **approve** the Amendment to the conditions of approval of the Special Use Permit for "Processing, Storage and Material Handling of Natural Resources" on High Mesa for Encana Oil & Gas, USA with the following conditions which are the same conditions from Resolution 2005-57:
That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
That a new resolution shall be prepared, signed and recorded that eliminates the following condition:
The Applicant shall comply with the following requirements in order to mitigate adverse affects of this operation on wildlife:

> The Applicant shall install a waterfowl deterrence system that consists of the placement of high-tensile wire at regular intervals across the pond. These wires act as a visual deterrent to birds attempting to land on the water, and as a noise deterrent, as the stretched wire creates an ultrasonic (inaudible to humans) sound.

The letter from Division of Wildlife stated they support the proposal that EnCana has come up with and look forward to future communication and assurance that this technique is working. We believe this may not be the end to all solutions, but do believe it will accomplish our goal if implementation occurs to the degree that has been proposed.

Applicants:
Christopher – As Fred pointed out, a 3-phase system and the upfront tanks have always existed at the water parks and would continue to act as they do for hydrocarbon recovery. Everything that will float we take it right off the top. What remains in the water and solid phase below that, we essentially pipe straight to what to is called an salt air flotation system and a little bit of a coelacanth it's a simple chemistry to make the really fine particles become larger and then we add a littile bit of a palmer to make them even larger still. What we get is a large visual quarter inch flock that forms in these tanks that we have the mixtures in, add a little bit of air underneath them and it rises all of these solids and any residual hydrocarbon attached to them to the surface and we skim them right off to the top. Then the remaining water we collect this material, the remaining water goes through, we have two separate types of filters afterwards, we have a 25 micron filter, just a real basic screen filter just pulls out any little stuff that got through the system and then behind that we have an oil absorbion filter and it has a full of a media that absorbs hydrocarbons. So at then at that point it discharges to the pumps.
Commissioner Houpt – So at the end of that process how clean is the water, it seems like with the 3 filter it would be pretty clean.
Chris – It is pretty clean, it's nothing like drinking water, we have salt and not a lot I can do about salt unless we go to somethink like a reverse osmosis, like they do something like that – it is not perfect, I don't have well chains in my ponds at all anymore and that is the intent and I have a pretty good amount of hydrocarbon I can recover out of the system and that was the goals, so I essentially have a salt water pond.
Commissioner Houpt – So the outcome is water that is safe enough for waterfowl.
Chris – Yes. And on top of that I have operators that are manned 24 hours a day so we don't obviously encourage them although I've never been told that I have seen any of them land down on our ponds but they have hourly rounds so those folks are in a position to see out over all of the ponds and we make sure they go hourly and walk the perimeter and walk through to make sure everything is okay there so we use a combination of both.
Chairman Martin – Obviously you have convinced the Division of Wildlife, they have come out and reviewed everything.
Chris – Yes.
Chairman Martin – That is their initial goal is to protect the wildlife and they have sent us a letter of support.
Commissioner Samson – I would ask the question out of curiosity, have you installed this type of system any place else in Colorado to a large degree.
Chris – I was essentially a consultant before I came to work for EnCana, industrial wastewater was what I've done over 10 years now. The system is not new technology, it's not something that we invented or anything like that, there is finer points to tuning in a system like this to make it operate well in the condition you are in but Amtrak, I've installed probably 5 to 6 system for them for train washing, so Colorado, yes they do have applications like this – food industries, kilt plants will have them, it's been around for 50 years. It's just a matter of design the equipment correctly, knowing how to operate it correctly, it's very common technology – air floatation are and have been around forever.
Chairman Martin – And the monitoring will take place reporting back, failure will be again another consideration that we may have to take other actions.
Chris – Yes and the nice thing about it, it is very visual so you can see what's occurring and when the operators go around its their job to make sure it is visually and everything looks okay. You can tell that it is working.
Fred – Just a comment, I recall reading through the application, you also talked about having a back-up hazing program basically as a secondary point and asked him to talk about that.
Chris – You know we've done besides just doing that, we purchased some speakers that actually has recorded voices on them, waterfowl in distress and there are a lot of different sounds, the idea is to keep it mixed up so we don't get used to the same sound over and over – they are on solar panels and not sure exactly how many I have probably somewhere in the neighborhood of 6 stationed around facing into the ponds and essentially the noise if they were to come into the area that those distress sounds make them go away. We added that on top of it just to be double sure.

Commissioner Samson made a motion to close the public hearing. Commissioner Houpt - Second. Motion carried.
Commissioner Houpt made a motion to approve the amendment to the conditions of approval for this Special Use permit for processing storage and material handling of natural resources on High Mesa for EnCana Oil and Gas USA changing the Resolution 2005-57 by deleting the current 9d and replacing it with the proposed language found in the applicant's notebook under the project information tap reading "the applicant shall utilize water treatment and filtering as a method of mitigation acceptable to the Colorado Division of Wildlife to eliminate mortality of migratory birds which may rest or forage on the ponds, monitoring of the effectiveness and plans for breakdowns, malfunctions or non-effectiveness will be communicated to the CDOW and Garfield County Building and Planning Department." Commissioner Samson – Second. In favor: Houpt – aye Martin – aye Samson -aye

NOVEMBER 15, 2010
BOARD OF COUNTY COMMISSIONER MEETING

AGENDA ITEM

CONSIDER PROVIDING A RESPONSE TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION (COGCC) REGARDING THE STOP WORK ORDER ISSUES BY GARFIELD COUNTY FOR ANTERO RESOURCES FOR A NATURAL GAS / WATER PIPELINE INSTALLATION - FRED JARMAN
Robert Gavrell for Bob Regulski, Tim Thulson, Chris Cole for Antero, Brit McLin property owner affected and Jeff Simonson property owner affected were present.
Fred Jarman provided the background saying Antero Resources was in process of developing a natural gas pipeline (12,700 linear feet of a 12-inch natural gas line and two 12-inch waterlines in the same trench) across several properties south of Silt, CO intended to convey natural gas and water to and from well drilling locations. Garfield County approved two grading permits for said work on 6/30/10 and 7/1/10. On September 22, 2010, Garfield County issued a Stop Work Order requiring all work stop immediately regarding the grading permits.

The work was stopped by the County during the installation and backfill of a section of the project because it appeared the trench bed preparation and backfill material contained large rocks that could damage the pipelines. There is also a concern that the pipeline was not installed in the established easement described and proposed in the grading permit applications. Garfield County is presently working with the property owners involved and Antero Resources to address immediate road safety concerns and erosion and sediment control problems. A partial lifting of the stop work order may occur to allow work to stabilize these two areas. A second concern is to verify that the pipelines already installed were done so in a proper manner. It is anticipated that field verification by civil engineers will need to occur to review the entire project. Presently, none of the pipelines are in service.
REQUEST
On October 28, 2010, Garfield County received a letter from the Colorado Oil & Gas Conservation Commission (COGCC) requesting Garfield County lift the Stop Work Order "based on this potential for significant adverse impact to public safety and the environment" so that Antero Resources could access the pipeline sites to implement effective erosion control and site stability Best Management Practices (BMPs). It was anticipated that a partial lifting of the Stop Work Order would be needed to address both the issues raised in the COGCC letter and to repair the county road to a safe level to get through the winter. See attached letter to the parties involved dated October 21, 2010. In addition, a partial lifting of the Stop Work Order has been approved to restore the excavation done on the Simonson property. See attached request and response from the County dated November 3, 2010.
Staff agrees that the Stop Work Order could be partially lifted immediately to address these environmental and safety issues as a temporary fix with the understanding that aditional more permanent work may be required after a full review with site investigations. The issue becomes who has the legal right to enter properties and be allowed to do the work. The COGCC anticipates Antero Resources will do the work. One of the property owners, Mr. Regulski, may not agree to this on his property. See Gavrel letter dated November 4, 2010.
BOARD DIRECTION REQUESTED
While Staff has partially lifted the Stop Work Order on Mr. Simonson's property to control dust and properly hibernate the site until later, does the BOCC wish to partially lift the Stop Work Order on the entire pipeline for the reasons stated above.
Discussion and Presentation
Fred Jarman stated the matter before you resulted from a letter that staff had received from the COGCC and staff issued a stop work order on two (2) grading permits, 6-10-1611 and 5-10-1564. The topic ultimately was that the COGCC has asked that the County lift the stop work order so that work can happen to stabilize the ground disturbance underneath of these permits. The memo lays out the actions taken place to date, this is just a refresher for you and Andy will talk about what has happened on the county roads because of the road cuts so at this point it is a question to the Board and a number of folks want to provide you with testimony today so that you can make a decision on whether it makes sense to lift, partial lift or temporary lift however you want to look at it, or fully lift the stop work order so that work can be done either to go in and let the pipeline work continue, the applicant is Antero Resources for the general pipleine work that cross several private property owners and ultimately it is the private property owner who needs to be in the driver's seat so to speak to make sure that what is happening on their property is done so in a safe and proper manner. So, ultimately they really are the applicant in this case. Attached to your memorandum is a number of exhibits here, Exhibit A - Letter from COGCC dated 10/28/10; Exhibit B - Letter from Garfield County to Tim Thulson and Robert Gavrell dated 10/21/10; Exhibit C - Letter from Robert Gavrell to Garfield County dated 11/4/10; Exhibit D - Letter from Dave Strickland (Antero Resource) to Garfield County dated 11/3/10; and Exhibit E - Letter from Garfield County back to Dave Strickland (Antero Resource) dated 11/3/10. Those two letter exhibits memorialize action taken by my department to temporary lift the stop work order as it specifically pertains to the Simonson's property. We had a request that Antero be able to go up and finish work on that cut for environmental reasons and we did do that. But

at that point we had a lone landowner who is here who can speck to that more specifically, so with that this, as we read the State's letter, Oil and Gas Commission letter, it appears to say they are asking you to relive the entire pipeline or both pipeline sections I guess. We know that there are points of concerns for specific property owners that may not be shared for all the property owners, I think it is important to point that out. I imagine we will hear some of that today as well. Andy, did you want to tell them about the road cut?
Andy Schwaller – I did talk to Wyatt Keesberry this morning and the paving has been done where the metal plate was and there was a little bit of shoulder work to be done but it's like one more with Gavrell and some work. There was kind of a large hold adjacent to the river road with barriers and cones up, that's on Regulski property so nobody could do much with it, but there are barriers and cones up so that appears to be a safe location as well.
Fred so I think Chairman that is it really it as the staff memo point out there are two color graphics that show you where the pipelines are and then the related correspondence walks you through particularly the letter that is the most germane really for you all today at least from a staff perspective is Exhibit B, that is important because that is the letter that both Marvin Stephens, Road and Bridge Director and Andy Schwaller, Chief Building Official signed on your behalf that provides a menu of items that need to be addressed with this road cut and the pipeline. If there is a point to start that might be a good one.
Cassie Coleman, nothing unless there are questions specifically for me.
Chairman Martin – We will take testimony from Antero's representative here. Mr. Cole.
Public Testimony
Chris Cole - Mark Mauz who is president on behalf of Antero Marketing and also present in the room today is John Reinwimer who is a principal in Kahoona Ventures which is the outfit that is in charge and supervises the installation of pipelines in this area for Antero and then Larry Wayand on the left he is the head of Wayland Construction which is the pipeline installer company that laid the pipeline out there and then Paul Secaila is the person who is in charge of the installation of pipeline across the Regulski property and we have some other people here, Brit McLin has some words to say and Fred Fry also some information to offer on this particular point and I am Chris Cole representing Antero. This entire matter essentially arose from a trespass that was allegedly performed by Antero, we have already had two (2) full days of testimony on this before the district court; Mr. Regulski has been availing himself of the paper as well as the county process to make this as painful as possible for Antero and I think if you all read the paper you would know that. Some of the just basic facts is that Antero went in and worked on this pipeline started out trenching in July and then waited a couple to three weeks for pipe to show up at which time, when the pipe showed up they went ahead and they started their installation but the trench having been dug on or around August 20 of 2010 a temporary restraining order was issued at the instance of Mr. Regulski from the district court and ordering Antero off the property. Antero following the dictates of the district court immediately removed itself from the property without doing anything more than just removing its equipment they didn't do anything to safe guard the trench or take any further steps, they were ordered off the property and off the property they went.
Since that time, we've been going back and forth with Mr. Regulski and his counsel and whatnot trying to work things out, Mr. Regulski decided apparently that the thing to do would be to invite the County out and to have the County see the condition of the trench. I would share with you all that Antero and its construction crew was impressed to see how things had Regulski deteriorated, they had no idea, no idea of what could have happened to cause that trench to cave in like that. Their impression was that there was simply sloughing that occurred. Now sloughing to the extent of the pictures that you all have seen or may have seen, it would have been some big time sloughing. The one thing that we do find of interest if not only was there sloughing but there also degradable material that was in the trench as well. Working our way through the problem and being here today, the first thing I want to tell you is that Antero is happy to comply with the recommendations that were made by the planning staff and building department regarding this particular trench, the trench on Mr. Regulski's property. They do not find the condition of that trench in that area acceptable to them and they are perfectly willing to comply with ASME B-31.8 2007 and bring that area into compliance. Also, it's good to know that the pipeline has not been placed in service that is nothing but just some pipe in the ground right now and regardless of the issue of trespass or the like, Antero is very concerned about the fact that their reputation as an operator in this area is being besmirched and feel so that this besmirched is wrongful and that is the reason we brought Mr. Wayland and Paul Secaila and John Rhinrhemier here because they can provide testimony should the Commissioners wish to hear it. And my understanding of why that it is that we are here is to simply respond to the request from the COGCC that Antero be allowed to go forward with this project in so far as just safeguarding it through the liner while we work our way through the gears in the district court and we are working our way through the gear in both the trespass case and also in a condemnation case that has been brought by Antero to condemn the right of way and to put the trespass case behind them. In other words, they are ready to pay again for an easement across Mr. Regulski's property. Have you all had the opportunity to take a look at pictures, Fred, my recollection is that you have pictures that shows some rocks and whatnot?
Fred – The Board has seen a variety of pictures but there was nothing tendered with my memo today.
Chris – Okay, but you all have seen those pictures.
Chairman Martin – Yes. The pictures are dated September 22.
Chris – I suspect those pictures were probably taken by your inspector when he went out to the scene and found that. We received today some rather interesting information on this, which you can make a what, you will and that was from an eye witness advising the subsequent team the entry of the TRO and removal of Antero from the job site, the owner of the property was seen operating his backhoe and bulldozer on the subject property. The property owner has testified that has laid pipeline and knows a bad job when he sees one. Antero and its contractors have been puzzled about how the rocks and degradable material could have gotten into the trench. They did not put it there. That is all we have to say on that point. Now, at this point and time if you have any questions from Mr. Mauz I would invite that.
Chairman Martin – What's the pleasure of the board.
Commissioner Houpt – Well, probably more so for the person who was working on the trench.
Chris – We have the person who was directly hands-on in the trench and that would be Paul Secaila. Mr. Secaila would you come forward please.
Commissioner Houpt – This isn't a hearing so people are not sworn in but this is public record right.
Chairman Martin – Yes, it is public record.
Chris – Mr. Secaila would you state your name please.

My name is Milo Paul Secaila.
Chris – And by whom are you employed?
Paul – I'm employed by Wayland Construction.
Chris – And as part of your duties for Wayland Construction can you describe the work you performed on Regulski property.
Paul – It was quite extensive work we performed on the Regulski property but in a nut shell we got our right of way surveyed, we dug a ditch, we laid our pipe and what kind of terrain and rock that was on that property, we crumbed the ditch, we sandbagged, there are three pipes in one ditch – what there was there was two pauluer things, plastic pipes for the water and one steel pipe for natural gas and they all go in the same ditch. While you are looking at the pictures, you can see the kind of terrain and materials that we dug out of the ditch. We crumbed the ditch bottom to make sure there was not large rocks right underneath the pipe before you install the pipe into the ditch, we sandbag underneath the steel pipe then we shade two foot above the pipes before we use native materials and everything is 100% x grade and the hydro tested for making sure the integrity of the pipes are good before we put them in service. We were kicked out of there quite suddenly and we did not get to finish and from some of the pictures I've seen it looks like there has been a lot of cave in and conditions have deteriorated since we left the job.
Commisioner Houpt – I don't have the pictures in front of me but (she was given some extra ones).
Chairman Martin – They were in my packet and Commissioner Samson agreed with that.
Commissioner Houpt – Oh, they were.
Commissioner Samson and Chairman Martin – Yeah.
Chairman Martin – We will share though.
Commissioner Houpt – Well thanks, I will give these back to you.
Chairman Martin – I have another set in here.
Commissioner Houpt – But the condition of this with larger rocks around the pipeline are consistent through the trenches you've saying this was potential caused by a cave in, I don't understand that but….
Paul – The soil conditions there are type C soils, they are not stable at all so with that it's been 90 days since we've been on the property that unstable soils have probably caved in and the larger rocks have probably fallen in there. But as we install the pipe right before we place the pipe in the bottom on the ditch, we will trim the bottom of the ditch to make sure the pipe is not right on top of any rocks.
Chris – Describe what crumbing is.
Paul – We physically get in the ditch, we walk the bottom of the ditch and we physically remove any large rocks that are going to be right underneath where the pipe is going to be or adjacent to that is crumbing the ditch. And we do that right as we are putting the pipe into the ditch itself because with these unstable soil conditions there is constantly caving in so we don't do that process until right when we're putting pipe into the ditch. We crumb it and then we put our pipe in the ditch and once the pipe is in the ditch, we shade it, which we have an attachment for one of our trackhoes and it's got lots of gears on it and separates anything from about a two inch (2") and bigger of rock from the dirt and it makes a good padding material and it is what we put up above the pipe two foot (2') and then we backhoe and lay the material.
Commissioner Houpt – Okay, when you say large rocks could you show me what, how you define a large rock.
Paul – Twelve inches (12") and bigger.
Commissioner Houpt – Twelve inches (12") of bigger, so anything up to twelve inches (12") is okay to have right next to the pipe?
Paul – No not right underneath and not on right on it, anything that is sharper and has a protruding point that would cause damage to the pipe, we remove.
Chairman Martin – How long is the pipeline?
Paul – The complete job – a little over two (2) miles.
Chairman Martin – And how much is still exposed? Open trench.
Paul – A couple hundred feet.
Chairman Martin – And is it in various steps in reference to the pipe being laid, sandbagged, and being reclaimed.
Paul – Yes.
Chairman Martin – And the section we are looking at now in these photographs, I don't know if you've seen these photographs, have you seen these photographs.
Paul – Probably not these particular ones.
Chairman Martin – Would you like to see these photographs?
Chris – I think that would be helpful.
Paul – Yes, so I know what you're talking about, yes sir.
Chairman Martin – I'm looking with much greasewood and sage and boulders and a few other things in the trench itself.
Paul – Yeah.
Chairman Martin – Do you feel that that needs to be revisited if that was the backup?
Paul – Yes that definitely has to be revisited and if we were to get access back onto this property we would probably dig some of this back up and check the condition of the pipe, we will look at the cave in that occurred and make sure there is none of this organic material laying in there or foreign objects in with the material.
Chairman Martin – How many private properties did you go across in reference to that two (2) mile pipeline?
Paul – Four (4) I believe.
Chairman Martin – Four (4). Does the far end, the south end finished or are you working from north to south?
Paul – We're working kind of like a horseshoe so everything, we started on Mr. McLin's property.
Chairman Martin – Has it totally been reclaimed there?
Paul – It is about 90% done on Mr. McLin's property and then we had some trouble with our directional board underneath the County Road from Mr. Regulski's property so we were about 90% done on Mr. McLin's property and we jumped to the west side of East Divide Creek Road and started on Mr. McPhearson's and that is 90% done also, this couple hundred feet is all that is lacking.
Chairman Martin – So you have how much on Mr. Regulski's property finished.
Paul – Uh completely finished. None of it completed finished.

Chairman Martin – None of it is completely finished.
Paul – No.
Chairman Martin – Pipe laid at all in the trench.
Paul – Pipe is laid probably 70% in the trench, but as far as backfill and reclamation, none of it is done.
Chairman Martin – Did you start backfilling at all?
Paul – We started shaking it.
Chairman Martin – Other questions?
Commissioner Houpt – Not at this time, we will have more questions.
Chris – For the record it is safe to say about 700 feet of pipeline that has been installed across Regulski's property and about 300 feet left to go – it's about 1,000 feet from one end of the Regulski property to the other so that is about where they are now there is 700 feet of pipeline in the ground.
Commissioner Houpt – There were other issues besides the condition of the trench. It was location of what was represented on the permit and where it actually ended up – do you want to address that?
Chris – Well that matter is in litigation and we have had contrasting stories, you know, Mr. Regulski says one thing, our people say something else.
Commissioner Houpt – Well our permit says something else.
Chris – It does and so there's, but the truth is at least my understanding of your permit as much as anything else doesn't constitute a finding right of way, what a permit is about is simply making sure that the earth that is disturbed is properly reclaimed.
Commisisoner Houpt – Well, I think we ask for location for a reason so I wouldn't discount that – sorry.
Chris – And I'm not discounting it, all I'm saying, going to the point of, let the property owners and the pipeline sort out their issues when it comes to easements and direction of this and the other, what the county permit is to make sure the pipeline is properly installed and maybe properly reclaimed. That is what my understanding of the grading permit is for.
Chairman Martin – If you left the property the way it is right now, would there be a safety risk to people on and off the property?
Chris – Only to the owner and his invited guests. But certainly the conditions, there are conditions on Mr. Regulski's property that really do need to be squared away. You know while litigation is ongoing, and from our standpoint, we certainly seek to do that, we do not wish to have things get any worse in the great scheme of things. The pipeline is in the ground in and of itself, at least we are comfortable that it was properly installed. Mr. Regulski has his concerns, stated often, but the bottom line is that we will produce, Mr. McLin is going to be here, he's going to testify to the work that was on his property and the quality of the installation as far as he's concerned and this is a lawsuit and basically that's why we are here because of this lawsuit and all these issues could have been resolved in our….
Chairman Martin – What's the depth of the trench right now across Mr. Regulski's property in depth.
Paul – Six (6') feet.
Chairman Martin - Six (6') feet – you say about 300 feet is still open.
Paul – Yes sir.
Chairman Martin at six (6) feet depth.
_____ In a side slope so it is on a hill like this and we had to cut out a level spot so you already had about a five (5') foot cut here and then your six (6') foot trench. So one side of your trench is about eleven (11') or twelve (12') foot.
Chairman Martin – So you see an erosion issue.
Paul - Yes.
Chairman Martin - It needs to be address one-way or the other.
Chris – Not only that but we also have the issue as you no doubt know listening to this, there is a pitch here and so it's going to happen as we have rain and snow melt and the like, things are simply going to degrade. So, in order to fix this we are going to have to have the opportunity to get in and fix it or somebody is.
Chariman Martin – Questions?
Another witness
Chris – Yes, we would call John Reinwimer. State your name sir.
John Reinwimer.
Chris – And Mr. Reinwimer what is your employment?
John Reinwimer – I'm an engineer and a principal of Kahoona Ventures.
Chris – And sir are you acquainted with the pipeline gathering system and in particular the property the pipeline laying on the Regulski property.
John Reinwimer – I am.
Chris – Have you had discussed the situation with Garfield County's building and planning staff?
John Reinwimer – I met on location, I don't recall the date offhand but Mr. Schwaller and other individuals from the County were out there.
Chris – And have you reviewed the County's letter about what they would like to see done in so far as to what perceive to be problems with this particular pipeline installation.
John Reinwimer – Yes I did.
Chris – And what was the date of the letter that they sent.
John Reinwimer – October 21st.
Chris – And sir that would be Exhibit B.
John Reinwimer - It is Exhibit B that we are working with.
Chris – Have you reviewed those conditions?
John Reinwimer – I have.
Chris – And after having been out on the property does Antero have any objection to meeting the conditions set forth in this particular instance.
John Reinwimer – I can't speak for Antero but I think what is being asked for is reasonable.
Chris – And what is the relation with Kahoona to Antero.
John Reinwimer – Antero has hired Kahoona Ventures to perform the engineering and construction management of the project management on the installation of the pipeline.
Chris – so then you are the supervisors of the installation of the pipeline, is that correct?
John Reinwimer – Yeah. I'm personally not the supervisor but Kahoona does have a construction manager who is on site.

Chris - And as a part of Exhibit B – it is stated here that the pipeline should be constructed to meet the requirements of ASME B 31.8 2007.
John Reinwimer – That is correct and …
Chris – Did you discuss that particular ASME standard with the County building and planning department?
John Reinwimer – On location we did talk about it and reviewed certain section of it as well out there.
Chris – And is that the standard that your company policy indicates should be utilized in these particular installations.
John Reinwimer – B 31.8 does apply to these types of gathering systems, pipelines systems it's a national code that is used not only here but in other locations throughout the US.
Chris – Can you describe for the panel, what ASME B31.8 2007 provides in so far as putting in a pipeline in the ground?
John Reinwimer – It runs basically the whole gamut, it runs through the design process as far as selecting your pipe material, how that pipe is joined together, welding or in plastic, how that is fused together - poly pipe, so it goes through a design characteristics of that you have to take into account the location that you're putting the pipelines in with regard to population densities, there are design factors that are applies to that so you go through a number of formulas to design that pipe, there is also sections that describe the installation of pipe, the non-destructive testing of the pipe as well, which would include x-raying of the wells on the steel pipe, and then the finally before you put in the service there's an integrity test, a pressure test, the code tells you how high a pressure you have to go to, and the duration of that test before you can put that pipeline in service. So the code covers a lot of things.
Chris – How many miles of pipeline has Kahoona overseen since you've been with the company?
John Reinwimer – I don't have a good answer on that, over 100 maybe hundreds.
Chris – Maybe hundreds. Now then, you were not on this particular pipeline prior to the time that Antero had the temporary restraining order were you sir?
John Reinwimer – Well, I've been back and forth to the overall pipeline project, I hadn't been on this particular section of the pipeline, Mr. Regulski's property I did not. I had not been on it until I met with the County out there sometime about a month or so- 6 weeks ago.
Chris – But you have since been out there and seen what has transpired.
John Reinwimer – Yes.
Chris – Is it your opinion that there needs to be work done to make this pipeline ASME compliant?
John Reinwimer – Absolutely, what, just by the nature of the temporary restraining order it was a work in progress pipe was going in, the vast majority of the backfill and the final grading reclamation hasn't been done at all. The pipelines are partially exposed out there, there are concerns looking at the pictures, trees, rocks, big boulder and stuff like that doesn't belong there – we would have to check out the pipe and make sure it's still in good shape, all of that conforms really with what was sent out by the county – I can't disagree with that – there are some rocks in there that need to come out, trees are in there, these pictures are 5 or 6 weeks after we had left the site so I'm not certain – it would not be acceptable to leave it that way if we were in construction phase. So there are definitely some things that need to be addressed.
Commissioner Houpt – When did they leave the site?
Chris – Probably around August 21st.
Commissioner Houpt – And that is when the temporary restraining order came into play.
Chris – Yes, it was issued on the 20th.
Commisioner Houpt – And that was issued because ….
Chris – It was a x party temporary restraining order, Mr. Regulski acting through his attorney signed an avadavat saying all these things were going on, on the property and that there, essentially there was a trespass hearing number one and an unsafe construction takings were being utilized on the property and that so that the judge sitting on this case, Judge Lynch, issued the TRO without giving Antero an opportunity to have a hearing on it, we successfully have had two (2) hearings, much testimony, the judge has yet to rule, I suspect to a certain extend that the county's action has taken her off the hook for a little bit anyway because of the stop work order. So even if the stop order is lifted, we are still going to have get some sort of relief from the district court before we can do anything but if the stop work order is lifted, hopefully we will be able to strike some sort of an agreement and absent that, have a hearing on getting back in there and getting this area made safe essentially. Right now as you heard from Paul Secaila we have a significant cave in thing going on there and he has some kids of whom so ever fooling around in the ditch, which kids like to do, something terrible could happen. But that is just the concern. The other thing that is going on as I indicated before it essentially Antero is in the process of condemning a right of way through Mr. Regulski's property and Antero has already paid Mr. Regulski $75,000 for the easement which is really not temple and so now we are having to go and condemn. Mr. Regulski is pursuing his trespass case against Antero alleging all sorts of bad acts and bad faith this that and the other and at the end this is really isn't as much about a pipeline – what is really is about is just trying to obtain as much money as possible through the legal system in our view. Now he may say something entirely different.
Commissioner Houpt – I'm sure he will.
Chris – But the bottom line is that's our, so you know, I think this Board is charged with obviously with protection of the citizens of Garfield County and I appreciate the fact that you are taking this as seriously as you are. But we take it seriously too, we want you to know that.
Chairman Martin – Any questions so far?
Commissioner Houpt – Not at this time.
Chairman Martin – All right. Anything else that you would like us to hear.
Chris – Well we would like to have Brit McLin and Fred Fry come forward and testify about their dealings with Antero.
Chairman Martin – They are also property owners that this pipeline …
Chris – They are and they are affected by this, by the stop work order, it's a part of the project.
Chairman Martin – Who would you like to call?
Chris – We'd like Mr. McLin to come on up.
Chairman Martin – Again we are just taking information and this is not a hearing, not sworn and not under oath at this time. Okay.
Brit McLin – That opens a lot of doors doesn't it John.
Commissioner Houpt – You're on television and you are being recorded so…
Chris – Mr. McLin, why don't you state your name for the Commission please?

My name is Brit McLin.
Chris – And Mr. McLin, where do you live?
Brit McLin – 1078 CR 335 New Castle that would be actually plus or minus 400 acre parcel immediately south and contiguous uphill to Mr. Regulski's parcel.
Chris – Mr. McLin, what is your occupation?
Brit McLin – I am a fire chief among other things.
Chris – And sir have you had occasion to develop a familiarly with Antero.
Brit McLin – Yes I have, and to elaborate on that I have over 58 years of experience with a variety of gas and oil both exploration and production companies that range all the way from some of the smallest old time well cotters right up to oil duck shale and it has been my experience from top to bottom that Antero overall is I guess you would just say, the pick of the litter of the group. They have a corporate mentality that is – it indicates their concern for the environment and the public as well as their leaseholders and the non-mineral owning surface use only.
Chris – Mr. McLin, have you had Antero on your property?
Brit McLin – Yes sir.
Chris – And can you describe for the Commission what they have done with your property.
Brit McLin – Let's see they developed one (1) well pad site and drilled four (4) wells on that site, they have not been completed because of the absence of the pipeline and that is one of things that indicative and Antero's good intentions is they pipe their water in and out of the sites which reduces truck traffic, which reduces dust, reduces for road dust suppressions, Mag Chloride, whatever, and I think in the long terms as a surface use person I end up with a better parcel.
Chris – Have they laid pipeline across your property?
Brit McLin – Yes, sir they have.
Chris – And can you describe what you saw in their installation that they perform. First, I would ask you if they laid the same type of pipe across your property that was laid in Mr. Regulski's property if you know.
Brit McLin – For the part of Mr. Regulski's property that you can see from mine, yes it is the same and it is an extension of the same pipeline so one would assume.
Chris – And what did you, or did you form an opinion about the quality of the installation that was being performed on your property?
Brit McLin – Yes I did because I had daily interaction with the installation crews not because of concern but because I was irrigating the property and I would drive along the pipeline daily – uh, they were both receptive to my concerns and needs and at one point there were connecting to trenches and I couldn't access where I needed to irrigate and then as about as much time as it takes to tell it, they are rectified that situation so I could easily get back and forth on my property. They provided initially a contract that I am assuming is the standard contract, which it says that materials that couldn't be used in refilling the trench would be removed from the site. That was describe to me as boulders or anything over twelve inches (12") in diameter and I told them that in fact I had use for those materials on the property for soil stabilization, erosion control and such and so we modified that contract to reflect a mutually agreeable stock pile area and that's what was done.
Chris – Did you observe them actually doing their work in the pipeline are?
Brit McLin – Absolutely, I was curious about some of it because I was unfamiliar with some of the poly pipe that was going in but I did watch how the pipe was laid, I guess assembled on the ditch bank or trench bank then lowered in to a prepared bottom area. Paul described the shaker literally it's like a sieve and sieves out the large chunks, I was very pleased not just with how the pipe was installed and imbedded but the bit they have been able to reclaim has been reclaimed in a wonderful fashion. There was compaction that was provided at different levels so that I'm not going to be faced with a new trench after three or four years (3 or 4) after I've irrigated. They've done a very high quality job and I'm very pleased with Kahoona's wor
Chris – I'm going to hand you what the Commissioners have looked at by way of pictures that were taken on the Regulski's property, directing your attention to this first one here which is September 22, 2010 shot, you see all that material in there that seems to me to be degradable, did you see any of that on your property in the installation.
Brit McLin – Absolutely not.
Chris – Also, showing you the boulders down below that, these are some pretty nasty looking rocks, did you see any of those kinds of rocks next to the pipeline.
Brit McLin – Nope.
Chris – Up in the right hand corner there this is on the first page, once again, degradable material with lots of rocks, you didn't see any of that either did you sir?
Brit McLin – No, I did not.
Chris – These other pictures in particular the lower right hand picture, does that look like anything you saw on your part of the job.
Brit McLin – Absolutely not.
Chris – Going to the third page now in the upper left hand corner did you see that sort of rubble pile on top of the pipeline.
Brit McLin – No.
Chris – It looks like pipe to me, yeah. Did you see anything like that?
Brit McLin – Definitely not, the pipes were bedded properly and completed in smaller, I call if fines, rather than rubble.
Chairman Martin – Are there any pictures that you see that would be an example of what was on your property?
Brit McLin – Well the pipes are the same pipes and perhaps so that you can see, this does look roughly how pipes were laid in the trench. Prior to that …. And on another page again these were pipes assembled before being lowered and that does look consistent.
Chris – How about all of this rubble?
Brit McLin – Certainly we are in a rocky area and so there was rubble but not put back into the trench with the pipeline, and in fact I have invited the County out to, at their whim and fancy and time and pleasure we'll being an excavator out and I thought in the back, my silly comment would be if we want we have a lot of archeology going on in the County right now and perhaps we could get an archeology team out there to really go down bit by bit by bit, so that you can see precisely what's going on, on a contiguous property.

Chairman Martin – Anything further?
Chris – Nothing from Mr. McLin.
Brit McLin – I would like to offer a couple of things, I try to look at the big picture and the small picture, and the small picture is I really would like to see my place reclaimed and the pipeline company has offered to do it but they are being enjoined from it at this point. I think it is fair to say that the other neighbors would like to see their properties brought back to the condition that they had before. Again, on the small picture, there were roughly twenty (20) men employed on this project that are now unemployed because of this stop work order and that in this day and age should not occur. From the big picture and this is from all Garfield County residents I don't speak for them but I'm speaking about them, there are eight (8) drilled wells on two (2) developed pads that are not in production. They will be in production when this pipeline is completed wherever and however it is completed. Garfield County tax revenues reflect the oil and gas production in the county and those agencies that are taxing agencies that are not DeBruced, gas production and sales reduces the burden on the taxpayer. For those that are DeBruced it allows them to either improve quality of service or infrastructure so I guess I would say please help them reclaim my property and let's think about the folks that are unemployed as a result of this and to apply some common sense. Common sense tells me that they pipeline installers have a liability at least for a certain timeline if there is a failure and they have to come back and repair these things and that is money out of their pocket. I can't just, just reason says they are not going to do this. Reason and common sense tells me that there are thousands of feet of pipeline that are installed on contiguous properties that were installed in a proper quality fashion and I don't know why they would cross a line on the Garfield County Assessor's map and start doing shoddy work – it defines reason and likelihood. I thank you for your time.
Commissioner Houpt – And do appreciate what we need to do in terms of public health and safety.
Chairman Martin – Safety does come first.
Chris – Mr. Frei okay would your state you name for the record.
Fred Frei and I live 287 Midvalley Drive and I also own the gravel pit on 311 road that supplies material to Antero.
Chris – And sir, is your property contiguous to the Regulski property or adjacent to it?
Fred Frei – Well, I'm adjacent to Brit McLin's property which a well pad is on my property and the pipelines were installed from that point to the pipeline that goes across Mr. Regulski's property.
Chris – You heard Mr. McLin's testimony did you not?
Fred Frei – Yes I did.
Chris – Was there anything that he said with what you would disagree?
Fred Frei – I don't believe so, I was on site and watched them put the pipeline in on my property and I wasn't there 100% of the time but every time I drive by there, I observe them, they put the irrigation culverts in our irrigation ditch which supplies water and I went up and talked to those people and I watched them put the culverts in and they did an excellent job – they didn't put any rocks or anything in there, they one little problem, a pipe came apart and they got right in there and they fixed it.
Chris – Sir, were you satisfied with the work that was done on your property?
Fred Frei – Yes I'm satisfied with the work that was done on my property and I've also you know talked to Antero about they are going to buy material from me to bed the pipes if there was a problem and I've got extinct material for that to finish the project.
Chairman Martin – Would you look at those photographs and see if there is any installation of pipe that meets the same in those photographs that was installed on your property.
Fred Frei – There isn't any rocks of this size on the property where my well pad is …
Chairman Martin – And the same workmanship that I am seeing in those photographs.
Fred Frei – No they didn't, there wasn't anything put together like this.
Chairman Martin – Any material left in there at all or shown that you saw on a daily or drive-by, you saw any kind of material like that?
Fred Frei – I never saw any of this when I drove by, I went back after the fact and looked at it and I did see these picture or what was in there, but I didn't see them put any of that in the ditches.
Chairman Martin – Has your property totally been reclaimed Fred or just partially reclaimed?
Fred Frei – Just, I think there is a little bit more work that needs to be done but for the most part my property has been reclaimed where the well pads are.
Chairman Martin – And any sinking in the trench or around the trench?
Fred Frei – No there isn't any sinking at all on my property. Where this parcel is that's a gravel bar and I know something about gravel bars and I dug through many of them and they are not easy digging, this is probably the worst condition that you could try and lay a pipe in.
Chairman Martin – There are hazards – okay.
Chris – I don't have anything else.
Chairman Martin – Questions from Fred? Other people that you would like to have.
Chris – We have Jeff Simonson has joined us. State your name sir.
I'm Jeff Simonson.
Chris – And where do you reside?
Jeff Simonson – 2045 CR 21.
Chris – All right sir and your property was caught up in this dispute.
Jeff Simonson – Yes it was.
Chris – and uh, you have had a significant amount of excavation on your property during this pipeline installation.
Jeff Simonson – Yes we did.
Chris – And your pipeline, and your property has been left open or was left open for a period of time – a significant period of time.
Jeff Simonson – Correct.
Chris – Has your property been put back together again?
Jeff Simonson – It's been put back in a temporary fashion. There's anticipated additional pipeline work that will be performed so they have temporarily backfilled the hole that was left and made the conditions safer.
Chris - So prior to the time the work was done, did you have an opinion as to how safe the situation was out there?
Jeff Simonson – On my property, I felt it was unsafe.
Chris – Sir, what do you do for a living?

Jeff Simonson – I'm and engineer.
Chris – Okay, have you seen pipeline installations before?
Jeff Simonson – Yes, I have.
Chris – And you worked through the trenching situation.
Jeff Simonson – Yes, I have.
Chris – So you would then know if any things were not good.
Jeff Simonson – Yes, I would.
Chris – Now has Antero laid a pipeline across your property?
Jeff Simonson – What they did across our property and what we permitted or had an agreement with Antero to do was to bore our property, they performed one bore that they took roughly 4 weeks I believe to bore and they ended up losing the pipe when they were pulling it back through and that is how the hole ended up in our build but they excavated for it and so they got that one bore in and started on the second bore and ran into additional problems and that is how the project stopped.
Chris – Do you know what was causing the problems?
Jeff Simonson - Uh, large diameter balsamic rocks sitting above the bedrock.
Chris – And was there generally was it just unsuitable for boring as it turned out.
Jeff Simonson – From their perspective, yes.
Chris – Okay, do you have a request of this Board of allowing Antero into commence their work again to complete the repairs on your property?
Jeff Simonson - I called Andrew and asked if we could get the stop work order lifted so we could get the hole filled in and try to mitigate some of the dust and be able to exercise some of the best management practices in relationship to controlling drainage, dust and basically taking care of the site as is mandated by the Colorado Department Public Health and Environment with the storm water management plans.
Chairman Martin – Any questions of Jeff? Jeff the same questions to you another property owner, any of the installation issues on those photographs that are depicted happening on your property.
Jeff Simonson – No, again they didn' trench across our property, they just had the bore and then they excavated the hole to recede their bore.
Chairman Martin – Okay. That is all I wanted to know so you didn't see that kind of stuff at all.
Jeff Simonson – Not on our property no.
Chairman Martin – Anyone else?
Chris – I don't think we have anybody else.
Chariman Maritn – And the overall request from Antero is to …
Chris – Is to lift the stop work order understanding that number one that there is property here that you have heard from the landowners about …. These are the ones affected by the stop work order and they have requested it be lifted and district court still has to lift a TRO to allow us to go to work on Mr. Regulski's property. But the bottom line on the deal is I think that the affected landowners are requesting that this COGCC requested relief be granted in so far as their property is concerned and Mr. Regulski is of course going to take a irresistible postion I anticipate but with that we will humble cease and desist.
Chairman Martin – One other question in reference to the items that Andy has put down on what would need to be done in the different steps that he has outlined there, does Antero expect if it was lifted to meet all of those requirements.
Chris – Absolutely.
Chairman Martin – And also the oil and gas conservation issues be met?
Chris – Yes, I mean our goal is to operate in compliance with the regulations of course in the County and the other, we would say that we do not wish this acquisition to necessarily turn into some sort of a course of conduct where we would have engineers signing off on everything that was done but in this instance with these allegations that are raised, we're willing to be agreeable to allow this commission to feel as though there is some servitude in what is being done here since the issue has been raised.
Commissioner Houpt – Would it be a bad thing that to require engineers to sign off?
Chris – Yes it would be.
Commissioner Houpt – Why not?
Chris – Because it is expensive and it slows things down and because we have no – if we had a situation where we had had you know, lots of pipeline breaks, or big issues all the time and the pipeline industry then I would say absolutely, you need to have inspectors out there.
Commissioner Houpt – There have been problems with pipelines in this country and this
Chris – Yes, in this country but most of them are caused by backhoe operators or explosions in California where the earth moves. So, it's not around here so much. You are always going to have issues, I mean there are always going to be issues that will arise, there always will be.
Commissioner Houpt – That's right so it's always better to take those precautionary measures up front than later on, I mean it is something to think about. This is costing people a lot of time, a lot of money, a lot of heartache and maybe if those….
Chris – I don't dispute the anger, I'm not so clear on the revelations but in any event, these matters have been brought up and so we're doing our darness to address them and certainly my understanding is that this gas line is not the kind of gas line that is a high pressure gas line, this is a low pressure gas line and it is not in a high population area and certainly is it not to Antero's benefit to do anything that would cause a pipeline explosion because they are the ones ultimately that would get tagged for it. Now I not making light of the rights of the citizens of the county to be protected from such things but simply they are doing their best to do it the right way. The witnesses here I think we're very clear and I thought were convincing to me that they are trying, that this is not a slip shot ….they take pride in what it is that they do and so I can tell you from dealing with Antero and Mark Mauz that he takes pride in what he does and he is really really concerned about this. So this isn't just a matter of just the industry blowing by and trying to get away with something, they are not.
Chairman Martin – Any other questions?
Commissioner Houpt – Not at this time.
Chairman Martin – Bob would you and your attorney like to make any statement.
Bob Regulski – Rob I don't how you want to handle this – this has been an incredible story.
Chairman Martin – Let's do some protocol. We're not trying to do a criminal case here, we're not doing a court case.
Bob Regulski – I understand that but they're not telling the truth.

Chairman Martin – What we want to do is see if it is again the ability for us to have safety factors and lift the stop work order for other issues. So again, court proceedings will take care of other issues. So I would like to hear anything that you have in reference to the stop work order and should we keep it in place or should we lift it. So introduce yourself and then your….
My name is Bob Regulski.
My name is Rob Gavrell and I represent Mr., Regulski both litigations going on and I brought by Antero and one by us. Our position is best stated in the letter that we sent that is before you I understand that is Exhibit C.
Chairman Martin – October 4th letter or was that from Worrell, Durrett….
Rob Gavrell – November 4. This letter is response to the letter sent to you October 28.
Chairman Martin – And that is Exhibit C.
Robert Gavrell – Yes, if it is, I don't know.
Chairman Martin – I want to make sure, because we have another letter from Bob on this one.
Rob Gavrell – I do want to make sure you are looking at the right one, they do relate to each other a little bit and the other letter is referenced in – the other letter is referenced in Exhibit C. I do need to set the record straight here, I was frankly surprised to hear so much testimony going on from the Antero representatives and Mr. Cole about their position, it is now practice as an attorney to put my client on the stand so to speak and on the television where their testimony could be used later and I was entertained by that. We will not be making any statements of that brought scope and character. I do want, I do want to make some things clear, the litigation that was brought by Mr. Regulski initially was characterized as being about fraud and bad deeds and whatnot, I believe is what Mr. Cole said, fraud, negligence construction and trespass and the two (2) day hearing before Judge Lynch brought to light that the landman for Antero that did not testify today before you retracted his previous testimony he gave on the first day on the second day. The first thing was that Bob had given permission to move the easement and then he said, no, that really didn't happen. If I understood Mr. Cole correctly saying that there is a suspicion that Mr. Regulski was moving boulders on his property that has never before been mentioned, was never at the preliminary hearing, I don't believe it has ever been brought to you two staff's attention certainly I've never heard anything about that. So there were a lot of characterizations that were just frankly very odd to me. The most is that Mr. Regulski is involved in incredible expense litigation to try to get some money out of Antero. The state of the pipelines on Mr. Regulski's property is a Rob Gavrell abominable, we've had a variety of engineers look at it and they've told us it's about the worst they have ever seen. One of them was the ex-director of the PUC in Oregon and he evidently spoke to Mr. Schwaller about this and you can speak to Mr. Schwaller about what he had to say. It's a very serious issue, and it's not about two (2) adjoining property owners that think Antero did a good job on their property – I wish it were but it's something goes wrong with a produced water pipeline or a natural gas pipeline we're talking about serious ramifications. Intakes for Silt and Rifle are down steam of that, it's at the conflux of Divide Creek and the Colorado. We know Antero has already had one (1) leak in the county there was an exposé by KREX TV that perhaps you saw, a three part series done by those reporters with problems with Antero's pipelines in this County. I think the position of Antero, the unusual postion of Antero can be best be summarized by your question Commissioner Houpt at the end, why can't we just have engineers review all of this, that is the most valid question I can imagine. That is the position we have taken in our letter. If the COGCC is concerned about erosion on the hillside, let's address it, we certainly do not want erosion to impact the county's road or impact safety, but the stop work order issued by your staff lays out something like twenty (20) specific criteria of what needs to be done based off their investigation of the pipeline situation as presumed to these two (2) grading permits, I'm sorry fifteen (15). They are very straightforward and they're not hard to meet. Provide a sealed letter from an engineer registered in Colorado verifying that the irrigation pipe size crossing the pipeline is adequate and appropriate for the volume of irrigation flow. Provide a sealed letter from an engineer registered in Colorado verifying the backfill below and around the irrigation is placed and compacted to prevent the pipe from washing out. These are very commonplace things you would want to see if you're dealing with substantially dangerous pipelines. Your staff asked Antero do this October 21. The stop work order was issued September 22nd and to my knowledge no response has ever been made to any of these requirements, none. I don't know why Antero is here asking you to lift the stop work order having not met a single obligation that the County has asked them to meet – very common sense obligations regarding this issues asked for almost a month ago. And I think that is a question that you need to be asking yourself.
Commissioner Houpt – Are they allowed on the property to do this?
Rob Gavrell – Many of these don't require them to be on the property. If you look at the second page, page 2, I think these are something that we need to keep in mind, this is not about Mr. Regulski's property, this is about the entire pipeline two (2) miles of which I understand from the testimony given today. Provide a detailed showing material specification for bedding, pipe shading and backfill of the trenches. Just show us what you're talking about. Provide a certification program to verify all sections of the pipelines of the grading permits, meet the requirements of the engineer …. That was testified to. That's all your staff is asking them to do but they failed to do anything.
Commissioner Houpt – Have we received any response Andy from this letter any of these details that don't require being on the property?
Andy Schwaller – I know on item number 7 we did get a detail of showing a typical profile of how the backfill a pipe correctly but that is all that was issued.
Commissioner Houpt – That's it. Okay.
Rob Gavrell – So I think there is a lot of inquiry the Commissioners should make into why is Antero is asking to do this without the benefit of any engineering, why instead of going through your staff to meet the requirements you're talking to them about these concerns or explaining why they are too onerous, why are they coming to you with virtually all of their workers who were on this project to testify about how they think it was done really well just show us, show us the engineering, we feel a lot comfortable with that and I think the Commissioners would and many Garfield County residents would too, knowing that this was done in a safe manner, just as they say it was and if it was there's no problem. There's no problem. In the meantime our position is simply as we put in our letter, if there are issues, valid issues with erosion, let's addres them, I believe our letter requested that we all go out to the site and talk about how we can best address those issues and them implement them in the short term so as long as we are talking about the long term and what needs to be done in the long term of the erosion of this pipeline.

Commissioner Houpt – When you talk about short term versus long term are you talking about in the short term taking care of the immediate erosion issues and in the long term talking about the pipeline or what's the difference between the long and short term.
Rob Gavrell – Well in COGCC's letter suggest there are eminent and immediate concerns regarding erosion at the site. But it is what the COGCC is asking for which strikes me as odd is the solution is that the entire stop work order project wide to deal with this one hillside. I don't understand the logic of that. I think if the hillside the problem, we need to addres the hillside but to the extent your staff have independently determined that the project of the pipe is a potential problem but there are serious reasons to be concerned, serious enough to just want some engineering data backing up what Antero is saying. That we need to address that. Those issues need to be addressed.
Chairman Martin – I do believe I asked Mr. Cole if it was lifted would he meet all of these requirements. And the answer was, of course. Would that satisfy you at that time?
Rob Gavrell – It could only in that your staff has indicated that these would be conditions precedent to lifting the stop work order and I encourage you to speak to them on this by what they mean by all of this but if all of these things were met, if there were certified letters from engineers and a detailed program about how you test to verify the pipelines were installed correctly, if all of that was in place then the County is free to do what it feels is best for the safety of its citizens. But none of that has been provided. Well, it sounds like one has if I understand correctly.
Commissioner Samson – But I reiterate the concern what the Chairman just said, is that if all of these requirements are met by Antero then you're okay with lifting the stop work order, correct. I guess what I'm saying is I think we're at an impasse but we've come to the point where we can get beyond the impasse and we could go on for the health and safety of everybody using these guidelines if you're okay with it and they're okay with it, I believe we're going to be okay with it, the work can get done and the health and safety of everybody is guaranteed, now what happens in the court case between you and Antero that's – you'll have to fight it out.
Chairman Martin – That's different.
Rob Gavrell – Agreed.
Commissioner Samson – But I think we're to the point here, correct me if I'm wrong, that if these fifteen (15) requirements are followed, you're okay.
Rob Gavrell – I'm not prepared to say that right now, I'm only qualifying in this one matter, I know that I sent a letter either myself or Mr. Regulski sent letter to your staff with our opinions of whether these were good enough for what we thought should be added to them, your staff probably has copy of it. So, those concerns plus these should be sufficient but I don't have that letter in front of me, I apologize.
Commissioner Samson – So you are saying there's some other requirements.
Rob Gavrell – The letter that I sent maybe it's an exhibit in the packet.
Fred – The letter I think you are talking about was dated November 4, 2010.
Chairman Martin – That is the one that I alluded to.
Fred – Yes, that is part of the packet and the record is Exhibit C. That's the only one.
Commissioner Samson – So help me Fred, are there other requirements listed in there?
Commisioner Houpt – Do you want to look at this and see if this is the letter…?
Andy Schwaller – I think it is.
Commissioner Samson – Cause I think we'd to the point where we can draw a conclusion here.
Andy Schwaller – I think during the review of the entire pipeline there are other issues that do come up and our letter does leave the door open because should something come up because you look at other things that they might be additional conditions but that depends upon what we find when we go out and start looking.
Commisioner Houpt – So when you wrote that letter and I don't have it right now, but when you wrote this letter was it your opinion that a number of these items should be addressed before a work order is lifted.
Andy Schwaller – Yeah I even say it the letter that a partial lifting of the stop work order would be available to do work on the site, we have to do some things out there to get further along which we have already done on Simonson's property.
Commissioner Houpt – Do you have specific items that you want to see happen before a partial work order was lifted or does that happen all at the same time?
Andy Schwaller – The partial work order would be lifted for individual things based on their needs.
Commissioner Houpt – Okay.
Andy Schwaller – The County roadwork is one, the stormwater issues could be another, Jeff Simonson's property is a third and there is other rehab work too.
Commisioner Houpt – And what if Mr. Regulski doesn't want Antero or their contractors working on his property. I haven't heard from you, I don't know…
Chairman Martin – That is an issue in court I think right at the moment, I think that's an issue in reference to litigation and I don't think that you want to tell us to go there. That still has to be resolved in the court, am I correct.
Rob Gavrell – Well, that you for letting me look at your exhibit Commissioner Houpt and Exhibit C references the letter sent by Mr. Regulski on October 26 where he addressed that. I believe it is strongly expressed that Antero contractors not be the ones doing any work on his property but the question before you is nothing to do with our litigation. It's whether the conditions your staff in their stop work order have made upon are reasonable if it's in the public safety and interest of public safety that the stop work order stay until these reasonable concerns are met. My understanding is that Antero has had a month and one-half to deal with this and hasn't done anything except deal with one and now there's been a show put on for you today and I don't quite understand and it think you should be asking yourself why none of these communications have gone to planning.
Chairman Martin – Why they haven't come to this Board I think it important, it may have gone to planning and to staff and they are waiting for direction from this Board. And what it amounts to is do we have an impasse as Commissioner Samson said or not, should we go ahead and lift the that to make sure these conditions are met or not. These conditions are again what our regulations and inspections said need to be done – are we going to allow them to be done or not or sit there in limbo and that is what we have in front of us, not your litigation.
Rob Gavrell – Right.
Commissioner Houpt – It appears to me that if we support this letter as a Board and put ….
Chairman Martin – Exhibit B?

Commissioners Houpt – Exhibit B and allow our staff to be in charge of determining, depending upon what happens in the court cases, determine what portion can be lifted at what time and for what purpose then I'll be comfortable with that but I would want our staff to be in charge of that as it outlined in this letter.
Chairman Martin – Meeting the requirements of the grading permits and the inspection which Andy is in charge of, they should be in charge of that and no one else should be, meeting those standards and to satisfy the Board with a report that it has been met then we can say the health, safety and welfare of this issue has been done. Now, back to the other issue that was up to the court to take care of that issue.
Commissioner Houpt – But it's not a question of doing a general lifting of the stop work order, that's not what this letter says.
Cassie Coleman – Well really I mean we are here for the limited purpose of just responding to the COGCC and even if you did a blanket lifting of the stop work order the court order prohibiting Antero entry onto the land would still supersede you lifting the stop work order. I mean at this point your role is really limited.
Commissioner Houpt – Yeah, but this approach makes more sense than…
Cassie Coleman – And that's why we've trying that, that's why staff issued the letter stating exactly what needed to be done on the property.
Commissioner Houpt – Go beyond that….
Cassie Coleman – Well, we just need to respond to the COGCC or not, I mean that is what we are here for today, if you want to respond to the COGCC and how regarding their request as to our stop work order. The other issue was raised a little bit with Chris Cole about the location, the grading permits that are in place are not for the location where the pipe actually is so even if and Fred and Andy can address this more but even we lifted the stop work order I think they need to come in and reapply for grading permits for the actual location really are.
Chairman Martin – And legal descriptions. Okay.
Cassie – And then we can go from there and address those issues in acting on the grading permit application for the correct location – that is the other alternative.
Commisisoner Houpt – Well, if we can lift the stop work order under these conditions, can we do that, because I, it seems to me that this is the direction that we need to take if we're going to allow any activity to occur.
Cassie Coleman – And I think your response to the COGCC could be just that, that subject to the conditions identified, you know, staff, building inspectors, and Andy and Fred would work with the property owners really because they have to be the applicants here in either lifting the stop work order or issuing new grading permits. The grading permits are issued for Dixon Water Foundation, Midnight Star Breeders, LLC and some other entities because they are actually the property owners.
Chairman Martin – I believe we have four (4) properties, is that what correct counselor, four (4) properties…
Cassie – There's about six (6) property owners.
Chairman Martin – That has been crossed…
Cassie Coleman – Because they're easement holders and there might not be six (6) different people but there are LLC's, it's the people you have heard from today but then also Midnight Star Breeders, Dixon Water Foundation, the Discovery Trust or Fund, there's a couple others who has surface use agreement or other easements with Antero.
Chairman Martin – All right, we can deal with them.
Rob Gavrell – Well, what we said in our October 26 letter I believe was that when we look at these criteria and I'm recalling now, it starts with the criteria of Mr. Regulski's property and end with the entire pipeline. The criteria regarding the entire pipeline are requests for Antero to provide an explanation of how they would do things, how they would test this and how they would certify it was done correctly, to get all state, county and federal permits required. These are things that do not require going on Mr. Regulski's property or to lift the stop work order and what we asked was that these first requirements which are of greater concern countywide pipeline wise, is that they be met first that these plans be submitted and if they're approved then let's talk about lifting on Mr. Regulski's property to get done what needs to happen but none of that has been done yet.
Chairman Martin – And I don't think that we'll go ahead and go into Mr. Regulski's issue in reference to his property and the litigation. I think we need to stay out of that particular one, stay on the other issues.
Commissioner Houpt – But that's not part of the litigation that he is talking about, it's part of the letter our staff sent….
Chairman Martin – I understand.
Commisioner Houpt – to both attorney's for the parties and you know I think that it's important to work with the other property owners, I don't think that it's wise to assume that just because there a different conduct on one area that something else couldn't have happened in the other area that is not ours to determine but these conditions are really important and I could support the notion of lifting a stop work order if it moves forward only under the conditions that we've set forth or that our staff set forth in this letter.
Chairman Martin – We've been around this tree about six (6) times now, I think it's time to make a decision.
Bob Regulski – Well you talk about the health and safety and welfare of the citizens of Garfield County. If Antero is permitted to go forward, you're jeopardizing it, okay. The people that were up here today Brit McLin, I asked him to go out and look at this pipeline, he didn't, he said I'm from California, I'm used to gas and oil wells, look what happened a couple of weeks after went he left for Austria, I had people from Burning Mountain Fire District come out to the site and said this is an accident waiting to happen. They were so concerned they called Antero and I haven't come out because these guys are all afraid of losing their jobs. The engineers, I can tell you about Jeff, I can tell you about all the engineers that are afraid about losing their jobs because of these guys. So anyway, uh they come out, Burning Mountain Fire District comes out and they call Antero. Antero sends somebody out an hour later. Antero, some of their head guys, says these pipelines got to come out – this is done totally, we've never seen anything like it. The pictures that you have were taken the day after the stop work order, none of the rocks fell in like Mr. Balcomb said in the newspaper article or Chris Cole saying, I mean these allegations that I pushed the rocks in the ditch, I've never seen such construction in my life and every engineer will say the same thing. For the health and welfare of everybody in this county, you cannot let these people go on. I can go on more but you know it's …

Chairman Martin – Well with The recommendations of staff and inspection of staff they are meeting the standards, inspected by the grading permit Bob and….
Bob Regulski – They are not meeting the standards John.
Chairman Martin – If they go forward and it's inspected by these folks the answer is yes it will because they are not going to pass it unless it meets those requirements.
Bob Regulski – What are you going to do with the pipeline that's put in the ground put in improperly from McLin's property including McLin's properly down? You know, I mean you got their witnesses, you know I mean it's….
Rob Gavrell – I guess what Mr. Regulski is saying is our position if the Commissioners would like to partially lift the stop work order to deal with some of these things in sequence, that's fine. That has already happened with the County road issue and there's been full cooperation to deal with the road issues, a public safety issue, the next to seems to me is title regarding the entire pipeline on page 2 of the staff's letter asking for specific things to be provided to staff so the staff can evaluate the safety of the entire pipeline.
Chairman Martin – That is part of the condition.
Rob Gavrell – And if that is allowed, then after those conditions are met then that part of the stop work order could be lifted but we don't, what I think Mr. Regulski is saying is, he does not want the stop work order lifted on his property until all the other issues are dealt with.
Chairman Martin – I understand.
Bob Regulski – Or anybody else's.
Chairman Martin – We have to inspect and we have to do things to go on – we cannot just stop and just say it's bad and not do anything about it cause then I believe I think would be neglectful there as well. I think we have to have some form of action and that action is to go ahead and meet all of the requirements, inspections that the staff has put down, fifteen (15) of them, satisfy those and you guys deal with your issue there to make sure it is safe and done properly on Bob's property.
Rob Gavrell – So I guess what we are saying is the stop work order if the county wants to lift it would be for seven (7) through eleven (11) first but not lifted for one (1) through six (6).
Chairman Martin – That is what I need to talk about. Anybody else open hearing. It is actually a town meeting is what it is. Anything that you would like to add to the discussion Andy or Fred.
Commissioner Houpt – So are you comfortable with the notion of moving forward with seven (7) through eleven (11) first and it is your understanding that then twelve (12) through fifteen (15) is complete?
Andy – I think it is very close to being completed, you'd have to check with Road and Bridge on those permits if there were still some issues outstanding with them. I know where they paved across is complete, that's been done, uh the hole adjacent to the road is still there but it does have cones and barrels so is should get through the winter but something would have to be done with that in the future. That's on Regulski's property.
Chairman Martin – We'd have to deal with that until after litigation is completed.
Andy - I assume so. And items seven (7) through eleven (11) we do have the door open if the survey was done on the entire pipeline and there were issues found we could add to the seven (7) through eleven (11) as the content of the letter.

Motion

Commissioner Houpt – Okay. So if did a temporary lifting of the stop work order and allowed under that the seven (7) through eleven (11) of your October 21st letter move forward and then outcomes are reported back and we look at it again after that's occurred, is that helpful. Okay. That would be my motion.
Cassie – To clarify, would it be your motion that this is how our response or how you're directing staff to respond to the COGCC, it that this what we intend to do.
Commissioner Houpt – Yes.
Cassie – Okay.
Commissioner Samson – I need to hear the motion to make sure I'm clear on it.

Restated Motion

Commissioner Houpt – Okay, the motion would be that we allow a partial lifting of the stop work order and under that partial lifting we allow seven (7) through eleven (11) to move forward, seven (7) through eleven (11) that are outlined in our staff's letter of October 21st to move forward on this project and then staff will report back to us after that's been accomplished.
Chairman Martin – Because all the other items have already been completed or close to (12) through fifteen (15) and the others.
Commissioner Samson – How about one (1) through six (6).
Commissioner Houpt – That's Mr. Regulski's property and I think we need to set that aside.
Commissioner Samson – That is what I wanted to hear. I will second the motion.
Chairman Martin – Any further discussion.
All in favor: Houpt – aye Samson – aye Martin – aye. We have a partial lift of those items seven (7) through eleven (11) and …
Commissioner Houpt – I'm sorry and a portion of that motion was that motion was that the letter to the COGCC …
Chairman Martin - … was our response to that.
Cassie – And would you like that drafted for John's signature.
Chairman Martin – Let's see if we can put it all in order. Thank you everyone.

PUBLIC MEETINGS:

TO CONSIDER AN EXTENSION OF A TEMPORARY EMPLOYEE HOUSING FACILITY ON CHEVRON PROPERTY. APPLICANT IS WILLIAMS PRODUCTION RMT. - FRED JARMAN

Fred Jarman, Don DeFord and Phil Vaughan with Phil Vaughan Construction Inc. – No notice was required.
Fred gave the background saying, as you may recall, in December 2006, the Board of County Commissioners (BOCC) approved a Special Use Permit for a Temporary Employee Housing facility for Williams Production RMT on a parcel of land owned by Chevron. The BOCC has approved 1-year extensions for this facility up to the present day with the most recent approval on March 10, 2010. This property is on the plateau as shown below.
STAFF COMMENTS

Resolution 2006-115 contains a condition of approval (condition #11) that allows the facility to be in place for 1 year; however, the BOCC may renew the approval for "good cause shown." An annual review is to be conducted based on the standards for temporary employee housing as well as the permit requirements such as the conditions of approval.
Staff has reviewed the requirements of this permit approval and has conducted an on-site review (staff site visit) to verify that the conditions continue to be met. The Code Enforcement Officer conducted this site visit in February 2010 and has confirmed that the facility remains in compliance with its requirements. All permits with Garfield County are in good standing. Sandy Hotard for Williams Production RMT has provided the BOCC with a letter that explains their need to keep the facility in place for another year. Staff recommends the BOCC grant a 1-year approval set to expire on January 15, 2012.
BOCC Action Requested
The BOCC is being asked to renew the Special Use Permit for a Temporary Employee Housing facility on parcel 2137-153-00-009 for 1 year, which would set to expire on January 15, 2012.
ATTACHMENTS
A: Letter from Sandy Hotard for Williams Production RMT
B: Resolution 2006-115
C: Staff Field Visit Letter from February 2010
D: Previous Letter to Williams Production RMT acknowledging BOCC Approval for past extension
Exhibits A –D into the record.
Fred agrees and continues to operate within the perimeters that you have set forth, I did provide you with a copy of the Resolution that puts your requirements in place and then also the letter from the staff's visit in February and then fianlly just proof of your last extension back to the applicant. Staff does recommend that you do approve this yet again finding that it sits well within the spirit of formal action that you just took as a Board on temporary housing allowing for the facility to operate with the temporary housing but be able to work next door on another site. That was under the Planning Commission forwarded recommendation to you unaminiously and you all did the same thing about a month of more ago. So this fits well within that policy.
Phil Vaughan – I have not presentation before the Board of County Commissioers and appreciate your ability to extend this for one year obviously, the facility is operated within the guidelines you set forth in 2006.
Chairman Martin – So you're support the staff and also urging us to go ahead and authorize the approval of an extention.
Phil – Yes sir.
Commissioner Samson – I would move that we renew the special use permit for temporary employee housing on a facility parcel 2317-153-000009 for one year which would set this to expire on January 15, 2012. Commissioner Houpt – Second. In favor: Houpt – aye Martin – aye Samson -aye

Chairman Martin - One more item set at 3:30 p.m. Is that before the Board of County Commissioners or is that just for informational purposes. Is it business.
Commissioner Samson – Let me get some notes.
Don DeFord did not have any other items for today.

Approval of Minutes
Chairman Martin – I have some in the packet. Are these just for review or approval.
Jean – What they are, I think what we decided is that you how many weeks after they were submitted to you to submit changes and if you didn't we just going consider they were approved and get them up on the website.
Commissioner Houpt – I would like to like to wait a week.
Chairman Martin – That would be August 16, September 7, September 13 and October 14 and October 4 that I have in my packet. So if there are changes, please do it within the time limit, if not then they can go on the consent agenda or.
Jean – So I guess if we don't hear from you by the next meeting if there needs to be changes, then we will put those on the consent agenda for approval.

Commissioner Issues:
Commissioner Samson – Mr. Jerry Otero from Senator Udall's office and it's a Grand Junction phone number so I'm assuming it's his field office in Grand Junction, called and wanted to talk to me about the, I call it the oil shale trust funds that they have been working on and I think it would be good for us as a Commission to take part in a phone call conference at 3:30 today. I've asked that Charles Zelenka put this up at this number so we can give him some information on that.
Chairman Martin – Do you feel this needs to be Board action or is it a…. I think it is an informational gathering issue and I don't think we need to make any Board decisions based on that, so…
Commissioner Samson – I don't think we would be making any decision, I think he wants information from the Board concerning the oil shale trust fund.
Don – Do you need other staff members to assist you such as finance.
Chairman Martin – I think it is just an informational gathering issue.
Commissioner Houpt – Let's see what he is wanting.
Commissioner Samson – I'm not sure other than I think he just wants to know as much history about it as he can get and what plan of action we would like to see. What we could do to maybe help Senator Udall's office to secure those funds for us.
Commissioner Houpt – Maybe we should do that individualy and then have a formal meeting when it's agended because otherwise if he asks us what direction the Board wants to go on this, that does turn into a formal meeting.
Don – Actually, that is correct, then you have to have motions.
Commissioner Samson – Why don't we take a recess and why don't we just listen but not give any direction to him formally until we can meet formally.
Chairman Martin – That is the meeting I believe that we attended several years ago with Senator Salazar, Senator Allard, Representative Udall, Representative Salazar in Denver on this very issue, they knew all the history, they did legislation, introduced it together in both houses and nothing has changed since then.

So I'm not sure what something new, it was defeated and then later on Senator Salazar did legislation just to do the opposite and it passed and that money is not longer available, so I don't know what we are trying to accomplish through Senator Udall.
Commissioner Samson – That's why I think it would be good for him to talk to us.
Chairman Martin – Okay, well I think that we need to do it, not on the record.
Commissioner Samson – If we could get millions of dollars let's go for it.
Chairman Martin – I think we need to do it different manner other than a Board meeting.
Commissioner Houpt – Agreed. Actually maybe you should have a conversation with them and I don't mind calling him and talking to you and John has certainly been engaged.
Commissioner Samson – So you want me to just talk to him at 3:30 and then have him call you two separately.
Chairman Martin – I think we need to do that and then we also have other people that are in that very camp, I know that Aaron Diaz had a lot of information assisted as well as Jim Evans who had a lot of information and Larry McCown had a bunch and other people that have a lot of history that we are going to have to bring together if it is going to help Mr. Udall to make any kind of legislation.
Commissioner Samson – Well, Ken Parsons was going to on the call, so I will be on the conference call with Ken Parsons today.
Chairman Martin – You'd be our eyes and ears.

ADJOURNMENT

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS
NOVEMBER 24, 2010
GARFIELD COUNTY, COLORADO

The Special meeting of the Board of County Commissioners began at 9:00 A.M. on Wednesday, November 24, 2010 with Chairman John Martin, Commissioner Samson and Commissioner Tresi Houpt present. Also present were Attorney Don DeFord, Cassie Coleman Assistant County Attorney and Jean Alberico County Clerk. Call to
Others present were Scott Balcomb and Tim Thulson for Antero, Fred Jarman, Andy Schwaller, and Cassie Coleman.

CALL TO ORDER

Chairman Martin called the meeting to order at 9:00 A.M.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Ron Galterio – I am a resident of Battlement Mesa and I'm here this morning to represent myself as a landowner and
Battlement Mesa and representative of the Battlement Mesa Concerned Citizens (BMCC) and here to follow-up on the email I that was sent to the Board last Friday, the 19th of November from the BMCC to request the County to intervene in three pending location permits Form 2A's that were filed by Antero Resources with the Colorado Oil and Gas Conservation Commission (COGCC) for proposed well locations in very close proximity to the Battlement Mesa PUD. I was advised that in order for you folks to probably consider our request that it needed to be presented to you in a public meeting or public forum so that's why I'm here today.
Chairman Martin – All right.
Ron – Although these locations are outside the boundaries of the Battlement Mesa PUD, we're very concerned about the potential impact of 49 additional wells in very close proximity to major residential areas of Battlement Mesa will have on the health and safety of the residents of our community. The proposed pads, one is the Monument Ridge pad which is document 40097171 and the Speakman A Pad which is document 40098244 are both approximately 500 feet from the boundary line or a major road or housing within Battlement Mesa and the Speakman Pad B document 40098470 is approximately 900 feet from the boundary line and major road or housing within Battlement Mesa. And although these distances are within the allowable distances under the COGCC rules and regulations, we still feel that they pose a significant risk to the nearby residents in Battlement Mesa. We would at least like the County to ask the COGCC to defer decisions on these applicants until the Health Impact Assessment is finalized and has been evaluated by the appropriate agencies. We understand that the HIA was designed to study only the proposed Antero project for oil and gas development within the Battlement Mesa PUD, nevertheless, these pending location permits although for areas outside of the PUD are extremely proximity to major residential neighborhood within the PUD and we feel they could have just as great or even greater impacts on the BM community as any of the proposed locations within the PUD. Unfortunately, the boundary lines of the PUD do not provide an impermeable shield to protect the residents of BM. That is the main point of our argument and we would like to see the County either issue a statement in support of our request or a Resolution or something to that effect to the COGCC to help strengthen our request.
Chairman Martin – What we will do is we will take that into consideration also meet with our staff and consult our legal staff and go from there and see what our position would be Rob.
Commissioner Houpt – Now the deadline is the 27, 28 and 29 of November.
Ron – Personally, the urgency of our request is dictated by the deadline for public and local government comment which is the 27, 28, and 29 of November here respectfully on the different applications, so I guess would happen then would be rather quickly. I am not sure what the COGCC process is on this, is this just an administrative decision or is this something that the Commission itself decides.
Commissioner Houpt – It is unless it is called up and you guys actually have standing on that as well.
Chairman Martin – You can go yourself.
Commissioner Houpt – According to the latest lawsuit that the Grand Valley Citizens Alliance (GCVA) brought against the COGCC.
Ron – I do have maps that I printed off the COGCC website and I can give you those to show the close proximity to the PUD.
Chairman Martin – Sure.
Commissioner Houpt – You know you might want to call the COGCC staff but I think there may challenge the language because it is not directly in the rules, but you probably could request a hearing which would – give them a call and find out. That would pull it out of the administrative mode and put it in front of the

COGCC. But we need to probably decide today whether we are going to meet to discuss this because the deadline occurs before our next County Commission meeting.
Chairman Martin – Well, I have to ask Judy, but is there a provision to go ahead and ask for an extension of time under the rules, I do believe there is.
Judy – Actually, I did already ask for an extension and so the 27th date that Ron mentioned is the extension date. That is the deadline.
Chairman Martin – So this took place before and now it is just coming to us on the 11th hour.
Judy – I got in on Monday. So the 20 days had already gone by and the only thing to do was to request an extension to give you an opportunity to consider. The other thing is the COGCC hasn't made a decision to issue a permit yet so once they make that decision then there another 10-days for us to ask for a hearing.
Chairman Martin – Okay, so this isn't the only change that we have.
Judy – Right, but you don't know when COGCC would issue the permits.
Chairman Martin – I think they only have one more hearing this year, the 29th and then they go into January 2011 or actually February for the next meeting. So if they don't make their decision on the 29th I would say they were going to do their next meeting, next year. That is when they could consider if they didn't issue the permit on the 29th.
Don – Judy is the COGCC decision you referred to, is that made by the director or a commission decision – the initial decision.
Judy – That is a director decision.
Don – Based on that we have 10-days and the citizens actually under the GCVA case you have 10-days to request a hearing.
Judy – To request a hearing before the COGCC.
Commissioner Houpt – So there is time, but they made a decision, if the director made a decision and there was that 10-day period, we should still have time in the next Commission meeting.
Judy – What is unclear is whether the COGCC would expect us to have commented in order to grant our request for a hearing. That is what is unclear to me, part of the reason that I suggested to Ron that he get the BOCC input on this because I'm not prepared to comment until this Board have directed me to comment. But as I said, it is not clear to me whether the COGCC has expected us to comment in order to get in front of the Board for a hearing. They may well expect that, it's not unusual for an administrative agency to expect you to apprise them of whatever it is that you are going to bring to them on a hearing basis later.
Commissioner Houpt – Right, so maybe we should direct the staff to call the COGCC and find out if they would request a comment and if they do request a comment that's a placeholder and we could have our comment and take it from there.
Chairman Martin – Sure, I don't have a problem with that.
Commissioner Samson – Agreed.
Judy – So you want us to call COGCC and ask them whether they want a comment and if they do…
Commissioner Houpt – If they do it's what you are asking today Ron is that we support your request to defer until the HIA has been finalized.
Ron – Yes.
Chairman Martin – I don't think so because I think that is another subject but I think that whole issue could be months into the future on that HIA and I think that would be again going against the timeline that we have, so we'll consider our stand and our input to the Oil and Gas Commission as a group and do that but we also know that you have standing and you can go forward on that request as a group.
Commissioner Houpt – So what kind of comment would we want to make if that is the case….
Chairman Martin - Well I think that is what we need to discuss and I think we're not going to make decision right now because it's came up to us as citizens and items not on the agenda. We will need to meet with the staff and see the information that is there and again make our decision and comment after the oil and gas will accept our comment or a continuation of time so that we can have time to put our true comments together because I know they are not meeting, they are going to meet on the 29th and that is the last meeting they are having this year.
Commisioner Houpt – The 13th of January is a meeting. But what Judy's saying and maybe what you should do is just call the COGCC this morning and find out what we actually do have to do.
Chairman Martin – I think that is a good point right there and then we can make that determination if we need a special meeting then we will hold a special meeting to discuss that issue.
Judy – Do you want me to get back in touch with you if they want a comment?
Chairman Martin – If you would please.
Thank you Ron.
Commissioner Houpt – In the meantime you may want to do exactly what Judy's doing.

Regulski v Antero
Chairman Martin – Back to the lawsuit that was filed in reference to the pipeline with Antero.
Don – Laid the foundation saying I have available some packets of information and emailed to the Board or my office has copies of the application, some minutes, affidavit or statement from Andy that was submitted in another as well as a copy of the complaint.
Commissioner Houpt asked for a hard copy.
Chairman Martin – I've had it and was able to go ahead and print it out.
Don – We're down to 3 here folks whoever wants one.
Commissioner Houpt – I didn't print it out because you told me you would have hard copies.
Don – I've heard that there is concern I would say generally about the breath of the complaint for lack of a better term, and I have talked to individual Board members and know I've talked to Scott Balcomb who is present about some of this issues as well as others, and I'm not sure where the Board wants to go with this discussion but we were directed to file a Code Enforcement Action while this is relatively a thick packet on the complaint it is nothing more than a code enforcement case based on grading permits and lack of compliance with building code provisions. And if you will not, and to get right to the issue and Cassie will address this as well, in the caption there are a number of parties named and in the body of the complaint we will see a description really from a legal perspective that is why all of these parties are named. Some of them frankly in the context of the many discussions we've had about this pipeline aren't probably very familiar with you such as Midnight Star Breeders or the Dixon Water Foundation or others, those are not names that have really come up in the discussion but there are landowners who are not only the subject of

the permits that have been issued by the County, they are actually in the case of two of them the permittee and so when we're directed to proceed in a code enforcement manner and I recognize the Board's concern here has been the road but in terms of the code enforcement related to that, my office has to proceed against are proper parties and those are the parties that have sought action under our building code. I have discussed this a little bit with one of the named defendants who called me directly and I talked to Scott a little about this issue as well to see what position Antero would have as the actually pipeline company who held the easements or surface use agreement rights to go on the property. But I have told the property owners that they should talk to Antero about the issue of their relationship I this litigation. So that is where we are and Cassie is the one who drafted the final report. One other comment, it is my understanding this has not been served.
Cassie – It has not gone out for service, just to add as to status on things too, I have talked with Jeff yesterday who represents Dixon Water Foundation and the Discovery Foundation and it has been essentially the same conversation regarding why these two entities were named in this lawsuit. I have also talked to Mr. Regulski's attorney the same thing about why he's being named in a code enforcement case, but if you have specific questions as to why these entities are named, the issue is those parties, the landowners themselves even though they didn't do the work themselves on the property they certainly have a right to be involved in a lawsuit when we're asking them to take action on their property, so that is why they have an interest even it is an easement interest or something more limited than the main property owner.
Chairman Martin – That is understood but I thought we had a different agreement in reference to our special meeting that we held at our town meeting and we came up with resolution to allow inspection and verification of installation and meeting the code or to correct the code issues in the minutes I have that and it was agreed upon by all parties, Tresi made the motion to lift the partial order so all of these issues that could be resolved, could be resolved and meet the standards of the grading permit. I have concern that we then agreed to that, put that in motion, and then turned around and filed a lawsuit to sue the folks when we said that we would stop, allow that to happen except for Mr. Regulski and his issue would be resolved in court then we could address issues on his property under the code enforcement.
Commissioner Houpt – I think we are talking about two different things, one was the stop work order so that things could be prepared for the winter so that it could be put into safe condition, we never talked about not moving forward with the code enforcement. We talked about allowing a partial withdrawal of the stop work order so they could move toward making temporary corrections so it was safe but that was a separate conversation from whether or not we were not going to move forward with this code enforcement case. And, when I made the motion I didn't make the motion withdrawing the code enforcement case.
Chairman Martin – Well, what it amounts to is the code enforcement violations are seven (7) through eleven (11) in reference to providing the detail, the specific bedding, the pipe shading, backfill of trenches, provide compaction requirement, trench backfilling, provide certifications the program, verifying all sections of the pipeline, either a grading permit meeting the requirements and other site specific requirements, providing sealed survey of a registered surveyor of Colorado, verifying the pipeline, and all county, state and federal permits required to complete the pipeline. Those are some of the issues that we were talking about and in your motion you included those seven (7) through eleven (11) and those are the code enforcement violations of this pipeline.
Commissioner Houpt – But we didn't talk and I read the minutes too, we didn't talk about withdrawing the code enforcement action.
Chairman Martin – We never, I don't believe we ever took public action on that.
Commissioner Houpt – We did, not in that meeting but in a previous meeting.
Don – Authorizing the filing of it?
Commisisoner Houpt – Yeah.
Don – Oh, you did some time ago.
Cassie – And the November 15th meeting was limited to our response to COGCC regarding our stop work order, it wasn't specific to the code enforcement action that at time had already been authorized and was already going on and it is my recollection from reading the minutes that all of these – they are three lawsuits going on with regard to the same property – There's Mr. Regulski's lawsuit against Antero for trespass and some other things, there's another action Antero suing Bob Regulski and the BOCC and our Treasurer and several other people in a condemnation action, then there's this third lawsuit which is our Code Enforcement Action and so when we took everything in on November 15th there is expressed language from you Commissioners saying all this is outside of these lawsuits so is not to get involved. Our code enforcement was only to ensure that we are protecting our own interests because I don't believe these issues are identical that either of the other two lawsuits, the one we are involved in or the private trespass claim. So because they didn't fit into those two lawsuits your public action or you public direction, as far as the code enforcement was either to intervene in one of those lawsuits or to file a separate on. The issues are separate but even if our code enforcement action didn't exist, we are entrenched in the condemnation one, your staff will likely be testifying in those cases and that is where Andy's affidavit came from was in the context of one or both of those other lawsuits.
Commissioner Houpt – Well, and we voted on moving forward a few meetings ago and specifically made the determination to do it separately from the other two lawsuits.
Don – Just a comment on why we're here today thought, because I think it goes to John's position as well and that is while I'm relatively certain that we have authority to file it, it doesn't mean that authority cannot be withdrawn.
Chairman Martin – That's right.
Don – And that is why I suggested in the course of the discussion if the board wanted to consider that to have this meeting today so that if you don't want to proceed on code enforcement then you just need to take a vote to tell us that and it has not been served, that is the important part of why I got into that, without service we are at liberty to withdraw this right now.
Chairman Martin – Any my point also is that we covered all those code enforcement and we're not neglecting our code enforcement but we have put in motion requirements for them to meet our codes enforcement regulations handed down by Andy and the building department, if all these items are met and I do believe that even Mr. Regulski's attorney said, if all of these items on list are met, then he would have no objections to having it done. So my point is I think we are mudding the water and stirring up legal hornet's nest in that we need to just go ahead and take care of the problem and the problem is allow the

company to take care of the inefficiencies or deficiencies of what has happened. So I would suggest that we not enter into another lawsuit in reference to codes enforcement because we have already put into motion and had agreement that they would meet all of these requirements and to satisfy that grading permit. So, that is my position.
Commissioner Houpt – Yeah but the whole discussion around that though and I probably would feel comfortable if it had been a different discussion but it wasn't a discussion about completing the pipeline, it was a discussion about making the area safer until all these other issues are taken care of and if you know, I guess I would want to hear from staff on what the disadvantages of not moving forward on the code enforcement at this point would be.
Cassie – If we withdraw the complaint essentially, there is not reason to even have the stop work order it has no teeth. There would be no reasons that we shouldn't just tell COGCC change that letter to say, we've lifted the whole thing and we're not doing anything. The other issue is the grading permit is not for the location where the pipeline currently is so really these same applicants should be coming in to get a grading permit for the location where the work has been done but if you do not want to view the lawsuit and you want us to withdraw the complaint there is no reason anyone would – you are just choosing not to enforce your code and that is certainly your decision but if you don't want to enforce your building code, I think that needs to be clear.
Chairman Martin – I have to disagree, we are enforcing it with the agreements we have in place and that the applicant has agreed to go ahead and satisfy that based upon the information that came from the building and planning department to satisfy those including the surveyor and to make any adjustments that needed to done except for the Regulski property which is under lawsuit and also as trespass issue. That has to be resolved, that was agreed upon in this meeting that we had even with Mr. Regulski's attorney. That has to be resolved before we go forward. So what I'm saying is we're enforcing our code, we're taking every precaution of safety in fact we have repaired the road and with the agreement of both, or actually with all parties and that safety factor has been satisfied.
Commissioner Houpt – We're not enforcing the code if we don't move forward with this code enforcement and let me just mention that you heard Mr. Cole confirm that he didn't even agree with everything that was in the letter and so if there are no teeth maybe we won't get that sealed opinion from the engineer, maybe we won't get everything that we requested for and at the end of the day we would have to do this all over again and file another code compliance – I mean this is not going injury anyone – this is just a matter of us following through on the code that we put in place to make sure that our regulations are followed. I think it makes sense to move forward with that.
Cassie – And just like any other code enforcement case, if these things really get done and resolved, then we can come back for legal direction to deal with the lawsuit whether through a stipulated injunction or an outright dismissal and everything here. Just like we had that whole presentation only to present our code enforcement cases actually end up in court just like normal litigation.
Commissioner Samson – Let me just say something here, I was under the impression as the Chairman has said, when we made, when Tresi made the motion and we have these fifteen (15) stipulations here, I was under the impression and maybe I was wrong under the impression, that at that time that the suit between Regulski versus Antero and Antero versus Regulski would go forward but we as a County would take care of the health, the safety and the welfare of doing what we needed to do with the road. As far as I know that has been done, correct? All right. Then with these provisions that the County would continue to work with Antero and the other property holders exempting Mr. Regulski to take care of problems associated and set forth here so that there would not any longer need to be a lawsuit with us as the County concerning them and that they were willing to work with that. It was my understanding from that meeting that Antero or those representing them said, okay we're going to do that as well as the County said yeah, we'll work with you on that. I didn't think it was necessary for us to continue with the lawsuit and get involved with that and I still don't think it is if two parties will work together and work things out. And I feel that is going to happen. Now let's take the scenario that it doesn't for whatever reason and I don't know why Antero wouldn't but Antero comes back and says "deals off we're not going to do that and so on". Then I guess they leave us no choice and then we would have to say, "Okay, now we're going to have to put a lawsuit there". But when I left the meeting that day, I was under the impression that the two parties were going to work together and get everything taken care of with the exception of the Regulski property, which from what I understand, we can't do a whole lot about until they get their problems worked out. So that is where I'm coming from. So I would say let's back off and let these two parties take care of it so we don't have to fight each other in court.
Don – The position of my office is kind of difficult in this because as I've already explained I think you can give that direction and that is the purpose of today's meeting from my perspective but the last discussion of this was not set for the purpose of discussing your earlier direction to do code enforcement litigation, it was set to discuss a response to the COGCC letter and the stop work order. And there was no direction from that meeting to stop filing a litigation or change your earlier direction – you can do that and that's why I asked for the meeting today.
Chairman Martin – You need a motion to do that.
Don – That did not come out of that.
Commissioner Samson – Then I would say that I'll put the blame on us as the board and we should have taken action and we didn't.
Commisioner Houpt – Well I would not put the blame on anyone that wasn't the intent of that meeting. And, we've talked about this a lot in the past, there's absolutely no harm that comes from putting a little bit of teeth into the process and we can withdraw this if they follow through with the letter of October which hasn't been follow-up on in that amount of time. So, you know I would still contend that we're not doing anything that is inconsistent with truly protection the Health, Welfare and Safety and making sure the items that are out of compliance are brought back into compliance by filing this. So I have to support Cassie's statement that she made and disagree that we should change course on this, I think there is time sensitive issue and perhaps if this is served things will happen pretty quickly and get resolved.
Cassie – The other thing I'd like to add is because whatever came out of the November 15th meeting, there was expressed direction that none of this had to do with the Regulski property. So the Regulski property remains out of compliance, the stop work order is still in effect but by withdrawing this complaint it's not – you're not enforcing the stop work order, it has the same effect of it being fully lifted so none of those issues are being dealt with and the reason that it only addressing Regulski property doesn't make any sense

is because of Andy's affidavit and the other suit that says the stop work order is applied to the entire pipeline project not just the limited scope there but if you want the complaint withdrawn, I believe the effect is you are not enforcing your building code but that is certainly up to you to do that and there is grading and location that's not permitted and that is what is going on, on these properties but that is within you discretion to say we're not enforcing the code and that we withdraw our complaint.
Commissioner Samson – Well, I get a little concerned when I hear you say continually say we're not enforcing the code. We're not perhaps enforcing the code at this time because we are going to let these parties try and work it out between themselves. There's where I think we need to say, I mean, how many times have we gone into an executive session or even out here and we've talked about things like that and say, "let's go back and try and work with these people instead of coming down with a heavy hammer of compliance, let's try and work with them" and it's worked out and good, we didn't have to take somebody to court. Then there's been times when we've tried, we tried, is it going to work, then we have to do that. It's my understanding after that meeting that they two parties involved we'll work together to get this worked out. That is what I'm saying, so let's just back off a little bit, give them some room, see if they take care of it, and I think it will get done.
Commissioner Houpt – But the problem with us backing off is that they are out of compliance with our code. We have to be a party to whatever is going on.
Commissioner Samson – How many times have given other people personal residences a little extra time or breathing room to come into compliance instead of coming down with a heavy hammer. The two years I've been here we have done that several times.
Chairman Martin – Okay, I think the Board has had an expression and the legal staff has their position set, let's hear from the public. Anybody, Mr. Balcomb.
Scott Balcomb – Mr. Chairman and members of the Board I would like to point out a couple of very salient thing as far as health, safety and welfare goes, there is not gas in that pipeline and there is not going to be any gas in that pipeline until it is properly completed in accordance with the County building code and every other regulation that pertains to gas pipelines. No one's safety is currently jeopardized and there's not going to be any safety jeopardized until all parties are in agreement that the line is property installed and can be operated and can be filled with gas – there is no emergency, not hurry. Second of all, Antero today, yesterday and back in August and a year from now intends that that pipeline be installed properly in accordance with all specifications, we believe as representatives of the hearing that we can satisfy your staff in every respect outlined in the letter we got from them, the only thing that we can't move on right of way is the Regulski thing because of the court injunction, so we, I don't care what the judge tells us to do with this, we can't go on that property until the judge lifts the order. But as soon as the order is lifted we're going to go on the property and fix the pipeline under the supervision of your staff so I really don't think that this lawsuit was any more necessary than any other zoning violation or code violation lawsuit when the parties have voluntarily acknowledged that something needs to be done and we'll get it done within a reasonable time. Litigation is simply isn't necessary in order to compel a person that is willing to do it voluntarily to bring himself within compliance. In my view all it does it make the County look kind of silly and that's what bothers me about this is filing a lawsuit is wily nily against what seven (7) or eight (8) residents that don't belong in this suit doesn't do the County's image any good at all.
Commissioner Houpt – Well, I appreciate your opinion on that somewhat but I would say we have a code that we need to make sure people follow and we wouldn't be here today if you client had followed that code, so whether we look ridiculous or not by wanting to make sure that we have teeth in place to enforce it, I think is a matter of interpretation but I think the people of Garfield County expect that people will follow the code that we have in place so that we don't end up in this position. And when we do end up in this position, they want people to be held accountable.
Scott Balcomb – We fully intend to follow the code and always have, the fact that apparently we are not was an accident and it wasn't a deliberate intentional decision to ignore the Garfield County code, that has never been the case.
Chairman Martin – Okay, that you Scott. Any other questions. Any other input, Fred, Andy do you have anything.
Back to legal staff, anything else you would like to advise us of.
Don – No.
Commissioner Samson – So I guess at this time I would move that we direct our legal staff to what's the correct work, to cease to …
Don – If you want us to withdraw the complaint, we can do that, I should not there is one other alternative, but you could consider and that is we could leave the complaint filed the way it is but not serve it and then there's no obligation to respond. We can do that for what a year.
Cassie – For a year we can have a complaint out there without service and it things do go array we can serve the complain but the parties really have no obligation when they haven't been formally served.
Commissioner Samson – Never been served so….
Chairman Martin – The other thing is that…
Commissioner Samson – Can that work be done within a year or do we want…
Chairman Martin – Just to editorial on that, using the information we have had with this meeting and the other meetings can be also introduced as information on failure to comply with code enforcement even though they have a chance and then you revise your lawsuit instead of keeping the lawsuit as it is not and that's what I would think what we would want to do simply because we would have more specific information on violations instead of keeping the one that is filed right now. Because we have given them a chance, they have failed to do so, failed to comply with means a stronger argument for our side in reference to failure to comply. So that would be my stance.
Scott Balcomb – Well we fully intend to comply with the code, it our request that the litigation be dismissed without prejudice pending the County's ability to re-file if for some reason Antero can't satisfy the County staff.
Commissioner Samson – Okay, I would move at this time that with the findings that we have today and what the attitude being hopefully from this Board unamanously that we would work together with the other party and our staff to work out all of these provisions to be done correctly so that a lawsuit would not be pending, I would move that we direct our legal staff to withdraw the lawsuit.
Chairman Martin – Okay do it have a second.
Commissioner Houpt – No.

Chairman Martin – Second for discussion.
Commissioner Houpt – I think we have discussed this.
Commissioner Samson – Yes, it's been seconded.
Chairman Martin – We'll call for the question, all those in favor?
Samson – aye Martin – aye
All those opposed?
Houpt - aye
Chairman Martin – It has passed with the direction is to withdraw the lawsuit. Very good.

Special Meeting – Silt Joint Meeting – December 2, 2010
Chairman Martin – I do have a special meeting scheduled for December 2, 2010 with a workshop with the Town of Silt in reference to their entrance to Silt or their vision of what they would like to have in a commercial venture so I think we need to meet in Silt on 2nd of December at 7:00 p.m.
Ed – 6:30 or 7:00 p.m.
Commissioner Samson – The email that I received is that it would be at 7:00 p.m. Thursday, December 2, 2010 – Joint Meeting with Silt Town Council and County.
Chairman Martin – It is a workshop so we like to have representatives from planning and does legal feel like you should be there.
Don DeFord – We can be.
Chairman Martin – I don't think any decision of anything, there may be a question in reference to urban renewal authority or a TIF financing so we might want to be able to answer some of those questions.
Don DeFord – Okay.

****Work Session in Battlement Mesa**
Commissioner Houpt – I want to talk about the work sessions. It's been, I've been told that our work sessions for December was canceled and my concern about that is that the people in Battlement Mesa brought the 1041 question to us in October, we agreed to hold a work session in November, that was canceled, we rescheduled it for December and it's a time sensitive discussion and I think that we have an obligation to respond to constituents in this county if Mr. Jankowski wants to participate in the work session, anyone can participate and he certainly can be there for the information but we committed to the people in Battlement Mesa to have that discussion at the earliest possible date. I cannot support putting that off.
Chairman Martin – And understanding that the 1041 powers need to be discussed in Battlement Mesa, I agree that we need to hold it but it is not a process that takes just one town meeting or a hearing, it also has to be written and go through the scrutiny of six (6) months or better to actually get the 1041 powers in front of the Board.
Commissioner Houpt – I'm not disputing that, I'm talking about the work session we promised them three (3) months ago.
Chairman Martin – I understand but I think in reference to even the planning staff, there could be changes on the Board, philosophy changes and with that we may have to revisit the issue even though we did one work session. I want to be able to say to Tom that it's nice that you can participate but you have no authority whatsoever and maybe it's just time to put that off until we have a seated Board that will be here for a minimum of two years and go from there. So that's what I say, it's easier on staff and everybody use in reference to this time of the year.
Commissioner Samson – Refresh my memory Tresi, the reason for that workshop was for the citizens of Battlement Mesa to express their concerns and to advance their points as to why the 1041 would be legal, should work and should be implement, is that close enough.
Commissioner Houpt – Well, that is part of it and the other part was for the staff to have the opportunity to educate the citizens of Battlement Mesa and the Board of County Commissioners on not only the historic use of 1041, but also what the overall authority is that is given to the County in terms of 1041 powers. So, it is the beginning of the discussion but it's a discussion that the Battlement Mesa folks have wanted to have started at least for a couple of months.
Commissioner Samson – Okay, so let me ask the last time we met, it was at the Sheriff's Annex and at that time we had quite a few people come before us from Battlement Mesa, you're remembering the meeting.
Don DeFord – Actually, I was not there, I was just told. Ms. Quinn was there.
Jean Alberico – That was July 12, 2010.
Commissioner Samson – And at that time, correct me if I'm wrong, the legal staff's opinion was that the 1041 would not work in this particular case. Are you familiar with that?
Don DeFord – Yes.
Commisioner Samson – So, my question is, has the legal staff's opinion changed on that?
Don DeFord – No.
Commissioner Samson – Okay, so I wish I could remember when we made the commitment to them that we were going to have a workshop but we did.
Commissioner Houpt – We had one scheduled in November, so it was prior to that date.
Commissioner Samson – The point is in your infinite wisdom as County Attorney, what we would be gleamed by having this meeting in December as to compared to not having it until January 2011.
Don DeFord – From my perspective I don't know what difference that 30 days or in time, how much difference that makes. You might, it's been some time since you took at look at the opinion that Debbie Quinn gave you guys about this issue but there are really two real areas that under which 1041 regulations at least in theory could address oil and gas development in the Battlement Mesa area, one of those is at best in the opinion of the legal staff of the County Attorney's office, very problematic and I'm qualified in what I'm saying because there is no literal case that has construed the proposal really that has come from the Battlement Mesa Concerned Citizens, that is to determine that this is a new community and then try and regulate oil and gas under that auspices. There is also the ability directly to declare gas development and activity of state concern and address it in 1041 regulation but that carries with it a tremendous caveat and that is it must be subject to the direction and approval of the Colorado Oil and Gas Commission, which at least in my estimation is one reason that I am not familiar with any county that has attempted to undertake regulation of the gas or oil industry through 1041 regulations. So those two things are out there but the very first step and this is both what Debbie and I have told the Board, the first step that has to occur is that the

Board has to determine that you want to consider amending your Code to include one of these areas or activities under the regulated activities of Garfield County 1041 regulations and Fred can step in and clean me up if I mis-state this but under your regulations you have already determined that certain areas and certain activities are of state concern and will be regulated by Garfield County's 1041 regulation. That is way the state law anticipates it and they'll do it. You can then in a similar matter pick one of the two areas that I just talked about or both for that matter and say, okay we want to try to regulate these areas as of state interest under out 1041 regulations and if you do that then we have to initiate a public hearing process, just like you would to any text amendments to your Code that would include those under the regulated activities. So you would go through then a full public hearing process but the first step is to get direction from this Board that you want the staff to go off and start that process.
Commissioner Houpt – And that is what the work session was for, to better educate the Board on that but I think it is more an issue of good will and that is what you guys need to decide whether you're going to lose some good will by not following through on this discussion if not in December immediately because we've already put it off and I think there is a lot of good will that could be lost there.
Chairman Martin – Well, I don't think we're putting it off indefinitely, I think that it is something that we need to educate folks on as well as ourselves and as that brought 1041 powers to this Board and stood for many years trying to get 1041 powers through, I finally was able to do such and gone through that process. But I think that we need to have the chemistry and the understanding and education of the sitting Board and this is again not to undermine you or anything else Tresi but I think that policy has to follow through with the Board that is going to be sitting for again for two years and then you look at re-election or replacement of the Board. That policy has to stand and be acceptable to that Board and that is where you change is going to be. If we were to take it now and make a change that can be again re-discussed and then…
Commissioner Houpt – Well, no one is suggesting a change. All I'm suggesting is good will for the folks that you will be representing for the next two years and starting a process, if you decide to change that, the people who live in Battlement Mesa are the people you need to be communicating with to make sure you don't lose additional good will and I don't know if there's any time in January work session for this discussion or not but you keep pushing it off and you're basically telling these folks that what you promised to do wasn't really a promise, you're just going to keep putting it off.
Chairman Martin – It is a promise ….
Commissioner Samson –Ron can you come to the table please. I have to ask you a question, since you represent Battlement Concerned Citizens, in your infinite wisdom representing those people, would they feel that this Board is slighting them if we were to change that work session later on until January with the idea being that Mr. Jankowski would then be on board, that being one of our reasons to do so. Do you feel that would be better to wait until he is actually sworn in and would hear all of that as an official member, or would it be your request to go forward without him at that time and start the process earlier in December?
Rob – Well, I think we're not during this proposed workshop, we're not doing expecting a decision, we're reviewing this as a work session to educate all parties involved and our legal counsel has prepared extensive information that we believe adequately addresses and present very compelling arguments why this is a feasible concept to move forward with at the County level and I know that the Battlement Mesa Concerned Citizen would very much appreciate that this work session be kept to the original schedule of December 7th. There is a feeling among the members that are aware of the potential postponement that it is being done for political reasons and there is a feeling that our right of timely due process is possibly being violated by postponing the work session, so I think we would very much like to have it kept to this December 7th schedule or if that's not possible at least in January and like Tresi said, I believe Mr. Jankovsky could participate in the work session without any problems since there is not going to be any decision required by anybody and he is welcome to participate.
Commissioner Samson – Well, I can appreciate that then and let me assure you it would not be for political means, it would be more or less as I'm saying a courtesy to him because he is going to be the next Commissioner for four (4) years, John and I might only be here two more years, who knows, we'll see. With that being said, I would – do we need a motion to set a work session?
Chairman Martin – You should.
Don DeFord – You've already set it.
Commissioner Samson – Well, I guess what I'm saying is that we need to honor that commitment to those people with what I've heard from Ron today as a representative, I think we need to continue to have that work session down at Battlement Mesa either at the Firehouse or the Library on Tuesday, December 7th for the information that will be presented by the people at that time.
Ed – I thought you were going to move it to January and I just wanted to point out that we also deferred the January work session.
Commissioner Samson – No, I think we need to go ahead with the 7th.
Motion
Commissioner Samson – I would make a motion that a motion and hopefully we could have it in one of those two places.
Chairman Martin – Fred are you available or one of your staff on the 7th.
Fred – We can make it happen.
Chairman Martin – Okay.
Commissioner Samson – And I would say that let's set that up at …. Tresi do you have any input there 6, 7 time wise is what I'm saying.
Commissioner Houpt – On, time wise, you want to do it in the evening or in the day.
Chairman Martin – It would probably be easier to do it for the evening.
Commissioner Samson – I'm going to assume a lot of older people are going to want to come, so it that going to be an inconvenience for them or …
Ron – Actually, I think we were planning or expecting the session to happen here in this meeting room, I talked to Ed last week about maybe trying to establish video conferencing with our attorney, Mr. Driscal and that is the attorney who's trying to make himself available for that and if we can accomplish that I did not know if that could be done.
Ed – It might be a necessity to have it here.
Commissioner Samson – I was trying to make it available for them.
Chairman Martin – So they would not have to travel.
Ron – We would be perfectly satisfied to have it here.

Commissioner Samson – You'd rather it be that here and we have the video conferencing. So be it.
Commissioner Houpt – So Ron, is it better to have a day or evening meeting, if your attorney is…
Chairman Martin – Well, he's about eight (8) to nine (9) hours ahead of it.
Ron – Yes, there's about ten (10) hours difference so I would think a morning session would work.
Chairman Martin – So that would work for your folks that would be available to come up 9:00 a.m.
Ron – That would be fine.
Chairman Martin – Understanding that it would be late evening for the attorney. 9:00 a.m. and we'll put it on and that is your motion.
Commissioner Samson – 9:00 a.m. on Tuesday, December 7, 2010 here at the Commission Chambers.
Commissioner Houpt – I'll second that.
In favor: Houpt – aye Martin – aye Samson – aye
It being unanimous, we'll go ahead and do that.
Ron – Thank you very much.
Adjourn

DECEMBER 6, 2010
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 6, 2010 with Chairman John Martin, Commissioner Tresi Houpt and Commissioner Samson being 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

- **A. Garfield County EMTAC Update and Year End Summary – Captain Doug Gerrald**

The annual report included the following fire district entities: Carbondale, Glenwood Springs, Burning Mountain, Rifle, Grand Valley and also TransCare Ambulance, Garfield County Search and Rescue, Sunlight Ski Patrol, Colorado Mountain College, Valley View Hospital and Grand River Hospital. Doug included in his report the Classes provided, EMTAC Bylaws, Protocols, Mass Casualty Incident Plan, Equipment and County Report including budget.
Doug gave the recommendations for next year. He addressed the most beneficial thing for EMTAC is continuing classes and gave a complete report and explained they started work on a casualty incident plan, which will eventually become part of the Northwest Regional Plan. Doug explained the medical equipment, the EMTAC budget, expenditures and licensing which is in Dale Hancock's office.
One big highlight, TransCare Ambulance is a new impact member.
Commissioner Houpt is very impressive to see how things have continued to move forward.
Doug needs to make the formal recommendation for the Boards approval; for the officers of EMTAC, all positions from last year, they voted in the November meeting to retain people in those positions. That would be himself as the chair, Chief Rob Ferguson, Nancy Frizell as the Treasurer and John Greddick as the Secretary.

Motions
Commissioner Houpt – I'll make a motion that we appoint the officers of the EMTAC as presented.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Doug – The RETAC recommendations as represented from the Garfield County EMTAC is Stacy Pemberton, Nancy Frizell and I as primary members. For the secondary members; Chief Ralph Ferguson, Cleo Castle and Aaron Taylor.

Motion
Commissioner Houpt – I'll make a motion we approve the RETAC membership as presented.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **B. NWRETAC Summary – Carl Smith, Nancy Frizell, Eric Schmidt**

A fiscal procedure audit conducted was reported on all of the eleven RETAC's in the State of Colorado. Upon receipt of the audit the Northwest RETAC planning and budget, committee reviewed the audit and responded to a number of points raised by the audit. The made several financial reporting modifications suggested and in addition, they raised concerns about the audit process on some of the conclusions that were made. A copy of the NWRETAC is written response to the audit report is included.
Nancy represents the hospital giving an indepth report of the trauma system. One of the things that came out of that this year and is now formed is a state trauma advisory council that deals with EMS and hospitals; but certainly deals more with hospital issues than some of the committees have in the past. They have two representatives on this; Dr. Schaffer from St. Mary's in Grand Junction and Charity Neil from Craig. Another big area that changed at the state level is the scope of practice for EMTS; it used to be under the Board of Medical Examiners and was decided through that area and the criteria for physician medical directors of EMS agencies. During this year, there was a legislation change that it is now under the department of health. They formed a committee called the emergency medical practice advisory council where all changes for EMTS in the state go through that committee. The final say on that is the chief medical officer of the health department making the final decision. On the regional level; some things working on which are more hospital or facility related are, one of the projects they worked on this last year was trying to enhance inter-facility transfer of patients, particularly critical patients. They have excellent air transport companies and TransCare Ambulance also does ground inter-facility transfers; but in the case of critical patients and if the air facilities are not available, and they need to go by ground they have tried to work on enhancing the ability to send critical patients between hospitals when its necessary. That remains a work in progress.
Eric explained how unique the Northwest RETAC saying ours is the leadership conference providing continuing education to the emergency medical services manager in Northwest Colorado. The BOCC still wants the authority over who is appointed to RETAC.
In July 2011, a state report will be available regarding a consultant on all 11 RETACs.

Carl – One of the important aspects of the RETAC regards the $2.00 fee for HUTF when license plates are paid going for a number of grants. $15,000 is given to the County. RETAC brought in $475,210.00 to 5 counties in grants. He named the recipients. Carl explained the additional helicopters available at St. Mary's, Eagle, Frisco and Montrose.
Eric thanked Carl for his years of service to the region and he is retiring at the end of this year. He wanted to make sure everyone thanked him for his years of service. Carl has been a very active member, very conscientious and he appreciates all of Carl's work.
Carolyn – Because of the legislative changes that Nancy spoke of, there are a couple of places in our local ambulance regs that they need to make a change, because our regs recite the old legislation of the old state regulations. Before Carol retires, she wants to make sure she, Carl and Dale talk. If it's just a reference she would like to be able to put on the consent agenda.

- **C. Energy Advisory Board Meeting Update – Jeff Simonson**

Jeff explained the education series and good participation; they have been going to different municipalities to hold their meetings. Dave Andrews with COGCC explained the blow out process.
Chairman Martin – He understands that Halliburton had an information gathering session on liquid nitrogen used in the facing process and the BOCC needs to be educated on this if Halliburton is willing.
Commissioner Samson suggested a seminar in February inviting all BOCCs in Northwest Colorado including LaPlata and Los Animas regarding laws and regulations. Dave Neslin would present and it would be open to the public.
Jeff – The next meeting will be in Rifle, the first Thursday of January.

- **D. CSU Extension Update – Kim Schriver, Pat McCarty**

Pat explained the areas he works in spending substantial time with partnership building and working with people to be successful with their projects. About 10% of his time is spent on Ag issues, 20% with horticultural and in the summer diagnostics of plants, insect and disease. A new project is clean energy in solar thermal; 5 % is in the classroom. He ASSISTS Summit and Eagle counties with horticultural support. He has a good relationship with CMC with classes, tours and workshops. There is a master garden program in Garfield County and has been for 13 years. He works with the Soil Conservation Districts in Garfield and Eagle Counties. Recently a class called orchids 101 is being held in a number of locations. A feasibility study for Holy Cow Packing for Kim Antonilli is successful and local businesses are interested.
Chairman Martin would be interested in seeing this as it's been on the table for years.
Kim submitted a summary showing 5,000 contacts in the schools, after school programs, community expos and clinics. Cooking classes are in 3 schools for the After School Program and 2 classes in cake decorating. There is a senior trip planned with 14 kids and 3 chaperones. They also have Garfield County 4H week on the 13th through the 19th. Kim showed posters for around the area for campaigns.

- **E. Garfield County Emergency Communication Authority 2011 Budget – Carl Stephens**

A Resolution was presented to the Board for this budget projecting a decrease in sales tax. They take the lowest sales tax of the year and project that all year long. They have also seen historically at least 10% every year reduction in landline cell phones. This year they did get legislation passed that will start collecting surcharge on prepaid phone; where you buy the little cards, but they don't have the figures so that is not in the budget. The only increases are building maintenance and insurance. They projected a 30% increase; but this year they only had a 6%, so they are ending the budget year is a good position.
Chairman Martin – You need authorization to go ahead and accept your budget as presented?
Carl – Yes.
Motion
Commissioner Houpt – I'll make a motion we adopt the resolution concerned with the acknowledgement of receipt of the Garfield County Emergency Communications Authority budget for the year 2011 and authorize the Chair to sign.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Carolyn – Jean doesn't have an original. She and Carl had telephone conservations and public things came up. Right now, there is no need to amend the IGA, which created the authority. However, there may be a reason to amend the bi-laws and Carl will be working with his own lawyer, who is Charlie Willman. In going through the file, she found a reference to a second amendment; but can't find the first amendment to the IGA. She needs to work with the Clerk and Recorder's Office and with Carl so they can make sure there is a clear record of this authority that was created by IGS. The second thing; Larry McCown used to be the person on this authority. Did the Board ever formally appoint someone else?
Commissioner Houpt – We appointed Mike.
Commissioner Samson – The first year he never missed one meeting and the second year he had so many conflicts. He said he thought that the next meeting is the 9th and he has a conflict again. He might be able to make some of the meeting; but he will have to leave early. He is on the committee.
Chairman Martin – We try to have someone there every meeting.

- **F. Request for Support of a Resolution Supporting Conservation Land and Water Fund – Bruce Christensen**

Bruce Christensen filling in for Mayor Lambert presented the resolutions passed by the City of Glenwood Springs, Carbondale and Rifle. He submitted a spreadsheet showing Garfield County benefited by about $470,000. The request is for a letter of support or a resolution notifying our congressional delegation of their support since Garfield County has so much federal land.
Commissioner Houpt – A discussion was held at NACO and she believes a resolution for the County to support trying to bring some revenues to Garfield County is a good idea.
Bruce said he plans to meet with Representative elect Scott Tipton and sent a copy of a letter to Senator Bennett for revenue to come to Garfield County. This fund was created in 1965; it's a portion from off shore gas and leases in a fund and that is distributed. PELT, payment in lieu of taxes has a 40-year history and 100% is supposed to be funded however the feds have siphoned off a portion.
Motion
Commissioner Houpt – Well then that becomes the norm once they have done it enough times. I'm going to make a motion that we direct the staff to put together a resolution that is to recommend full congressional funding for the land and water conservation fund and use this Glenwood Springs resolution as a template for that. Commissioner Samson – Second.

Don – In terms of the motion, are you actually authorizing the chair to sign that resolution or do you want a form of resolution brought back for further discussion?
Commissioner Houpt – It can be put on the consent agenda; but that gives us an opportunity to read it.
Don – Okay.
In favor: Houpt – aye Martin – aye Samson – aye

- **G. Silt Water Conservancy District – Dan Cokley**

A letter was sent to the Board on December 1, 2010 to request funding from the existing pool of available county discretional funds for a domestic water system feasibility study for the Silt Mesa area within the Silt Water Conservancy District.
Dan Cokley is with the SMG, which is the District Engineer for the Silt Water Conservancy District. He is here on behalf of them and he has Kelly Lyon, Dominic DoDero who are board members and Jeff Simonson who is helping as well here today. They are here to request funding from the discretionary funds available at the end of the year for funding a domestic water system feasibility study for the Silt Mesa area, which is served by the Silt Water Conservancy District currently with raw water. This project has been talked about for several years and recent funding requests from the US Bureau of Reclamation (USBR) and Department of Local Affairs has been unsuccessful. He explained what the study involves and preliminary estimates put the cost at $90,000 with the Silt Water Conservancy District contributing $25,000. Dan is also the district engineer and on behalf of the Silt Board of Trustees, Dominic DoDero, Jeff Simonson and Kelly Lyon are requesting funds for this study. Dan explained what the feasibility study entailed and what they would look at during the process.
Kelly Lyon stated that Silt has plenty of water but there is a need for potable water. Many haul water consistently.
Chairman Martin – We gave a letter of support for the USBR that supported this effort and suggested going to a bond company to get the money and develop a recovery plan. He recommended some potential partners such as West Divide, Colorado River District, irrigation companies, Silt, fire districts and Garfield County.
Commissioner Samson met with Silt and knows the situation of the shortage of funds. He could support $50,000 toward this feasibility study.
Commissioner Houpt agreed that $50,000 for now and for them to come back is no others can contribute.
Motion:
Commissioner Samson - I would move that we grant them $50,000.00 for this project specifically funding for the domestic water system, feasibility study for Silt Mesa area with the stipulation that you would work as earnestly and sincerely as you can to get other partners to come forward. If that doesn't materialize, if we do not see the other $15,000.00 or we only see part of that, you are welcome to come back before us and say we tried; we did our best we only came up with $10,000.00 could we ask for another $5,000.00.
Commissioner Houpt – And I'll second that motion.
Don had a couple of questions for what his office may need to do. It sounds like we will need an Inter Governmental Agreement with the conservancy district should we prepare that IGA at the $50,000.00 level and bring it back to the board. That would also give you an opportunity to discuss it again with the conservancy district to see if the $50,000.00 is adequate. Does that seem like a …?
Commissioner Samson – That sounds like a good way to go.
Don – Is this for 2011, I assume it is or is it for 2010?
Commissioner Samson – I think it's going to be 2010.
Chairman Martin – I think we want to use 2010 dollars.
Don – All right, we just need to know when drafting what funds we are usin
Chairman Martin – We need to complete that in the next three weeks.
Don – So that would need a budget supplement then.
Chairman Martin – The agreement and the payment; because we have discretionary funds in 2010 that are available to us, that's what we want to use. Not identified in 2011 budget.
Commissioner Samson – I want to specify in the motion that is to come from BOCC unanticipated grant request for 2010.
Commissioner Houpt – That's fine.
Don – Lastly, in terms of the county representative what department in accounting is overseeing this contract?
Chairman Martin – Jim Hackett is volunteering in reference to the procurement officer.
Carolyn – So you want it back on the agenda for the last meeting of this month.
Chairman Martin – Yes
Don – Who is the contact person?
Chairman Martin – Dan Cokley
In favor: Houpt – aye Martin – aye Samson – aye
Carolyn – Kelly who is the chair of the district board?
Kelly – Scott Dosero

- **H. United Way Request for Funding for 2011 – Micaela Folsom**

Micaela – In an effort to streamline services and costs in 2011, they proposed to vacate space at the Henry Building in Rifle in exchange for a storage unit in Glenwood springs and donate $3700 toward their expenses. This does not fall under what they feel the Human Services Commission does although Commissioner Houpt argued that it does.
Chairman Martin – This would not require a motion because we already have this money budgeted in the 2011 therefore it is available.
Micaela wanted the BOCC to understand the way they plan to spend the money. We would send a quarterly request letter and then plan to receive a check.
Jim Hackett, Lisa Dawson and Carolyn Dahlgren will meet and figure out a process.

- **I. Direction Concerning COGCC Permits Near Battlement Mesa – Judy Jordan**

Ron Galterio and Dave DeVanney were present with Judy Jordan.
Commissioner Houpt asked Fred about the Battlement Mesa PUD boundaries and if these COGCC permits were within the PUD.
Judy explained the permit process for Antero's APD's outside the PUD boundaries. At present this in on hold at COGCC.

Ron requested the BOCC send a letter of support to COGCC asking to defer action on the permits until the HIA was completed, finalized, and responses evaluated and perhaps the BOCC would implement an act resolution enforcing recommendations on the HIA. The Monument Ridge pad is 688 feet from the nearest residence and the pad on Stone Quarry road is 497 feet from the nearest residence plus there are 2 others on the south side near Tamarisk Meadows Village, Pads A and B. B is 900 feet from Stone Quarry road and A is 500 feet.
Dave believes that Antero is attempting to circumvent the HIA by locating these pads outside the PUD boundaries.
Chairman Martin – The HIA and State Health Department had a review of the draft HIA and found numerous errors in calculations and clarification is needed on methodology. The Board is requesting a continuation on the document.
Commissioner Samson agreed there are some methodology issues and legitimate concerns by the agency in charge at the state level.
Jim Rada – The HIA is still in draft form and some clarifications, modifications, and recognized errors have been noted. He thinks there will be a big discussion about what the HIA says and impacts on future decision-making. Some hold 180-degree differences on their opinions.
Chairman Martin – A discussion will be held on December 13, 2010 to extend the contract.
Dave Stricklin – Confirmed these pads are actually outside the Battlement Mesa PUD. Mr. Stricklin planned the existing EnCana well pad in the area as well and he would further point out that citizens from the Battlement Mesa community have complained about the dust from that site already. The well pad won't be developed until next spring; but they were moving dirt over there and dust and dirt was flying all over the place.
Chairman Martin – That is a concern.
Motion:
Chairman Martin – Yes. Give Judy direction, if 30 day approved ask for a hearing; he thinks that's what they need to do.
Commissioner Houpt – So moved.
Commissioner Samson – What is your motion?
Chairman Martin – that if the pads are granted to go forward to have a hearing to make sure that our concerns are heard including descriptions in place and they are not within the PUD and that all issues in reference to the surrounding neighborhoods to be heard.
Dave guesses what he is looking for is some support of the idea that you request the COGCC to defer any decisions on permitting these pads until the conclusion of the HIA.
Commissioner Houpt – And that's, it sounds like that's going to happen fairly soon. So, I would that motion; but we do that by requesting a hearing on these, specifically including the language of requesting them to defer until the HIA's.
Chairman Martin – Yeah request a hearing and it can be granted or denied at that point.
Commissioner Samson – So that's your motion. Second.
Commissioner Martin – Motion and a second to go ahead and ask for a hearing, if approved and bring out the different issues, legal descriptions, health assessment and concerns of the surrounding area of odors, and lighting, dust control, air quality control, monitoring, all of that within a regular hearing on a pad. Is that correct?
Commissioner Houpt – Yeah most specifically that we request a hearing on these Form 2A's.
Don – the motion is to request a hearing.
Commissioner Houpt – Yes.
Judy – On the three pad Form 2A's, Mountain Ridge….
Commissioner Houpt – The three pads as presented today and that part of the request in that hearing is that the COGCC defer a determination until the HIA process has been completed and that as John had mentioned the numerous concerns that have been brought forward today be addressed during that hearing as well.
Chairman Martin – Everything from the setback to the noise to the dust to all the other concerns that have been raised for mitigation or disapproval. And you seconded that motion.
Commissioner Samson – Yes.
In favor: Houpt – aye Martin – aye Samson – aye

- **J. Resolution and Update to Section 1.4 and 2.2C of the Garfield County Procurement Code – Jim Hackett**

Change Orders
Jim stated that clarification is necessary and explained that elected officials and department heads are authorized to sign contracts up to $50,000 but it is silent on change orders.
Don stated the Procurement Code is still a work in progress.
Motion:
Commissioner Houpt – I'll make a motion we approve the resolution amending sections 1.4 and 2.2 of the Garfield County Procurement Code as presented and authorize the Chair to sign.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **K. Award of Sole Source Contract to Value West for Commercial Property Assessments – Jim Hackett and Lisa Warder**

Staff is recommending the board approve the award of contract to Value West, Inc. in an amount not-to-exceed $91,500.00 to provide commercial property appraisals.
Jim – There are two options with approval of funding; this is contingent upon the 2011 budget being adopted. This particular sole source stems around the fact that Value West has been the single provider to the county for the last about seven years and they have intimate knowledge that a new contractor would not have. In the sole source, it comes down to a single source really that they would have. If they were to run another competition, the likelihood of selecting Value West is extremely high; therefore in his opinion that running one is not in the best use of county staff time.
Commissioner Samson – Is there even anyone locally in Garfield County that does this kind of work?
Jim – No.
Chairman Martin – Ms. Warder are you happy with this contract.
Lisa – I am.

Motion:
Commissioner Houpt – I'll make a motion we approve the sole source contract in an amount not-to-exceed $91,500.00 to Value West Inc. to provide commercial property appraisals and authorize the Chair to sign
Commissioner Samson – Second and also state that I am very pleased that in reading this they have not raised their price to us since the original 2003 contract, which is pretty unusual.
In favor: Houpt – aye Martin – aye Samson – aye

- **L. Renew IGA Between Garfield County and RFTA for Hogback Service – Jim Hackett**

The current IGA is set to expire on December 31, 2010. This will extend and provide additional funding for 2011. Staff is recommending the board approve the award of a letter of renewal to RFTA in the amount not-to-exceed $650,000.00 to provide continued service of the Hogback route.
Motion:
Commissioner Houpt – There weren't any changes; it's consistent with what we have in place until we have something else. I'll make a motion that we award an extension letter of the IGA for $650,000.00 to RFTA to provide continued service of the Hogback route and authorize the Chair to sign that letter.
Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Carolyn – This can't be signed until you approve the budget on the 13th.
Chairman Martin – That's correct; that's contingent on that 2011 approval.
Carolyn – So you don't want it back on your consent agenda.
Chairman Martin – No.

- **M. Sole Source Contract Between Garfield County and Eastern Research Group for Air Quality Monitoring – Jim Hackett and Paul Reaser**

Staff is recommending the board approve the award of contract to Eastern Research Group, Inc. in an amount not-to-exceed $111,252.00 to provide air quality monitoring and authorize the Chair to sign if approved.
Motion:
Commissioner Samson – I would move that we approve the sole source determination contract on Eastern Research Group and award a contract amount in a not-to-exceed $111,252.00 to provide air quality monitoring and authorize the Chair to sign such an agreement.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Chairman Martin had a question; in reference to a research group and also a base line study of the water is an issue. Wells and what have you in Garfield County; do we have anyone that we have contact with that could do such a research project or a lab process as we do air quality monitoring, what have you reporting back to the health department? Do we have a lab that we use, do we have anybody under contract, do we have qualified people to go ahead and do base line water studies when called upon.
Paul – That, I don't know.
Jim – I don't have an answer for your question. We certainly could do some research on that and try to find out. We probably need some specific details from the Board as to what you're looking for so that we could go out and search.
Chairman Martin – Yeah, that's what I would like to see if we can't do something like that and use some of the energy mitigation funds if necessary. It falls underneath that environmental issue and do an actual base line study, the different regions.
Jim – Countywide or site?
Chairman Martin – County wide or whatever; see what we can do or be able to do zones. Be able to put zone together so that we could have something that we could rely upon for the future.

- **N. BOCC Off Site Meeting Schedule for 2011 – Commissioner Samson**

The facilities identified as possible meeting locations: Parachute Library, Battlement Mesa Fire Station, New Castle Fire Station, Rifle Sheriffs Annex, Silt Fire Station and Carbondale Town Hall. The following dates were identified as potential off sites (subject to availability of meeting space): January 10th, Battlement Mesa (Booked w/Diana 10/20), March 14th Parachute (Booked w/Karol 10/20), May 2nd Rifle (Booked 10/20), July 11th Silt (Silt will book the fire station but cannot guarantee any executive meeting space), September 12th New Castle and November 14th Carbondale (Booked 11/2).
Commissioner Samson has been working diligently to make sure this will work. He explained the dates as above. All meetings have been booked with the exception of Silt, which they can book at the fire station. He's been thinking and he asked Dawn to come forward. Would it be possible for you to work with the Town of Silt and see if there would be a building close to the fire station so the Board could go there for executive session?
Dawn agreed to work on this issue.
Motion:
Don – John is correct; we do an annual meeting resolution establishing the meeting dates, times and now we can do locations as well. That should be done in the first meeting in January. He suggests a motion to direct staff to incorporate the following locations in the annual meeting resolution.
Commissioner Samson – So moved.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **O. Custer County IGA use of Funds – John Martin**

The Custer County BOCC thanked Garfield Commissioners for entering into an IGA to help them meet their American's with Disabilities obligations in their county owned buildings. In the process of completing the work, some issues have been raised regarding their compliance with the meeting of all the components of the IGA. Therefore, they are humbly asking for an amendment to the original agreement. Their reasons are: 1. When the Westcliffe building inspector came to issue the building permit, he pointed out they needed to change the outside door on the north side of the HHRC building and that work was not in the original IGA (they have attached a bid of for that adjustment), 2. Upon further evaluation of the installation of the stair chair at the courthouse, it appears the floor decking the second story is not level and slopes toward the stairs making the installation of the stair chair impractical. Therefore, they are unable to install that chair until the issue can be addressed. They are asking to use the funds dedicated for the stair chair installation to be used to change out the door so that can get a certificate of occupancy. This does not affect the stair chair installation; it will be done as agreed upon.

Motion:
Carolyn – Yes, you need a motion and I would need to know if you want this on your consent agenda or if you want to authorize John to sign it with the amendments.
Commissioner Samson – We can just authorize him to sign it after you have made the changes.
Carolyn – Yes.
Commissioner Samson – I would so move. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye Samson – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

- **B. Update on IGA – Koziel Property – Carolyn Dahlgren**

Chairman Martin wrote a letter to Ron Velarde, Northwest Regional Manager of the Colorado Division of Wildlife indicating Garfield County's support of the acquisition by the Town of Carbondale approximately 7.53 acres of privately owned property. The County also supports acquisition of a license/permit from the DOW and a lease to DOW relating to the river access. The BOCC has committed $100,000.00 toward the full acquisition costs, which the BOCC understands to be $2,520,000.00.
Jeff Jackel also present.
Carolyn explained the project.
Jeff said they are moving forward to try to close on this property at the end of this month on December 23rd. Mark Hamilton the town attorney and he, and Tom Baker met with the attorney general's office last week to work out some of the details in the first draft regarding the access easement and the conservation easements to the property so that they meet the desires of the Division of Wildlife. Their main concern is that the boat ramp remains in perpetuity a boat ramp accessible to the State of Colorado and to the public for fishing access. It's one of their largest and most important boat ramps in the state. They are pushing forward and are confident that they should have the closing on December 23rd and that the funding is in place; $1 million from GOCO, $950,000.00 from the Division of Wildlife, $520,000.00 from Carbondale, and $100,000.00 from Garfield County.

Motion
Commissioner Houpt – I'll make a motion that we approve the Intergovernmental Agreement regarding the Gateway River Access Park with the Town of Carbondale and that we approve a 2010 budget amendment to include the $100,000.00 that we had previously committed to this project and if I recall that was from general funds.
Carolyn – Yes.
Commissioner Houpt – So I would like it to come out of that pot. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

- **C. Direction – Public Officials Bonds and Liability Insurance**

Don explained how the state legislature amended liability insurance for bonds to allow the substitution for crime insurance except for the Treasurer.
The BOCC has to set the bond for the Treasurer before the end of the year.
Georgia – Don and Jean believe the statues were updated to provide the best protection for our elected officials.

Motion:
Commissioner Samson – I would move that we no longer employ the bonding for these purposes and go strictly with CTSI Insurance.
Commissioner Houpt – Second.
Chairman Martin – Motion and a second, liability coverage instead of bonds. Any other discussion?
Don – The only other thing is that at the time the elected officials are sworn in with the oath that you will sign; you will also need to have with you the CTSI representation of prime insurance so that it is part of the oath, because that is the substitution of the bond.
In favor: Houpt – aye Martin – aye Samson – aye

Executive Session:
Don – There are number of items he has for executive session; which he assumes the Chair will want to defer until later.
Chairman Martin thinks so unless it has anything to do with the public meetings at 10:15.
Don – There are two items, one is Item 2B concerning Board of Equalization Sundog. There actually are two Board of Equalization matters, which they could provide the Board with legal advice if you want to receive it before you take action. Also regarding Item 2C, you may want legal advice on the status of the intervention before you proceed on that. He will leave it up to the Board whether you want that advice before you start the public discussion or during it.

CONSENT AGENDA
lll. Approve Bills
mmm. Inter-Fund Transfers
nnn. Changes to Prior Warrant List
ooo. Authorize the Chair to Sign a Resolution for "Solid Waste Disposal Site and Facility" on a 40 Acre Site Located in the NE ¼ of the NE ¼ of Section 12, Township 7 South, Range 93 West – Applicant; Greenback Produced Water Recover LLC, Land Owner NE by NE LLLP – Gale Carmoney
ppp. Authorize the Chair to sign the Resolution of Approval for a 1-year Extension for the Temporary Employee Housing Facility Operated by Williams Production RMT on Property Owned by Chevron – Fred Jarman
qqq. ESRI Software Maintenance Agreement for GIS Services – Jim Hackett
rrr. New World Systems Annual Software Maintenance Agreement for Accounting and Purchasing Software – Jim Hackett
sss. Authorize the Chair to Sign the Land Use Change Permit for Extraction and Processing of Natural Resources on a COGCC Approved Well Pad PA 41-9 Located Within the Battlement Mesa PUD – Applicant; Williams Productions RMT Company as Lessee and Battlement Mesa Partners, LLC as Surface Owner – Kathy Eastley
ttt. Approval of a Reported Corporate Change for Aspen Glen Golf Club Management in Regard to the Liquor License Held by Aspen Glen Golf Club – Jean Alberico

Chairman Martin – One item is to be removed and that is "d" in reference to the authorization for the Chair to sign a resolution on solid waste disposal site and facility for Green Back Produced Water. There are some issues on the resolution of approval and we will see that back next week.

A motion was made by Commissioner Samson and seconded by Commissioner Houpt to approve the Consent Agenda Items a - i; carried with item "d" removed.

REGULAR AGENDA

- **B. Board of Equalization – Sun Dog Enterprises, LLC – Paul Schoeppner**

Don submitted the decision explaining it was unusual as it was an order retraining jurisdiction and granting the appeal requested by the taxpayer but deferring a final order until further information from the Board of Equalization.

Paul Schoeppner – This is strictly law and has new values based on Board of Appeal Adjustments (BAA). Don clarified the amount was from $315,000.00 to $610.00. the other parcel was from $308,000.00 to $88.00.

Chairman Martin – That's your recommendation Paul and you stand by it with those calculations and that's what you would ask the Board to go ahead and authorize and return back.

Paul – Yes I do.

Motion:

Commissioner Houpt – I'll make a motion that we approve the response providing the requested value information pursuant to order retaining jurisdiction on Sun Dog Enterprises LLC versus Garfield County Board of Equalization.

Commissioner Samson – Second.

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

Assessor's Office:

- **Snow Country Investments II, LLC – Abatement No. 11-051 – Schedule No. R011062 – Lisa Warder**

Chairman Martin asked if this was a noticed public hearing.

Lisa – Yes sir, and it was done by mail.

Chairman Martin swore in speakers

Lisa – This property protested in May 2010. A large portion of the property was determined to be steep hillside with no access. The unusable portion of the land is along the Highway 82 corridor and represents a small portion of the acreage relative to the parcel size. The adjustment in value is based on the utility of the land and the market value. Because they have a two-year cycle, 2009 and 2010, and they did not protest in 2009; the assessor's office is requesting an abatement for the 2009 value in taxes. The amount of the abatement is $33,759.28.

Commissioner Houpt – I make a motion we close the public hearing.

Commissioner Samson – Second.

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

Commissioner Houpt – I'll make a motion that we approve abatement number 11-051, Schedule number R011062 for tax year 2009 in the amount of $33,759.28

Commissioner Samson – Second.

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

PUBLIC MEETINGS:

- **A. Transportation Improvement Needs Assessment (TINA) Study – Progress Report – SGM – Betsy Suerth, Dan Cokley and Fred Jarman**

This meeting is to provide the BOCC with a status update and they are asking for concurrence that the approach they present is an appropriate methodology for conducting the TINA. The project team conducted individual interviews with each commissioner and the legal staff a few weeks ago to receive input on intersection selection and overall project approach. They heard a predominant concern that all of the county's road/state highways (CR/SH) intersections need to be studied as part of this project. Since that is not possible within the funding allocated for the study, they have revisited the list of intersections in the original scope of work as well as their original proposed approach to the TINA. The modified approach is to begin with a comprehensive list of intersections and categorize each based on the likely dominant party for funding future improvements. These categories are named County Primary, Developer Primary and Urban Growth Area (UGA). They will then chose representative intersections from each category to study in detail, with the assumption the chosen intersections will serve as prototypes for those classified in the same category. The prototypes will provide the basis on which to create a formula for partnerships to fund all intersection improvements – based upon operation, safety or other traffic engineering parameters. It is their intent to present preliminary results to the BOCC in January. Following that meeting, they will hold stakeholder meetings to collection additional input. From those meetings they will bring forth a set of recommendations as to how funding partnerships would occur for various intersection improvement needs. Dan is here today to give a status update and get the Boards concurrence on their direction. Last time they saw the Board on this subject they met with the commissioners and legal as well and the predominate comment they got was that it was the Boards understanding that they would study all the intersections in the county. All the state highway/county road intersections in the county. He thinks staff identified, when they put the project out, it probably wasn't possible with the funding allocated for the project. Hearing your concerns, they went back and looked at all the county road intersections or identified all of them and there are 28 of them. They tried to come up with categories where they could lump prototypes, lump intersections into categories and look at a couple prototypes in each category. Those categories are explained above. They will look at future growth scenarios and assumptions based on the comprehensive plan as well as information from the State Demographer. Looking more in depth of those categories, one thing to keep in mind is that it will be a fluid; the categories are fluid between each one. For instance, Cattle Creek intersection is now identified as a developer primary intersection. If the development application there went away, it would probably fall back into the county primary. These can move between categories. They looked at the list; the intersections they were going to look at within the county primary group were Mamm Creek intersection and Catherine Store. Within the developer primary group, they were going to look in depth at Cattle Creek and CMC and within the UGA intersection group they were going to look at Davis Point as examples of prototypes. Basically they are here today to keep your concurrence on the direction they are heading and receive any comments from the Board on that.

Commissioner Houpt was wondering how they were going to approach this. This seems really reasonable and she would ask staff if this accomplishes what they want it to accomplish as well. She knows they all had a different expectation a few weeks ago. Does this work for you all?

Fred – It does and he wanted to thank the Board and staff. It really helped them to refocus where they need to be refocused. Certainly, the original scope included 18 or 10 they brought a long time ago. This methodology takes a prototype framework that gives you the flexibility frankly to apply to scenarios that you feel are appropriate. As a county the county primary, all of these have a CDOT component to them even though Dan didn't put that on the table. This is not to say any of this; CDOT is not a part of, they certainly will be.
Chairman Martin – The other part was any kind of crossing in reference to RFTA, the railroad, other agencies outside in reference to including them into the county road highway department; but those again are a key component in reference to the improvements, railroads as well as RFTA. The other one is did you have any input from our in-staff engineers in reference to consultation or ideas?
Dan – They had met with Jeff, Randy and Marvin and they had those meetings prior to the meetings with the Board.
Commissioner Samson clarified that the county's primary intersections, the two they will focus on are Mamm Creek and Catherine's store. And the developer was Cattle Creek and CMC.
Dan – Correct
Commissioner Samson – The UGA was Davis Point and…
Dan – Just Davis Point.
Chairman Martin – If you took on County Road 154 Buffalo Valley, you would have all of them in there, RFTA, state highway, county, private and utility companies. That would be a real challenge right there. A lot of issues and a lot of different intersections; we'll have to find some kind of template to work within and then refine it.
Fred added and Dan covered it but they do have the state coming back to the Board in January to give you a next step to keep you informed, any red flags and keep moving forward.
Chairman Martin – Along with that, that will fall on your office is to do legal checking on ownership, right-of-way for the county in reference to prescribed easement, again surface use agreements whatever it maybe. Those are some things the future will have to identify with all these intersections and roads as well.

- **C. Rifle/Silt/Peach Valley/New Castle Citizens Alliance – Request for Confirmation of Intervention with COGCC on 10-Acre Well Spacing Issue and Request BOCC ask COGCC to Move Meeting to Garfield County – Dave Pegg**

Dave Pegg, on behalf of the Rifle/Silt/PeachValley/NewCastle (RSPN), asking 3 things: 1) Reaffirm the November 9, 2010 resolution to intervene and ask the COGCC to reject Antero's drilling density carried out in the same spirit when Commissioner Houpt was on the Board and then is to be replaced by Tom Jankovsky.
Chairman Martin – These grounds in the resolution were written and forwarded to the COGCC. He stated that Commissioner Samson could bring this issue up again after January 14, 2010 and it would be an issue for Commissioner Samson and Commissioner elect Tom Jankovsky.
Dave continued, 2) Since there are 9 people that sit on the COGCC and probably none have visited Silt Mesa, he is asking that they come to Garfield County to hold their meeting and visit this area before making a decision.
Chairman Martin clarified that hearings have been held in Garfield County several times and Dave Neslin comes here every quarter for the oil and gas forums.
Dave continued, 3) The decision is to be made by the COGCC, therefore before making it the members of the COGCC should witness the strength of public opinion of the 100 residents of Silt Mesa. If the meeting is held in Denver an undue burden will fall on those wishing to attend. Therefore, he is asking the Board of County Commissioners to move the meeting to Garfield County.
Commissioner Houpt wanted to speak to that. She does know that the COGCC agrees that it is important to understand the area that they are impacting. There are hearings and permit applications on land across the state and the budget to travel to each one of those locations isn't there. The COGCC was in Garfield County two meetings ago and there was a commitment when the budget was better to make sure that they traveled at least four times a year. This year that was cut down to two times because they lost a great deal of the budget. The commissioners are compensated for travel but it is a volunteer position. She doesn't want anyone to think it is a paid position. She understands his request and she thinks it would be fair to ask if they could accomplish that; but she wouldn't honestly after serving on the COGCC, she wouldn't go so far to say that they are serving you well if we can't travel to Garfield County.
Dave – He is not accusing the COGCC of anything; he is asking that you ask. Because if the answer is yes, he thinks that increases their chances of the intervention being successful. He certainly hopes it does. If the answer is no that does open up some further constitutional options. All they are asking is that the Board asks them.
Commissioner Houpt thinks it is reasonable to ask; but she would also ask him to take the time to take some good photographs and make sure that the oil and gas commissioners receive those so they can better understand the lay of land and your concerns and what's in place right now and the impacts. She wishes it were possible to travel to all of the places where these concerns are being raised and she knows it is a hardship. If it's not possible for the COGCC to come over she thinks it would be really good for them to take photos and have a petition and send those folks who can make it over.
Chairman Martin – It's a simple request.
Commissioner Samson agrees with Mr. Pegg in that when we had the big meeting, the CGOCC in Battlement Mesa, and he stood up and said he really wanted them, when Antero drilling comes, he wanted them to have their meeting over here. He thinks they were receptive over that; but like you say monetary constraints and so on. He thinks it would be well worth in the perimeters and we should request that the COGCC come over here.
Chairman Martin – Is that the form of a motion?
Commissioner Samson – Not yet. When they have that on the agenda, they will have all kinds of things on there. Somebody that's down in La Plata County that has a real controversial thing might say why do you put it in Garfield County, I want…so that's the problem we'll have with that. But he thinks they should request it and strongly word that we would like for them to come over and he thinks it would be good for them to encourage. He wanted to reiterate something; you have here that the November 9th resolution intervene you formally ask for the COGCC to reject Antero's plans. The main reason he voted for the intervention was that he felt there were a multiplicity of people that came before this Board and said two things. Number one, we are really, really concerned about our water quality. We have many, many wells

far more wells to the north of the river than to the south of the river. That is something to consider and he doesn't have all the answers on fracing. He is being very honest; he doesn't think anyone does. It may be perfectly safe for all he knows. But he doesn't know all the answers. Number two; besides the health, safety and welfare, those people were saying they haven't had, in their minds, an opportune time to say what they want to say to the COGCC. Those were the two overriding reasons; he didn't' want to take a stand that Antero should be stopped from drilling or doing what they want. But those were the two reasons; the health, the safety, the welfare of the people and their concerns and that they would actually have an opportunity to address that. That's why he voted for that. He is a little concerned about that and he thinks Dave understands where he is coming from. Point number two; he thinks it would be well within their prerogative here as a Board to do as you requested concerning ask them to come over and visit and see. If they will do that he doesn't know but he doesn't think it would hurt for them to go forward and say we should only recommend that they come over and have a site visit and talk to people and see exactly what their concerns are and study the topography and she how it's different. He thinks everyone in this room knows it is not up to this Board they will make the decisions and the more information they can glean from that; he thinks they need to be encouraged to do so. Once that is done, it's done and it's not this Boards decision; it's theirs.

Commissioner Houpt – With that request we can point out how many people were actually at that meeting and why it is so important to come back over to hear people. She just wants him to understand that Garfield was the last offsite location that the COGCC visited and there are numerous people across the state who are concerned about what's happening in their area, so it may or may not be a possibility to do that. She just wanted to for warn them.

Dave – It's just a request; there are two parts. One is the commissioners visit Silt Mesa to examine and two is the BOCC here requests that the decision is held in Garfield County.

Chairman Martin –There is one little difference; a true democracy is everybody gets to vote on the issue. We have a representative government, which means that you select different representatives to go forward and to represent that district and that's one of the issue you have in front of you. Like Tresi is saying; there are folks that are representing many counties and they don't see every site that they represent those and they have to answer to who they represent. In a republic, it's different than a true democracy.

Motion:

Commissioner Samson – One thing that might be a compromise; maybe three out of nine of them come over and see. That's better than none. I would move that we honor the request named by RSPN concerning that we draft a letter to COGCC and formally ask them if possible that any and all of the COGCC Commissioners personally visit the Silt Mesa area; talk to the people that would be interested in talking to them. I would implore you, as I did at the Northwest Oil and Gas Forum, at that time and this is part of the motion. I would implore you at that time to use every influence you can to make sure that if those commissioners do come over; that the people of Silt Mesa are respectful, and civil and courteous. I'm going to be very blunt here; no yelling and screaming and so on and so forth. That gets us nowhere. And, the second part of that motion would be that we write a letter also that we would strongly recommend and encourage the COGCC to have their meetings of the 13th and 14th of January here in Garfield County.

Don – Mr. Samson actually rather than a letter; at this juncture we have filed a motion to intervene so we are actually now in the legal process and it needs to be a motioned filed by my office on your behalf.

Commissioner Samson – So moved. Commissioner Houpt – Second.

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

Executive Session:

Don has a few items he needs to discuss in executive session; a personnel matter and is now a matter of administrative litigation out of the road and bridge department on which he needs to provide the Board with legal advice; provide an update of a code enforcement regarding the Collins matter; discuss a personnel matter concerning his office and the designation of an interim county attorney; discuss and provide advice on contract negotiations. Also you have one other BA matter to discuss.

Chairman Martin – Is there going to be any public action?

Don – Some or all of those may require public action.

Commissioner Samson – So we need a motion to go into executive session; so moved.

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

Chairman Martin - Motion to come out of executive session.

Commissioner Samson So Moved. Commissioner Houpt – Second.

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

Chairman Martin didn't believe there were any action items they have after executive session, only advice and direction.

Don – There is no action; item 2C on the agenda lists a selection of proposers; but he believes at this juncture there is no public action needed.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Sharon Boucher lives on Red Hill. The issue is the trail and the Road and Bridge Department is scheduled to chip and seal the road, which is actually just a trail. Her concern is that it would increase traffic anymore.

Chairman Martin – That's on one of our access studies as we did today. How we can access that and improve it and what partners we have to get it done. Prioritizing projects; that is usually road and bridge who does this, but he thinks they will see kind of project and rating that Red Hill has in reference to chip and seal. A rating in reference to what priority the Board asks their road and bridge folks to consider. We can look at that.

Commissioner Houpt – It's not the priority, so maybe we should add that to the list.

Fred – It is on the total list.

Chairman Martin – It is on the total list but not the study; but he is saying that is kind of the intersection there, it's on the list etc.

Commissioner Houpt – It's not on the study, so if it's something they want to start looking at this might be the ideal time to add that to the list. This isn't a new discussion, this has been going on for a very long time.

Chairman Martin – This is CR 107 at Hwy 82 and Hwy 133 intersections, which is on the list and was identified. It was identified as a potential.

Commissioner Houpt – Her question is; take Davis point, what will the product look like on the Davis Point study.

Fred – It will be a general overview of what that intersection probably needs up to a certain safety standard and then that's part one. Part two; almost more importantly are what are the funding partners that look like that come together for that intersection? That formula is really important to look at this through the eyes of a formula and that's how you approach all of these, because you have hundreds of millions of hours here in improvements.
Commissioner Houpt – Her point is if we add Red Hill to that then we will look at the specific concerns, the potential funding partners and that can serve as a template for these others as well. The only reason she is pushing for the Board to have that is because this is a discussion that more people than just Sharon have come forward on this discussion. Is it going to be an expensive fix and she would say that money is an issue on all road concerns; but it's a conversation that is evolving without us and the county needs to assert itself into those discussions because it's a county road.
Fred – That's why they checked in with the Board earlier this morning to see if there were other red flags or other directions the Board wanted them to proceed with. You have 14 of these and as they looked at those from the county road bridge, from the county engineering, county planning staff; this intersection ranked frankly a lot lower than Davis Point for the obvious reasons. If you try to pick the best prototype to use; that they believe was the best foot forward to capture a lot of these issues. They are not all going to be the same as you know because of the geography, the geometry, site distance, traffic generally, traffic pressure.
Commissioner Houpt – Well that is the only section that has one intersection. The other categories have two intersections. She wasn't quite sure how that fell out that way; but you might talk about adding Red Hill. It brings two intersections to that category.
Chairman Martin – It is a possibility to put in there; but he thinks they can resolve it in a different way and that is to work with road and bridge and see what the actual improvements are going to be for 2011 and their scenarios in their work session. Look at the alternative trail entrance; because he thinks that is where the conflict is really coming, walkers and cars on the same road up hill, downhill and it still a gravel surface road. Even though it has been improved and magged and rolled, it still gets bumps and still has a lot of food traffic. There are other solutions other than just studying that particular scenario on who are partners are; but it's something they need to put a little higher on the scale.
Commissioner Houpt – Very high! Because and this is just one component of it, the intersection, but there are a handful of other groups meeting and talking about this road and we are not engaged in it. At the end of the day, this is a county road. We should be there, we should be engaged in this and we should be taking the lead. It's just another opportunity to look at one of the components of what other people are talking about.
Carolyn – Commission, would it be helpful if Sharon called Ed Green next week when he is in town? He is the county manager's and could get his perspective where this discussion should happen.
Commissioner Houpt – Thinks they should and she has talked to some Carbondale trustees about this in the past, we need to be invited to these meetings. Or, it's not going to happen, because at the end of the day it's a county road.
Chairman Martin – This doesn't need to be an agenda item; we need to see how they do with the projects and Fred has direction. It's on our minds now that it is a priority to look at.
Commissioner Houpt also thinks Red Hill in Carbondale and who else has been meeting? Who are the formal people, who are the entities that have been meeting?
Sharon – It's very spread out; from grant people to the land trust to the city because of the water park, and she has been to every meeting or knows about it. She would be happy to connect with them or make it know the Board would like to be there.
Commissioner Houpt – Garfield County should be on the list and that's where Ed Green comes in.
Carolyn will send e-mail to Ed.
Commissioner Houpt – There may be a county engineer who shows up, or someone from the road and bridge, or a county commissioner; but someone should be invited to be in on that discussion.
Fred said he would like to do that.
Sharon – When do you want me to let you know there is a meeting and she asked Fred if he wanted it to be him.
Fred – Yes.

PUBLIC MEETINGS

- **A. Update on the Garfield County Comprehensive Plan – Tamra Allen**

Tamara was not intending on giving a presentation on the plan today; but has scheduled for work session on the February 8th work session. The planning commission did adopt on November 10th the Garfield County Comprehensive Plan 2030. As part of that adoption there was a resolution signed that not only adopted the plan but also replaced the 2000 plan as well as certified it to you as a board as part of that certification process it was certified to your Clerk and Recorder, Jean Alberico on November 12th. That has been received and is in full compliance with the revised statutes of Colorado per the Planning Commissions obligations. As part of the process both going through stakeholders interviews, and with their consultants attending a number of public meetings yourself as well as work sessions we have had trying to help with the planning commission. She thanked the Board for their help in the process and was very valuable to the end product they have today. You probably have heard there were a number of issues in that plan that she hopes they can spend some more time on their work session in February in regards to the content of that plan. What it means to the Board as a Board of County Commissioners as well as the planning commission as they look at implementing it and acting portions of that plan and looking at policies to help furthering that plan and implementation as well.
Commissioner Houpt thanked Tamara for the role she played; this has been a tremendous process. She applauds everyone involved and Tamara kept it moving forward with the consultants. She thinks it is very well presented and each one of us will have something that we don't quite agree with; but this is a good plan and it really will set the county in a good direction and thank you.
Tamara – One thing further, if you see your planning commission, make sure to thank them. As a group, they spent numerous hours on this plan and dedicated many of their evenings working through that. Jeff Winston will be at the work session to answer questions.

- **B. Consider BOCC Action Regarding the Sun Meadows Estates Subdivision Improvements Agreement and Letter of Credit – Applicant; Sun Meadows Estates, LLC – Fred Jarman**

Tim Thulson was present on behalf of Fred Cooke who is the manager of Sun Meadows Estates, LLC.

Fred provided a letter from CDOT regarding their final comments to the project. Alpine Bank is working on the extension of the letter of credit and will be prepared to confirm at least the continuation of the existing amount at this meeting. They are not willing to commit to any additional amount until such time as they have firm bids, if any additional surety is required. Fred is working with Tim Thulson to have a draft SIA to submit next week; however, Tim is out of town until Monday and Fred will follow-up with him.
Tim stated they have bid costs on the interchange from Martinez Western and should have a certificate of estimated costs the end of this week. And, according to Fred, the letter of credit is in place pending the revised estimate of certified costs. He and Don spoke and the letter of credit is good until December 30, 2010. They would like to request a continuance to the next meeting.
Motion
Chairman Martin – So the request is to continue it for seven days?
Tim – Yes.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye
Commissioner Calendars:
Commissioner Samson – Tomorrow, 9:00 a.m. work session, 1041 powers and it will be here, correct?
Chairman Martin – Correct and we will have the video from Africa or the streaming or a phone call. Wednesday is the gravel pit tour.
Commissioner Houpt has an I-70 Board meeting; she won't be there.
Commissioner Samson – Thursday there is a communications board meeting; he asked if Chairman Martin could cover and he said he would. Commissioner Samson and Tresi are both speaking at 1:00 for the library. Tuesday, the 14th in this room meeting with Tipton at 9:00 a.m.
Commissioner Houpt had the HIA scheduled on the 13th
Chairman Martin thinks it has been changed; what happens with all of the comments as well as Jim they will bring back next week and ask for an extension of that time and also consider an extension of contract so they can go into the 2011 budget year.
Commissioner Samson –On the night of 14th at 4:00 p.m. we are invited to a committee dinner at the fairgrounds. This is the Forest Committee dinner; representatives from the forest service and the Colorado Cattlemen's associations and report on how things are going.
Jean – Who is going on the gravel pit tour? She needs to notice it; she won't be there.
Commissioner Samson thinks he and John will be there.
Jean – Where are you touring?
Commissioner Samson – We are meeting at the Mamm Creek pit.
Jean – Where are you going from there?
Chairman Martin – To the Scott Pit, Frei Pit and Mamm Creek.
Commissioner Samson – The ones that are down I-70 towards Rifle.
Jean – What time are you meeting?
Commissioner Samson – 9:45 a.m.
Jean – We will get it noticed. All three of you will be here for Congressmen Tipton's and we probably need to notice that also.
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

DECEMBER 13, 2010
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 13, 2010 with Chairman John Martin and Commissioners Mike Samson and Tresi Houpt were 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
Lisa Bracken submitted a letter to the Board of County Commissioners relative to the West Divide Creek Seep Update relative to the BOCC meeting of December 13, 2010. She was advising the Commissioners of her perspective on the COGCC investigation occurring in our region of West Divide Creek, South of Silt.
COUNTY MANAGER UPDATE: ED GREEN
APPROVAL OF LEVI BURRIS AND ILENE SHEETS TO FAIR BOARD – KIP COSTANZO
Kip Costanzia was not present but Ed presented the memo that interviews were held for Levi Burris and Ilene Sheets on November 30, 2010 for Fair Board vacancies. At this time on behalf of the Fair Board, we are requesting your approval of these appointments.
Commissioner Samson made a motion that we appoint Levi Burris and Ilene Sheets to the Fair Board for whatever vacancies exist. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin – aye
PROJECT STATUS FOR CR300/US 6 INTERSECTION IMPROVEMENTS AND DISCUSSION OF TRAVELER'S HIGHLAND PID FINANCIAL PARTICIPATION – BETSY SUERTH
Betsy Suerth submitted a memo to the Board and did a PowerPoint. She reported since the last update held on September 13, 2010.
Betsy went through the power point project and the last was September 2010. She has held meetings with the potential partnerships looking at expenditures and filled in the Board on the occurrences including the by-laws, rules and regulations.
Background
Staff has received specific commitments from the energy companies, Una Gravel Pit and the Strong PUD. CDOT has issued conditional notices to proceed with construction and staff has applied for a location and

extent approval from the Garfield County Planning Commission to be reviewed in January 2010. Today, staff is before the Board to receive further direction regarding the level of funding participation by the Travelers Highlands PID. Exhibit B was submitted to project the timetable project progress.
Betsy gave the background saying that by direction of the Board, staff has been pursuing a cost share arrangement for the subject project. In July, the energy companies agreed in concept to a contribution of $500,000 toward the probable project cost of $1,500,000. A meeting was held with the representatives of the Strong PUD, the RTZ Gravel Pit, Antero Resources and Parachute Commercial, LLC. During that meeting, Strong expressed his willingness to participate and has since submitted a check to the county for $72,077 as a condition of his PUD approval. Mr. David Hicks opined that the Travelers Highlands PID is obligated for to more than a $75,000 contribution to the intersection improvement project. Mr. Tim Thulson representing RTZ proposed a $.10 per ton royalty on material sales upon initiating gravel pit operations.
Following the meetings with the stakeholders, staff devised ratios utilizing development project generated traffic estimates and total estimated traffic in the year 2010. The ratios would provide the BOCC a technical basis for determining each partner's potential fair share of the total construction cost. While developing the ratios, staff should not to include Antero Resources' drilling plans in the Battlement Mesa PUD or the RTZ Gravel Pit because of their uncertainty of actual developmen
Using the ratios and the information gathered from stakeholder meetings, staff presented to the BOCC two options for project funding on September 13 as shown in Exhibit A. At that time, the BOCC directed staff to pursue agreements with the potential partners, using Option 2 as a guide and acknowledging that the actual funding amounts may fluctuate before being finalized.

Project Update

The Strong PUD share has been collected. The Una Gravel Pit has committed to a donation of an estimated $33,000 worth of material as confirmed in a purchase order as in Exhibit C as well as the commitment letters from the energy companies. Letters of commitments include,
Strong PUD $72,077 (received)
Williams Production RMT - $165,000
EnCana Oil and Gas, Inc. - $165,000
Antero Resources – A range from $20,000 to $135,000 – Conditional and there agreement is based on approval.
Larimer Oil and Gas - $35,000
Commissioner Houpt asked about the level of travel by Antero on that County Road.
Betsy – A survey has not been done. Antero, the county attorney and Betsy worked on the agreement and have a clause in the draft agreement that it does not what is expected for their entire commitment for their drilling plan. The county has not reviewed their plan and it would be a review by the Board.
The Energy Companies met and decided.
Commissioner Houpt – Williams and EnCana have contributed a lot toward this project. The last we heard from the railroad was a crossing agreement but she is assuming they are processing that agreement.
These funds will be collected either during the project or upon completion of the project as reimbursements. The range of commitment from Antero Resources reflects a maximum level conditional upon county approvals of a not yet submitted drilling plan approval. As a result, the County's share is also shown as a range.

Travelers Highlands Cost Share

Option 1 and 2 and now an Option 3 was added.

In September, staff had reported the BOCC that the Travelers Highlands PID was delinquent on their taxes. As of November 1, the PID is still 64% delinquent owing $36,000 of a $56,000 tax bill. Considering this fiscal condition, the BOCC indicated that it might not be feasible to collect $706,000 from the Travelers Highlands PID. Assuming the PID remedies its delinquencies; staff is suggesting alternative option #3 using the original concept of a three-way split of the $1,500,000 project cost between the developers, the energy industry and the County. If the County collects revenues from the 50 mil levy for the next three years, including that owed in 2010, an estimated $450,000 will be realized based on 2010 property valuation and using an average, very rough estimates of a 30% drop in valuation in 2012, It is emphasized that the valuation drop is based on a general estimate and can only be verified upon the County Assessor's full analysis over the nest valuation period. This estimate is given now only to provide a basis for the BOCC to make a decision about funding the project. Should the BOCC want to pursue the full $706,000, another 2-3 years would likely be added to the collection period. The PID Rules and Regulations, adopted on July 6, 2010 are included in Exhibit E for the BOCC.
Lastly, staff is asking for direction on billing the PID for the project engineer's time spent on moving this project forward. That invoice would be for $2,925.72 as of December 8, 2010 as shown in Exhibit D. The amounts include thirds': 1/3 process with the County, 1/3 PID including the Strong PUD, and the 1/3 from the energy companies. The County would be fronting the money for the project. $3,000 has been spent thus far on Betsy's time, which will be charged back to the PID.
Carolyn – This afternoon when we go in the Travelers Highlands, she noted for the record that the IGA has not been signed.
Commissioner Houpt asked if this was just a status report.
Chairman Martin – They are not going to be able to pay $750,000. Another one is that RTZ is probably not going to go forward in reference to the gravel pit so that we don't have $.10 a ton recovery on that either.
Commissioner Houpt – There is a good option of going with the assistance of the County.
Chairman Martin – It means the County is going to front the money and then try and recoup the money. Strong has lost some of his customers, he is struggling due, and we are lucky to just get $72,000 from now simply because it has been so long and he's lost his customers in reference to this approval process.
Commissioner Samson – I was under the impression that Mr. Strong had already paid us.
Chairman Martin – He did and we very lucky that he did simply because his financial situation and losing his customer, he can't rent anything out, can't sell anything, it's been such a long process, he's lost his customers.
Commissioner Samson – I would say, let's continue with the modified share option 3 and let's see how that goes and thank you for the four energy companies for stepping up for $.5 million making it possible.
Commissioner Houpt – And the developers.
Carolyn requested a formal motion so that we deal with you later this afternoon as the PID.

Betsy – Carolyn, would we want this included in the IGA that we have yet.
Carolyn – Probably.
Ed – The other question is do you want us to put a budget supplement together in January and for how much.
Commisioner Houpt – This isn't in the current budget.
Ed – No.
Carolyn – It should be.
Betsy – Is Bob here? I submitted it to Bob back in September. So it should be in the budget and I think the number is $1.5 million.
Ed – I'll just verify it with Theresa.
Betsy – I didn't follow through with it.
Carolyn – There is $1.5 million in the County Road 300 Intersection Improvements.
Chairman Martin – And that's in your budget right now.
Ed – That is the total project amount.
Chairman Martin – We have to front it and then get reimbursed and if we don't get reimbursed, we do again a reduction and recovery of cost.
Betsy – And those reimbursements should be in the budget as well on the revenue side.
Chairman Martin – So the motion is to go ahead, select an Option 3, and go forward with that one.

Motion

Commissioner Samson – Well I would move then that we select the modified share option 3 and direct the staff to go ahead with that concerning this project of County road 300 US 6 intersection improvements.
Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin – aye

REQUEST FOR $40,000 ADDITION TO COUNTY CONTRIBUTION TOWARD PURCHASE OF SILT RIVER PARK AKA SILT RIVER PRESERVE – DAVE MOORE

Ed presented that we had a meeting with Silt and at that meeting; they requested an additional $40,000 associated with their project to acquire land and create a conservation easement. Rick Aluise, Mayor Pro-Tem submitted the letter of request in your packets. And, we have a first amendment to the IGA, which adds that $40,000.
The letter stated the Town of Silt does not enjoy the full economic base that many of the communities in our area currently experience. In order to help us improve our business base, we are preparing to form an Urban Renewal Authority. Such an endeavor will require every financial resource we have available, resources, which are very meager in the Town of Silt. In order to help us achieve our goals, we would respectfully request that the Commissioners assist us with our share of the purchase of the Aspen Valley Land Trust property from any discretionary funds you might have available. Our commitment toward the purchase of this property, which will become a Conservation Easement if $40,000.

Discussion and motion:

Commissioner Houpt – I have a question about this because I am so unclear on it. They tied this to the need to invest in an Urban Renewal Authority or a TIF. When I was first elected the County was suing Glenwood over a TIF, so I think it is important for our communities to know now that we support TIF's if that is what we are doing because we're basically allowing them the monies, or freeing up the monies for them to be able to do that by adding more money to the land trust funds.
Commissioner Samson – I would move then that we approve the request of $40,000 in addition to the County's contribution for purchases of Silt River Park and that would come of discretionary funds.
Commissioner Houpt - Second.
In favor: Houpt – aye Samson – aye Martin – aye

CONSIDERATION OF AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT W UCD-SCHOOL OF PUBLIC HEALTH (BATTLEMENT MESA) – JIM RADA AND UCD STAFF

Jim Rada submitted a memorandum to the Board in regard to the Professional Services Agreement (PSA) between the BOCC and the University of Colorado of Public Health related to conducting the Battlement Mesa Health Impact Assessment (HIA). The agreements included a list of services to be provided to the BOCC from UCD. Part of the required deliverables includes communication with the BOCC regarding questions from relevant stakeholders in regard to the deliverables.
Jim reminded the Board that due to the request of the oil and gas industry, the public comment period on the draft HIA was extended thirty days to November 15 to allow a thorough review of the document by technical experts representing the oil and gas industry. This extension also allowed CDPHE and the Battlement Mesa Concerned Citizens technical representatives to conduct a more thorough review.
The final report was to be delivered to the BOCC by October 31, 2010; however, with the extended comment period the final report delivery was rescheduled to December 13, 2010. Jim said, the Board on November 23rd advised him that the BOCC desired to review the comments from WSCOGA and CDPHE and that a December 13 final report would be premature.
The public meeting regarding the final HIA report scheduled for December 14 in Battlement Mesa has been cancelled and the stakeholders have been notified of this cancellation along with notification of the December 13 BOCC meeting.
The Agreement began May 1, 2010 and terminates on December 31, 2010 however; this agreement may be extended beyond the initial term by written consent of both parties.
Discussion was held in a previous meeting that the BOCC would want to extend the contract.
Additional Discussion:
Present on the conference call. Roxana Witter, John Adgate, Lisa McKinley and Lee Newman.
Therefore, today some suggested discussion points were presented:

1. Clarification of BOCC concerns related to the HIA and HHRA.
2. Discussion and direction from the BOCC regarding process for resolving these concerns.
3. Discussion of PSA scope of services and whether any requested activity fits into or expands the scope of services.
4. Discussion of additional compensation for anything deemed to be an expansion of the scope of services.
5. Establishment of a target endpoint for the HIA project and extension of the PSA.
6. Anything else the Board would like to add.

Discussion:

1. Clarification of BOCC concerns related to the HIA and HHRA.

Jim – What to address in the extended contract.
Chairman Martin – 1) answer questions, rationale on the report, 400 plus questions, comments and statement submitted to the health department; 2) methodology, explain results and scales; 3) study leaves a lot of interpretation, need a document and not a theory, need factual basis that disagrees or agrees equally. We need to make the document one we can rely on consisting of true clear facts, not a political tool on either side. This was originally for the Battlement Mesa PUD only but seems to have become a nationwide issue about oil and gas in general; 4) use terminology that everyone can understand; and 5) more time is needed, say 4 months to finish the next draft, then get comments from our citizens.
Commissioner Houpt – She was hoping it wouldn't be a political tool. We need to protect the integrity of the document; a true health opinion and perhaps citizens or industry may agree or disagree. We hired people with experience to perform the study. What is the status of the pilot air-monitoring program?
Commissioner Samson – I have valid concerns and those have been made and the interpretation of how they saw things. A lot of material and would be foolish to release the report at this time. A lot of work, many people in Colorado and USA looking at this and need to do it right; answer the over 400 questions posed. We need definitions, clarify misunderstandings, and do a better job. It's premature to release this without more work done.
Commissioner Houpt – We gave specific directions looking at impacts of a specific industry only. Several years ago, we did a generalized study of health impacts.
Chairman Martin – Study needs refinement, stick to the facts and not theories, actually findings and not possibilities.
Commissioner Houpt – Air quality monitoring was to begin next week, what is the timeframe?
Dr. Roxana Witter – Agreed. The draft is not the final document, public comment is important, improve the document and appreciate the opportunities afforded to do it very thoroughly. The air monitoring was to be in Battlement Mesa next week; Antero was to have it at the Watson Ranch, however, they want to wait until they have the new technology in place. So, we're going forward with Williams and identifying a location that will possibly begin next month.
Commissioner Houpt – Disappointed that Antero didn't want to showcase their new technology at this time.
Jim – Sampling in Battlement Mesa has been ongoing since August or September 2010 and we are waiting on lab reports. The School of Public Health is working on access issues for Williams.
Chairman Martin – Understands but I-70 is the biggest polluter and should be part of the baseline study.
Commissioner Houpt – We are looking at a particular industry impact, we did a study of I-70 and road conditions.
Jim – There are two studies but presently we need the HIA resolution. The pilot air quality monitoring is separate and we need to keep them separate.
Commissioner Houpt – The postponement of the HIA study has postponed the air quality monitoring. Do you see the study impacted by the delay?
Jim – Possibly delayed but we have extended the contract with the School of Public Health until the end of 2011. We can collect air samples and its part of the original scope.
John Adgate – We need more information for Chairman Martin's concerns about facts versus possibilities. The focus was on human health risks; need more details and approach to respond to comments. We are categorizing comments in common themes, address them point by point systematically and address everyone's concerns. Need to work on our risk communication strategy, how to discuss the findings of the HIA.
Chairman Martin – How are you arriving at these risk factors and numbers, did you take into consideration in-house pollution. All oil and gas questions, citizens concerns need to be explained and either stand firm on your rationale and methodology and support with facts. If you make changes and adjustments then explain and produce best piece of work so we can rely on it.
John Adgate – OK do you want this over the phone or written comments.
Chairman Martin – Written ones, 400 different comments. We can extend our contract, look at cost, and suggested use of the oil and gas mitigation fun versus general funds to pay for this study. We can extend it for 3 to 4 months, refine everything, and then extend the comment period once more.
Roxana Whitter – 4 months and about $41,000 for 2 months, so double that for 4 months plus a 5% fee for the School of Public Health.
Chairman Martin - $82,000 plus incidentals. Look harder at existing data, no theory or methodology but true facts, not just potential impact.
Commissioner Houpt – Hate to see us limit the scope.
Roxana – Excellent questions add an additional comment period and amend the contract to reflect. The air monitoring at Battlement Mesa does not change the scope.
Chairman Martin – Jim, do not limit yourself, bring folks over, meetings, phone usage and whatever's necessary to get a better document.
Roxana – In answer to Chairman Martin, scope is not changed. We'll have meetings before finalizing the report.
Commissioner Houpt – Amend the contract to add meetings.
John Adgate – Agreed.
Carolyn – The County Attorney's office can get with UCD and Public Health and draft a propose scope and timeline and come back next week.
Chairman Martin – We will consider the matter closed until we hear back next week.

AWARD OF OFFICE SUPPLY CONTRACT FOR 2011 TO SANDY'S OFFICE SUPPLY – JIM HACKETT

Jim Hackett submitted the award of office supply contract to Sandy's Office Supply in a not to exceed $250,000 for 2011. Jim submitted the register of proposal comparing Office Depot and Sandy's Office Supply. Sandy's had a total of 159 points compared to Office Depot of 143.
Commissioner Houpt made a motion that we award an indefinite delivery and an indefinite quality contract in the amount not to exceed $250,000 to Sandy's Office Supply to provide office supplies and authorize the Chair to sign the contract. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye

AWARD OF PRINTING AND STATIONARY SUPPLIES TO OFFICE DEPOT - JIM HACKETT

Jim Hackett submitted the award of a contract for the purchase of printing and stationary supplies to Office Depot with a not to exceed amount of $160,000 for 2011. Out of 4 bids received, Office Depot was the best price and is located in Glenwood Springs. So it is either discussing, approving or disapprove the award of an indefinite deliveries and indefinite quantity contract to Office Depot with a not to exceed amount of $160,000 for the purchase of printing and stationary supplies and to authorize the Chair to sign the contract if awarded.
Commissioner Samson – So moved. Commissioner Houpt – Second and that was to approve. Chairman Martin – That was to approve. In favor: Houpt – aye Samson – aye Martin – aye

LOVA TRAILS 2011 CONTRACT RENEWAL – JIM HACKETT & LARRY DRAGON

Jim Hackett and Larry Dragon submitted the award of a contract for the LoVa trails in an amount not to exceed $53,710 for 2011. This is a renewal of contract with the County.
Commissioner Houpt made a motion to approve such contract in an amount not to exceed $53,710.00 to LoVa Trails for 2011. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye
Carolyn asked Jim is he had the form of lease to go with this.
Jim – Yes.

APPROVAL OF DEPARTMENT OF LOCAL AFFAIRS GRANT CONTRACT – WEST PARACHUTE INTERCHANGE – GENE DURAN AND RANDY WITHEE

Gene Duran and Randy Withee submitted the request for approval of the DOLA contract for the West Parachute Interchange providing an indepth report of the summary and background of this transaction. The DOLA grant contract, which grants Garfield County five million, seven hundred thousand dollars ($5,700,000.00) for the construction of an interchange on Interstate 70 approximately one mile west of Parachute, Colorado and set forth the scope of services since it has been the subject of negotiations among the parties and CDOT.
The Department of Local Affairs (DOLA) wants to finalize this agreement before the end of 2010 due to the change in the political climate; CDOT committed to $6 million. CDOT is the lead, bid contract, construct the interchange and Garfield County hold the purse strings. Need motion to approve the DOOLA contract that reflects the status of the project.
Ed – CDOT will hold onto the $6 million.
Carolyn – DOLA will transfer the money to CDOT and caution the BOCC would be responsible for collecting the money. This contract obligates the BOCC to 10 years, its CDOT property and the BOCC needs to measure the risk.
Randy – The gas company funds will go to Parachute and the IGA spells out that Parachute is responsible for getting the funds.
Ed – The County pays $2.5 million.

Motion

Commissioner Houpt – I will make a motion that we approve the grant contracts for the energy and mineral impact assistance program Contract No. 153 appropriate code 128 with DOLA for an amount of $5.7 million dollars for the Parachute overpass project and authorize the Chair to sign. Commissioner Samson - Second.
In favor: Houpt – aye Samson – aye Martin – aye
Carolyn asked Gene if there was any chance we can get these other documents in front of the BOC next week.
Gene – The contract that I anticipate I will make best efforts to get finished is the IGA over the property acquisition. I believe Mr. DeFord has reviewed that agreement and it just a matter of getting it in final form. I will run that by you Carolyn.
Carolyn – And CDOT says they won't do the construction and maintenance agreement until when.
Gene – Until after the design phase.
Commissioner Houpt – And when is the Parachute agreement going to be in place.
Carolyn – Perhaps we could get that one on December 20, 2010.
Ed – One point of clarification on an earlier topic with the $324 discussion is in the budget.
Chairman Martin – Yes, it is, Ms. Dahlgren read the document and circled it in her budget.

CONSENT AGENDA:

a. Approve Bills
b. Authorize the Chair to sign a resolution for "Solid Waste Disposal Site and Facility" on a 40 acre site located in the NE 1/4 of the NE 1/4 of Section 12, Township 7 South, Range 93 West. Applicant is Greenback Produced Water Recovery LLC.; land owner is NE by NE LLLP – Gale Carmoney
c. Renewal of janitorial services contract with Merchants Building Maintenance – Jim Hackett
d. Renewal of Bulk Motor fuels contract with Master Petroleum – Jim Hackett
e. Courthouse Guard Services final option year renewal to Foremost Response, Inc – Jim Hackett
f. Lower Valley Fire Protection District IGA Renewal for 2011 – Jim Hackett & Gene Duran
g. Resolution recommending full Congressional funding for the Land and Water Conservation Fund

Jean did not have several of the items listed.
Carolyn – The County Attorney's office and the Office of Contract Administration have discussed this issue and we still have a 3- way misunderstanding. Jean and I always understand when something is on the consent agenda that the actual document to be signed and attested to on the day that the consent agenda is approved so I think we need to add this to our agenda again Jim because I still don't think understanding each other. Shock and surprise, it takes us a while sometimes. There is no document for John to sign today.
Jean – I don't have c, d, e or f.
Commissioner Houpt made a motion to approve the consent agenda items a, b and g as presented.
Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye

COUNTY ATTORNEY UPDATE: CAROLYN DAHLGREN - ISSUES IDENTIFIED:

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE - Contract negotiation issue that staff would like to discuss with you in executive session regarding the Alpine Bank that is on for next week as there are some specific legal issues we would like to discuss with you today. The Treasurer, Ms. Dawson, Ed and Carolyn.

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:
No action taken, only legal advice.

PUBLIC MEETINGS:

PROPOSED SOLAR FARM AT GARFIELD COUNTY AIRPORT FOR HOLY CROSS FALL RFP – SOLEVENTO, LLC WALKER GROSS

Brian Condie and Walker Gross provided the update. He presented a power point presentation and submitted documentation.
Walter presented the concept to use the other ½ of the solar farm at the land at the airport designated for this type of industry. He fully explained what his company was proposing. The property is adjacent to the Clean Energy Collective (CEC) who only wanted ½ of the property available. Walker explained that he wants to other ½ and needs a letter of commitment, an RFP and needs this by January 31, 2011.
Commissioner Houpt inquired if this was announced publically.
Brian explained that the land was identified for solar farm, land has been available for 18 months, and CEC was the only one interested until SoleVento's proposal. Brian explained that non-airport land is determined on a first come, first serve basis and has been the case for many years. This is similar to hangers but since this was a long-term lease of 25 years, Brian determined it should be brought before the Board the same as CEC was.
Walter Gross explained how he found this land on Google Earth; he was searching for property available and submitted a proposal to Brian.
Commissioner Houpt reminded that Garfield County was a public entity and need to do an RFP.
Brian – This is not airport land, it is available for public use.
Walter Gross wants to lease the land for 25 years and he needs a letter of commitment to the concept only at this time.
Carolyn – Question – do we allow Brian to continue and follow his procedures or publish the land is available.
Brian – Reminded the Board that CEC was an unsolicited proposal and he had looked for users for 18 months. This land is governed by the County and not the FAA.
Jim Hackett – There is nothing in the Procurement Code that identifies the method to handle unsolicited proposals.
Walter Gross met with Brian, CH2M Hill. His company is based in Fort Collins and he presented a revenue report and percentages for the County. He will email resumes of the company to all parties including Jim Hackett and the BOCC. He stated the cost of this facility is $1 million dollars and he would go through Holy Cross.
Chairman Martin – Do we think the concept is worthwhile, give Walker the go ahead, land is acceptable or say not interested.
Carolyn suggested Walter review the land lease with CEC.
Commissioner Houpt – Concerned and GNECI group is the best one to go through. How about other companies that might be interested?
Commissioner Samson asked Carolyn if the County would be liable if we approve the concept.
Carolyn – No, as long as the developer understands it's a concept.
Walker – Just need a letter stating that Garfield County will work with us, we can determine the lease later, we will not be building until 2013. Financials must be turned in by 1/31/2011 and he would need this letter by 1/15/2011, as it has to go to London.
Carolyn – Brian is not under any obligation because it is non-aviation land.
Brian – How long would it take if we open this up to the public?
Chairman Martin – 60 days.
Commissioner Houpt said she knows of local companies that are looking for opportunities to do this type of thing.
Brian named the obstacles.
Walker is confident and will be here next week, December 20, 2010.
Commissioners agreed this land was ideal for a solar farm.
Brian – He gave CEC the entire piece of ground but they could only use ½ of it, they could not commit to the entire parcel. This lease was done in the summer of 2010. He will see that Walker has a copy of the lease needed for this parcel of land.

SHADE HANGER CONTRACT – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren submitted the bid review and recommendation of CH2M Hill for contract award for the Shade Hangers with the lowest bid by PNCI Construction, LLC at $438,949.00 for a total of $88,949.00 or (25.4%) above the Engineer's estimate. In reviewing the above information, we feel PNCI is capable of completing the project. This is for 22 hangars at 5% return with an assumption of an occupancy rate of 90%. The handout included breakdown of the cost, revenue, and cumulative cash flow.
Brain explained this is the third task of our east area upgrade, the first one was creating a parking area for the light aircraft, and the second task was overlaying the existing ramp with three inches. We secured a contract with CH2M Hill to do all three tasks, which included designing and overseeing constructing for Shade Hangers. The engineers estimate came at $2.2 million just for the first two tasks. This is county money and it makes a big difference when it is county money. We put that out to bid and the engineers estimate was $2.2 million. Fiore and Son because they were already on the airport, they came in at ½ million under that which gave us the ability to go out and release task 3. So this is the 3rd task under that original ramp expansion project. However, there are two issues with this proposal that I want to bring up and give my recommendation. The first is that we have $409,311 left in this east area upgrade project, the low bidder was $438,000, so I'm under $38,000 under on this project. The engineer's estimate was $350,000 so they lowest bidder was 25% over the budget. Then the next problem I have, I had Bob re-run the numbers for a return on investment and $100 a month we had a user airport meeting and we talked to the tenants that have their aircraft out in the weather. Half of them said they would stay out in the weather for the $40 a month and the other half said they would pay $100 a month to get under Shade Hangers. They

didn't want to pay much more than that and for $300 a month you can actually go into a heated hanger so re-running the numbers for 13 years at $150 with 20 of these stalls leased, is not going to happen. If we run it at $100 with 100% of the 22 stalls leased that is 18 years for a return on our investment and that's county money so I really cannot recommend that in good faith and that's not a good investment in my opinion. When someone else spends 95%, I'm going to spend. Once it's my own money and the county's money, this puts the 18 aircraft that we have out in the weather which is where they were for the last 20 years. So we're not taking anything away. It would have been nice if we could have provided this service to them but 18 years for $438,000, my recommendation is that do not proceed with the T-hangers, the Shade Hanger project.
Chairman Martin – Not at this time.
Ed – Our consideration is that these 18 people are local constituents and in the past have emphasized the need for us to support those.
Commissioner Houpt – That is a lot of money for 18 aircraft.
Brian - 18 aircraft and I told this in the meeting and in the airport user meetings to the pilots that I don't want to put up ½ million shade hangers that do not fly and ½ of those aircraft sit on the ramp and do not fly, they don't bring any revenue into the airport, they don't do any fuel sales so it would be a storage for aircraft. I told them that and they didn't disagree with me but I invited the PNCI here.
Chairman Martin – Thank you Brian for your recommendation. What's the pleasure of the Board?
Brian – This was out to public bid, they did certify, they are certified to construct this so they're qualified and I just need a okay that I can terminate this project.
Motion
Commissioner Houpt – I am going to make a motion that we support staff's recommendation and not construct the Sunshade hangers at the airport. Commissioner Samson - Second.
In favor: Houpt – aye Samson – aye Martin – aye
TIE-DOWN LEASE CONTRACT – BRIAN CONDIE
Brian Condie and Carolyn Dahlgren submitted the Rifle Airport Tie-Down Agreement information outlining the monthly fee of an annual fee of $480 per year.
Brian – With the new general aviation light aircraft tie down space that we have that is off the main ramp so we have not had a tie down agreement before because we have dealt through the fixed base operator. Now that we have this new area away from the main ramp, I need to introduce a tie down agreement for those that wish to use this area. The current rate is $40 a month and Atlantic Aviation our fixed base operator builds that on a month basis and through many years of experience with tie down customers and the issue we have had at this airport, we've come up with this lease agreement – and he went through to show the highlights of what we're actually asking for a local resident. The monthly fee will go, if they want to do month to month, it will $60 a month instead of the $40 and then they have to pay first and last, if they want to do an annual and keep the $40 a month, then they can do an annual of $480 and have it done through the year. The month to month collecting on those, sending those out every month is just under ½ hour of staff time so that's where the extra $20.00 comes into play. I also presented this lease and concept to the local pilots before I came to you and got their input on it. Some liked the annual fee, some didn't but $40 a month is pretty inexpensive. On page number 2, the 3rd line, says the option to extend for two years at that point we could raise the fees, I don't have an escalator clause in this, it's been 5 years since the fees have been raised, we are less expensive than Aspen, Eagle and Grand Junction, a lot more than Meeker.
Commissioner Houpt – What are the other airports charging?
Brian – From $60 to $200 per month. Our goal here is to recover the cost to maintain the asphalt. Page 3, number 6 if they are late there's a late fee of $30 dollars and it takes more than a hour to right the letters, make the calls and so that is covering staff time each month that that happens and we have historically 4 aircraft that are slow paying. One of them owed $1800 when we shut down. We sent out a notice and all of that stuff. We had to follow legal procedures; they did come in and pay everything so. The next is No 8 – they are responsible for snow removal. In the past, the FBO would go out and remove the snow from the aircraft. We do not have aircraft insurance under our coverage; we have airfield insurance so I won't let our employees touch the aircraft so the owner is responsible for snow removal off their aircraft. Prohibitive uses in No. 10 there is no derelict or abandoned aircraft; No. 16 and 17 are the notices, in the past, the notice we send out a letter and when that doesn't come or any response, we send out a certified letter. We have had several certified letters just returned, the right address, the person just refuses to sign it and then it's sent back after 30 days. So I have added a notice in here that if a certified letter is sent back for any reason then I may make the notice in the newspaper and the time for default starts when the newspaper is printed. No. 25 – there is typo, this subordination clause goes between the Board of County Commissioners and the FAA isn't not the user. So we are tied to FAA rules and if that ever changed, it makes not difference what this says then the tenant would be tied to this RFA Contract as well so that should say FAA on that. That's it in a nutshell for a new tie down agreement at the airport.
Chairman Martin – You need authorization to put this into play.
Carolyn – Brian and our FBO agreement, an increase or decrease in tie-downs assigned to Rifle Air requires formal amendment to the FBO agreement. Is Rifle Air losing any spaces by our doing this? The FBO has a very specific definition of the number of tie downs that the FBO has.
Brian – In doing the ramp overlaying I got with the FBO and asked them how many tie down spaces they wanted. They were in favor of moving the 20, which is not 40 tie down spaces off of the main ramp. They requested 8 tie down and I have that in email but not in writing. So we lost 100 tie downs but they have only requested 8.
Chairman Martin – Then you need to make the change in the agreement.
Carolyn – Yes, because it says the FBO has the use of 117 of the total of 120 available tie downs on the central terminal area plan, so we do need to work an amendment to this, but they don't care, they only want 8.
Brian – Yes, only 8. 8 for the transient parking so all of the 18 aircraft that are out there are now in this new area.
Carolyn – Assuming action on this we will need to get an amendment to the FBO agreement.
Motion
Commissioner Houpt – I make a motion that we approve the new tie-down agreement presented by staff for the Garfield County Regional Airport with the changes to paragraph 25 replacing the word user at the end

of the paragraph to FAA. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye
Chairman Martin – Okay Brian make sure we have that other agreement adjusted.
Brian – I will get with Justin, get that in writing, and get that to you next week.

UPDATE ON 2011 AIR FAIR

Brian, Ed and Dale went to Las Vegas last week and booked the acts for the Air Fair and we have some very good ones. We also focused on the signature event this year and think we have provided the solution that merges the Air Fair.
Brian reported that when we down there we came up with four possible dates that would work, primary air show event dates and then once we talked to the performers and what we were able to get we nailed it down to Friday and Saturday July 8 and 9 for 2011. That is date we are scheduled to do the Air show. For the signature event the Red, White and Loud Tour from the members of the Air Force, they bring in their B29 Super fortress bombers with the county music singer Aaron Tibets; he does the show and promotes the patriotism in the country. That will be one of the acts, the Army Golden Nights remember our air show and want to come back – they were not able to jump because of the wind. Bill Left will come back with his night show and we have a 3-ship demonstration team called the Arrow stars that will come and have a 3 shift acrobatic act along with all the static displays and ground events we've had in the past. This is becoming a large community event we will be putting out to vendors in the newspaper and what we do there is try and select one food vendor from each city or town, in the past we've only had one from Parachute, one from Rifle, and then last year we had one from Carbondale come down and Glenwood too.
Commissioner Samson – I think they will come they make plenty of money, we have between 17,000 to 20,000 people show up and they all eat.
Brian - How we get that count is we have two people at the gate and each have a clickers and they click how many people come in through gate and I take the higher of the clicks.
Commissioner Houpt – So, it's not completely scientific.
Brian – If we wanted an accurate count then we would do tickets. Also people that come back the next day we count them again as another participant. That's where we have gotten over 15,800 plus for the last event.
Commissioner Samson – Well I've asked Lisa to run a kind of a cost analysis just thinking out loud here, if we want to possibly explore charging for this event . I'm not saying we will, or won't I've just asked her to run some numbers and give us some ideas on this – it is becoming a big event.
Brian – It is, they actually have lots of classes and seminars at the International Council on Air Show and for jet teams and for shows that are trying to make money, they charge a fee, there are very few that are open for public relations that don't charge a fee and that is mostly what we are but if it becomes such a huge community event, we could get more of the local businesses and community businesses to sponsor it and then give out tickets so that people could go visit the businesses that are supporting this. There is way to do it and still have be relatively inexpensive or free community event if you just visit a sponsor.
Commissioner Houpt – Even if you just charge a small gate fee with the expectation of paying a partial of the cost of the event is that would be helpful. As this event has grown over the years, it has gotten to be fairly expensive. You don't want to charge so much that people can't bring their families and probably want a family fee but….
Brian – With 15,000 people and we charge $2.00 in talking with Dale and Lisa just to set that up to collect the revenue, we have just now lost $10,000 to $15,000 and we'll just break even. So if it to make a revenue then we can look at that, we may lose some of the participants because it is a fun free event for the community to see the airport. But because it is becoming more popular some of the businesses in the community might be able to step up and then everybody can be a winner. There is a way to do it and we come up with a couple of proposals and submit it to you guys.
Commissioner Samson – The other thing I wanted to mention Brian in the past we've had about 6 food vendors and I know that the lines have been awful long at some of those vendors. Would you want to open that up to more or is space a problem.
Brian – Space is not a problem.
Commissioner Samson - It's just an idea but if space is not a problem, then I think we might want to open that up because I've always been there and some of the lines are pretty long. The vendors probably are not going to be happy about that but I'm thinking if you have to wait in line for 15 minutes or more for something to eat that is something to consider.
Brian – That is another business decision, we do open it up for the 6 vendors, 4 of them are non-profit so the non-profits have the advantage over a business because it's a community event and we want help the non-profits. For the non-profits, we are providing the insurance required to sell food.
Commissioner Samson – I think we need to look at that because people do not want to stand in line, some of those vendors.
Chairman Martin – Some of us don't eat at those functions.

PUBLIC HEARINGS:

FINAL ADOPTION OF THE 2011 BUDGET – THERESA WAGENMAN

Carolyn reviewed the public notice published on October 14, it was in the Citizen Telegram including the entire process and including today's hearing and that is all that the statute requires is one notification.
Chairman Martin entered the notice into the record and swore in the speakers.
Lisa Dawson Finance Director and Theresa Wagenman Budget Analysis presented the 2011 budget and resolution concerning the adoption of the budget and appropriation of funds for the fiscal year 2011.
Also attached to your budget is a list of the changes since October.
Commissioner Houpt inquired if the Junior Achievement was already deducted from the Human Services contingency.
Lisa – The Junior Achievement was paid in 2010 and so that's why we transferred over that amount.

Discussion regarding cutting the discretionary funds of the BOCC

Commissioner Samson - Why was it that we cut our discretionary funds from $1 million to $650,000.
Chairman Martin – Because we wanted to set again the precedent that we are reducing our overall budget ask for a zero percentage increase in budget from all elected officials and department heads and then setting that pace, we reduced ours by 35 to 40 percent.

Commissioner Houpt – But the discretionary funds are as need basis type of fund and I would ask the same question because it is on an as needed fund, we are taking the availability of funds away from other projects so it doesn't really impact the commissioner's budget but others who would come forward for assistance.
Ed – I think it was for setting an example by the Board of County Commissioners.
Commissioner Houpt – My example of a particular line item that was cut it would probably impacts the Commissioners.
Chairman Martin – Yes, it impacts the availability of funds we are trying to appropriate for 2011 trying to get those areas that need a little more help without going over our zero percentage increase in budget. The other one we are having to absorb 20% increase of health insurance due to the national health care reform. We are also looking at a potential of 1% adjustment in cost of living or wages and maybe a 3% or 4% into the future. We haven't decided we are going to allow that to happen, still that is a large amount of money that would be spent for wages and also increase our overall baseline for wages. So we wanted to cut the budget as lean as possible and that discretionary funds was one of those and setting that example and also setting the example for everyone to cut their budgets where necessary and possible, so we've done so. I think that we have cut $30 million.
Ed – Our budget last year was cut by $137,500 and we're down to just a tick over a $100.
Commissioner Houpt – And most of that is capital that we are not doing this year.
Ed – Yes, but we've reduced the labor by $2 million dollars and 26 positions and we've also gone through every single budget and scrubbed all sorts of categories of costs.
Commissioner Houpt – It's a pretty lean budget. We do still have an increase in here for staffing.
Chairman Martin –But that is to be revisited in 2011 and it is not a guarantee of distribution.
Ed –Right, it has not been distributed to the various departments, it remains a pot of money strictly for the Commissioners decision whether or not to distribute.
Chairman Martin – The overall 4% is being held and not released 3% for performance and 1%. We will see if we are able to go forward with that or not. That is guaranteed to all of the elected and department heads to give that increase without our authorization in 2011. But it is in the budget just in case are able to do such. Again, we are watching the budget as close as possible.
Ed – It's Katherine's intent to present that to you in February with the relative data and ask you whether or not you want to release it.
Theresa – Fund balance information is in the revenue section. I changed the format in the layout of the book, it is broken out by governmental function, public works, health and welfare, general government in response to the distinguished award comments that we received back last year – that was one of the comments and suggestion to break that up.
Commissioner Houpt – I thought it was well organized.

Landfill budget and possibilities

Ed – I have 2 big concerns regarding the landfill budget which is an enterprise fund and as you know we have had to reduce staffing by 1/3 and as you can see we will also this year continue to lose money to the tune of about $270,000. If you look at our fund balance, it is projected to end at $4.2 million. That sounds robust but about $2.1 million is designated to closure and post closure and then you also have to factor in that you have to have money available for the next cell which is $750,000 plus you have to have money set aside for the next big procurement of equipment which in this case is the screener which will be about $300,000. So if you take a take a look at $4.2 million, really what you have left is $1 million. The prospects for the economy is possible for 2011 and I think what we want to do is try and hold if we can and evaluate the money on a month-to-month basis.
Chairman Martin – There are a couple of factors there – that is the users have dropped off considerably and one of the reason the users and I say only one if the increase the cost and we increased that cost and we did lose some users. We need to look at that and see if that was a wise decision. It is really making us money or is it actually costing us money by raising the rates so we have to analysis that as well. We didn't raise them for 10 or 11 years and everything was going well. We raised them and some of those well-established users dropped off.
Ed – The biggest customers we had were the energy and construction and the bottom fell out of both of those.
Commissioner Samson – I don't want to disagree with you Mr. Martin and I understand where you are coming from but if do not raise something for 12 years and then you raise it, I don't think that it is a big factor.
Chairman Martin – I think it is, I have talked to the users.
Commissioner Samson – I've talked to them too and I think Ed's point is well taken, the vast majority of that was because of the drop off in the energy and construction, those were the biggest users. That is the problem. I wish I could say the same things were the same rate 12 years ago.
Ed – The other big problem with respect to the landfill is the per resolution it is an enterprise fund and it can only use the funds it collects and we cannot supplement it.
Commissioner Samson - What if that turns upside down.
Ed – We have to further evaluate our cost.
Chairman Martin – Not only that, you have to revisit, is it really an enterprise fund or is it now a department and a general fund finance department so it is a choice we can make.
Commissioner Houpt – And you don't want to get down where funds are so whittled down that you've lost all of your ability to have your closure funds on hand.

Concern regarding the State cuts in their budget

Ed – The other big concern is the budget and that is the state, as you know they have to whittle off $230,000 million dollar problem this year and then going into 2011 and 2012 they probably looking at billion and that will trickle down to us. So we are going to be faced with decreases in grants and fees coming to us in Human Services, Public Health, Road and Bridge and Community Corrections etc. So we will need to continually evaluate that and work with the board to make any changes. Of course, the big data point will be July 1 when the new budget for state comes into plan and we'll know more.
Chairman Martin – I would say somewhere around $2 or $3 billion short and not $1 billion.
Ed – I know but they are advertising it as $1 billion.

Kudos to the Finance Department

Chairman Martin – In front of us is the budget, it is being presented and it is an adoptable budget and hats off to our finance department and administration, it is up to us to either decide that we are going to adopt it or not and we have a limited time to make changes, otherwise we need to adopt this particular budget.
Commissioner Houpt – I think the process have been very good this year and appreciate both Lisa, Theresa you're your department for this and really stepping forward and addressing the concerns this year and for the following years on revenue. I think is it a very practical budget.
Commissioner Samson – They have done a very good job as they always have and I think their awards are very deserving, Garfield County has been given several national awards on how we conduct our affairs financially and I think that speaks volumes. How people look in the industry towards Garfield County and to go along with that we have been blessed greatly because of the revenues that have come to us. As all of you and your department do a wonderful job and thank you on behalf of us as elected officials and constituents of Garfield County, thank you for doing a good job.
Theresa – One of the intents behind the award is to make it a useful document to understand for all the citizens of the public and I hope we are achieving that. I think we did this time around, better than last year even more so, so that distinguished budget award was to make it a good, useful and easy to understand not just for us but someone else in the public when you have challenging information that is hard to understand and hope this will help them figure out easier where the money is going.
Chairman Martin – We gave you a task and that was to reduce our overall budget and I believe all elected officials and departments responded as well as this Board did reducing our overall budget from $137 million to just a little over $102 million with adjustments here and there, but we reduced is $37 plus million dollars. We need to see and challenge ourselves again for 2011 and 2012 which we will do so based upon revenues and based upon circumstances, this recession and depression is not over by any means, we will continue to hopefully set the pace for other governments to follow and stay within our means and have a balanced budget as well as being solid which we will be the target which we are right now being solid and having money available to us where many governments do not so our challenge is even greater and that is to stay solid. Thank you for presenting us a good document.
Jean – I need you guys to make one small correction on the duties of the Clerk and Recorder, page 115, everything is great until the very last sentence where it says, "furnishes deeds, abstracts upon request", that is a function in some counties but not Garfield County because we do not do property abstracts. That is done by the title companies.
Commissioner Houpt – I also think it would probably be good to make note of what commission adopts this budget and worked on it.
Chairman Martin – So we have a motion to adopt the budget with those amendments.
Commissioner Samson – So moved.
Chairman Martin – Approval of the budget, adoption of the budget and appropriating the funds for the fiscal year 2011, I think that what Mr. Samson said and authorization to sign.
Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin – aye
Lisa explained the reason we put Tom Jankovsky photo in is historically we put the photos of the Commissioners for that budget year so when Mike came in at 2009, even though Larry McCown had approved the budget in 2008 Mike's photo was in the 2009 budget book.

CERTIFICATION OF THE GARFIELD COUNTY MILL LEVY – THERESA WAGENMAN

Theresa Wagenman presented the certification of mill levy for 2011 with details that included the total of $46,503,333.00 with a mill levy of 13.655 mills.
This is not a noticed public hearing and it has to come after adoption of the budget is why it is second.
Chairman Martin – However, you still wish to give testimony. In the general fund you have identified general fund, road and bridge, human services and retirement funds as required is that correct.
Theresa – It is correct. The mill levy is 13.655 and hasn't changed and this just shows how it is broken out in the different Garfield County funds.
Chairman Martin – The mill levy the net assessed valuation for the county is …
Theresa - $3,405,590.00 dollars.
Chairman Martin – And you wish to go ahead and distribution these mill levies in the 2011 budget as general fund 10.719, road and bridge 1.468, human service fund $.0734 and retirement fund .734 so that the budget will be balanced and the distribution will be supplementing all the budget requirements.
Ed – Conspicuously absent from that list is the capital equipment fund, we have a robust fund already and we don't have any capital projects.
Theresa – I would like to mention that we received a revised certification of values on December 1, 2010 which was when I was almost complete with this book, it slightly changed not the 13.655 but the distribution in the general fund so next week we are coming to you to ask for a revised adoption of the 2011 budget, actually adopt a revised copy of the 2011 budget. It reduces the general fund property tax revenue by about $66,000 and it is not a material amount but we do bring that to you.

Motion

Commissioner Samson – I would move that we would certify the mill levy of 13.655 as allocated among the various general funds as presented.
Commissioner Houpt –Second. I know that there is often a question about the rate of the mill levy and I think Mr. Green has identified some pretty critical issues that counties will be faced with over the next few years and in the recessionary time but the state of the state budget as well and counties do need to continue to provide service and so it's important that we protect the integrity of the budget as best we can.
In favor: Houpt – aye Samson – aye Martin – aye
Theresa – I would like to add that it has been a pleasure working with all you guys in the budget process and Tresi I will not have the opportunity to work with you in the future but I want to thank you again for getting to work with you in the last few years on the budgets that I have done.

PUBLIC MEETINGS:

REQUEST AUTHORIZATION FOR THE CHAIR TO SIGN THE MYLAR FOR THE EVANS SUBDIVISION EXEMPTION PLAT, NO. 2. APPLICANTS ARE JACK EVANS AND BILLIE BURCHFIELD EVANS – KATHY EASTLEY

Representatives were present from Balcomb and Green, Sara Dunn and Chad Lee.
Kathy Eastley submitted the memorandum to the Commissioners with a request for a Minor Exemption that has been reviewed through the Administrative Review Process and a determination of conditional approval on October 25, 2010. The Board did not request a public hearing of the application. Therefore, a request

today is for the Chairman to sign the Exemption Plat and the purpose of this meeting is an issue with the demonstration of adequate water to serve the proposed exemption lot. Staff has worked diligently with the applicant and the Division of Water Resources to satisfy this issue. Staff is recommending the Board authorize the Chairman to sign the Evans Subdivision Exemption No. 2 plat.
Kathy stated the purpose this is on the public meeting agenda is because staff is waiting for some documentation regarding sufficient water to serve the new lot and in lieu of everything being in place, I thought it best to bring it to the Board so that you were aware of the issues.
Commissioner Houpt – Do you have a timeframe.
Kathy – Just talking to the representatives and they are working with the Division of Water Resources, it could be as soon as 48 hours for us to get that information.
Sara Dunn and Chad Lee with Balcomb and Green explained that the local well commissioner Dwight Whitehead has been in and out on medical leave and if he's in we can get it within a couple of days. If it has to go to Denver, it could be 30-days; it is just based on the volume of permits.
Commissioner Houpt – There are provisions for making sure everything is in place before you move forward.
Chairman Martin – Yes, there are safeguards.
Carey – This has been a challenging problem but the applicant has brought and the building and planning has done a very good job of trying to work out a reasonable compromise.

Motion

Commissioner Samson – I would move that we approve and authorize the chair to sign the Mylar for the Evans Subdivision Exception plat No. 2 following with the staff recommendations 1 – 5. Commissioner Houpt - Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REQUEST FOR A 60-DAY EXTENSION TO THE CONDITIONAL APPROVAL GRANTED ON DECEMBER 14, 2009 FOR "EXTRACTION AND PROCESSING OF NATURAL RESOURCES" FOR NATURAL GAS WELL PAD GV 82-5 LOCATED WITHIN THE BATTLEMENT MESA PUD. APPLICANT IS WILLIAMS PRODUCTION RMT COMPANY – KATHY EASTLEY

Kathy gave the report and the pad GV82-5 located below the golf course at the eastern end of the PUD. On December 14, 2009, the BOCC conditionally approved a request for a SUP as required by the Battlement Mesa PUD Resolution 2010-08 that lists the required conditions, many o which require satisfaction prior to issuing the Land Use Change Permit.
The Board's decision to approve or conditionally approve a land use change application by Major Impact Review was effective for a period of one year. Prior to the expiration of the original Major Impact Review approval, the applicant may request an extension of one year to complete the conditions of approval.
Staff and Williams Production RMT Company are in the process of submitting and reviewing the information necessary to satisfy the required conditions of approval; however, the expiration of the approval is fast approaching. Williams has requested a 60-day extension to provide the information necessary for issuance of the Land Use Change Permit. Kathy stated we are in negotiations to get additional information on some of those conditions. In lieu of the fact that the application will expire tomorrow they are requesting a 60-day extension to satisfy the conditions.
Commissioner Houpt – So they really felt that they were on schedule and additional information that we needed moving forward or …
Kathy – That is correct, it's really
Kathy – It is the amount of detail that is needed.
Commissioner Samson – I would move that we grant the request for a 60-day extension to the conditional approval granted on December 14, 2009 for the extraction and processing of natural resources for the natural gas well pad GBA2-5. Commissioner - Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REQUEST FOR A TIME EXTENSION FOR THE EAGLE RIDGE TOWNHOME PRELIMINARY PLAN LOCATED WEST OF CR 114 WITHIN THE LOS AMIGOS RANCH SUBDIVISION. (FILE NO. SPPA-6673). THE APPLICANT IS EAGLE RIDGE INVESTMENT HOLDINGS, LLC. – MOLLY ORKILD-LARSON

Molly Orkild-Larson, Alan Meyer and Carey Gagnon were present.
Molly Orkild-Larson submitted the request for a time extension and submitted the following exhibits Exhibits A – G.
Molly presented the request saying on December 3, 2010, Staff had a pre-application meeting with Hayden Rader and Allan Meyer who inquired if the Board of County Commissioners (BOCC) could grant a two-year time extension for their Preliminary Plan under the Unified Land Use Resolution of 2008, as amended. The Eagle Ridge Townhome Preliminary Plan is to expire December 17, 2010 and in order to continue with the project and submit a Final Plat they are requesting an extension.

Project Background

The Eagle Ridge Townhomes Preliminary Plan was conditionally approved by the BOCC on January 21, 2008 (Resolution 2008-20, Exhibit E). In December 2008 (Exhibit F) and December 2009, the Applicant requested and received a one year extension of the Preliminary Plan. Under the current time extension, the BOCC set December 17, 2010 as the deadline for the submittal of the Final Plat for Eagle Ridge Townhomes Subdivision (Resolution 2009-93, Exhibit G).

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners **approve** the request from Applicant for a time extension of two years for the Eagle Ridge Townhome Preliminary Plan located on 7.3-acre property located within the Los Amigos Subdivision PUD located off CR 114.

Discussion

No additional information from the applicant.

Motion

Commissioner Houpt – I will make a motion that we approve the request for a time extension for the Eagle Ridge Townhome Preliminary Plan located west of CR 114 within the Los Amigos Ranch Subdivision for a period of 2 years as requested. Commissioner Samson - Second. In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER BOCC DIRECTION REGARDING THE EXPIRATION OF THE SUBDIVISION IMPROVEMENTS AGREEMENT AND LETTER OF CREDIT FOR SUN MEADOWS ESTATES. APPLICANT IS SUN MEADOWS ESTATES, LLC. – FRED JARMAN

Fred Cooke, Tim Thulson, Fred Jarman and Carey Gagnon were present.

Fred submitted detailed information in a memorandum outlining the Board's previous actions on November 8, and 12/6/2010 saying that on November 18, 2010, Mr. Cook provided an update on the progress however, to date no documents have been submitted to the County as requested. Fred provided the history of this project including that CDOT has not actually issued a notice to proceed, the letter of credit was issued until December 31, 2010 for the cost estimates to improve the at Miller Lane and Hwy 6&24 intersection. This matter was continued from December 6, 2010 and Mr. Thulson is out of town until Monday, December 13, therefore follow-up will be made with him at that time.

Fred requested direction with respect to three alternatives he proposed:

1. The Board may elect to vacate the Final Plat as it pertains to lots that do not have building permits issued on them and have not been sold.
2. The County could call the Letter of Credit (LOC) as well as call for the release and sale of the "Pledge Lots" consisting on Lots 9 and 10 held currently in escrow for the County for the purpose of generating funds necessary for completing the improvements on the intersection of State Highway 6 & 13 and Miller Lane.
3. The Board could re-negotiate a Third Amendment to the Replacement SIA with the Developer to address the completion of the remaining improvements and obtain a new LOC to cover the escalated costs. Staff recommends this amendment would continue to include the prohibition on the sale of lots south of Antonelli Road (Los 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 Lots 1, 5, 8, 18, and 22-33 in addition to the ones held in escrow of lots 9 & 10)

Fred stated at the last go round you had requested that the applicant come back to you with three things, one was a final engineering cost estimate of the improvements, two was a revised letter of credit to cover that cost from Alpine Bank and the third thing was an amended SIA to make sure those improvements get put in place. So to this point, we have received a draft amendment to the SIA which we got late last week and also a conversation with Alpine Bank at the time, Wednesday or Thursday of last week but basically, this is Doug Petén and I asked him specifically if I could tell you and he said yes you can and that is that Alpine Bank is certainly going to continue to work with Mr. Cooke on this project understanding there may be an increase in that letter of credit and you won't have a read from the bank, they meet every Tuesday on the committee to look at letters of credit and if there is was a basic substantial increase in that amount then there would be further negotiation that has to happen. I was just informed today that Fred Cooke has the final cost estimate with him and it appears that is $10,000 above the existing letter of credit is. So in my mind that is good news, I suspect he will be able to work fairly well with Alpine Bank and moving that forward in getting a letter of credit. From staff's perspective, we just call this to your attention because of the existing letter of credit making sure that you are still in the driver's seat for your design or not to call that letter. With that, you have a memo with a different date, same scenario and I turn it back to you Mr. Chairman so you can see what's new.

Tim Thulson, I have met with Ms. Cagnon and we have agreed to a form I would add to bring it up to date on paragraph I with taking about we would leave, there was an alternative provision in there that would leave the lots that were escorted at the letter of credit if the letter of credit was not sufficient to cover the total estimated cost. As of today it is our understanding that the letter of credit will be in the full amount of the estimated cost and Fred Cooke will go to committee on that next Tuesday and it would be issued next Wednesday. With regard to that alternative provision in paragraph, I that will be taken out and it will be a condition of the posting of the letter of credit by Alpine Bank before the release. That would be the only additional change and I told Ms. Cagnon that we would amend the existing SIA to release lots from escrow.

Fred Cooke – The only other point to bring up is we have received the notice to proceed from CDOT and they issued that last Thursday.

Tim – These costs are based on the notice to proceed as required under the existing SIA.

Commissioner Samson – Sounds like everything is going slowly but going.

Fred Cooke – We have everything in place we need right not to be able to start construction as far as permits, approvals.

Fred – The only question I had was the anticipated timeframe I guess in the spring.

Fred Cooke – As soon as the asphalt plants open up we will be ready to proceed with the project; we would like to have this basically going the first thing as soon as the snow is gone and the ground has thawed.

Tim – Right now under the amended SIA, we're representing it will be completed June 30, that is the extension we are requesting.

Fred Jarman – The only other thing I would add is that you would want when Fred negotiates that new letter of credit run that 6 months beyond to December 31, 2011.

Carey – Just a point of clarification, the new letter of credit will also include the estimated 10% extra additional to cover contingencies. It is not just an exact amount of your final engineering costs.

Fred Cooke – No, it does include contingency of 10%.

Tim – You will notice in the certified SIA that is has a typo stating a 15% but it is computed on 10% in the breakdown.

The original copy of engineering costs was made part of the record.

Fred identified the Exhibits; Exhibit A – Draft amendment to the SIA; Exhibit B – Engineers cost estimate; and Exhibit C – A copy of the letter from the Bank when received.

Commissioner Houpt – When will this be finalized, when the SIA.

Chairman Martin – This will have to be verified or ratified with the letter of amendment attached to it.

Fred – Sometimes you have authorized the chair to sign if those documents come in and in your mind satisfactory in the direction this is headed.

Chairman Martin – It could be because we have had testimony that it is the letter plus the 10% to cover all costs, etc. and if that comes through.

Fred – Those are the terms there, you are plugging in, frankly, the amendment to the SIA is straightforward, it is blank to put in that costs and the mechanisms are the same as they were before.

Chairman Martin – If we fail to meet those timelines and that letter then we have another meeting to consider calling the letter of credit. We would have to keep that open for a special meeting if necessary. I would like to get this rapped up before the end of the year and not take it into 2011.
Fred – What I heard you say was a week from tomorrow is when you would know from Alpine Bank.
Fred Cooke – Correct.
Fred – That gets us to the 21st and let's say that happens, you get it to us on Wednesday and I can try and hunt the Chairman down for a signature should you as the Board authorize John to sign that SIA. I need to let my Board know by Wednesday where we are.
Tim – So on the 20th we would ask for authorization for the Chairman to sign the SIA.
Fred – I'm suggesting that you do it today.

Motion

Commissioner Samson – I would more that we authorize the Chairman to sign the third amendment to the SIA if all the requirements are met that we discussed. Commissioner Houpt – Second.
Carey – We just need to finalize Paragraph I.
In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER A REQUEST FOR A LAND USE CHANGE PERMIT FOR MATERIAL HANDLING ON APPROXIMATELY 14.18 ACRES OF A 958 ACRE PARCEL LOCATED OFF OF CR 215 (FILE NO. LIPA 6393). THE APPLICANT IS ENCANA OIL AND GAS (USA) INC. AND IS REQUESTING THE APPLICATION TO BE WITHDRAWN – MOLLY ORKILD-LARSON

Molly Orkild-Larson submitted the memorandum to the Commissioners stating that the applicant is requesting to withdraw the Limited Impact Review for Material Handling (LIPA 6393) scheduled for December 13, 2010 public hearing. This will be coming back at a later date.
Commissioner Samson made a motion to close the public hearing. Commissioner Houpt - Second. Motion carried.

Motion

Commissioner Samson – I would move that we grant the request for this land use change permit for material handling by EnCana Oil be withdrawn. Commissioner Houpt - Second.
In favor: Houpt – aye Samson – aye Martin – aye

CONSIDER APPOINTMENTS FOR REGULAR MEMBERS OF THE GARFIELD COUNTY PLANNING COMMISSION – FRED JARMAN

Fred Jarman submitted the existing vacant seats on the Planning Commission and stated the Board is required to appoint Garfield County citizens to these vacant seats on these Boards. He submitted a breakdown of the current Garfield County Planning Commission.
Fred stated that staff advertised the vacancies and four requests for appointments were submitted:
Phillip Vaughan requests reappointment from the Rulison area
Cheryl Chandler requests reappointment from the Silt area
New ones
Sean Mello from the Silt area submitted a request as well as Lisa Wuerker from the Glenwood area.
Discussion:

Motion

Commissioner Houpt – In looking at where people are from it would make sense to reappoint Phil Vaughan and then talk about Sean Mello and Cheryl Chandler because they are both from Silt. It appears that we have more people from Glenwood than those two communities. But let me start by making a motion that we reappoint Phil Vaughan for an additional term of 3 years. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye Samson – aye

Commissioner Houpt –Sean Mello put forward an extensive letter and it looks like he would bring a discussion to the planning commission that hasn't been there from the aggregate industry. My leaning would be to appoint him to that seat but I'd like to hear from others as well.
Commissioner Samson – Well you know that I have always felt that we need more representation from the west end and your point is well taken Tresi in that we do have quite a few.
Commissioner Houpt – I think Lisa Wuerker would be good but it would tip the balance on where people are from so I think.
Commissioner Samson – I just wish that Sean would have applied when we had 4 vacancies and one was from west of New Castle. Phil has been involved for over 16 years and Cheryl the same. Phil has done an admirable job and especially being very level headed and chairing those meetings.
Fred – He has been the chair for at least 10 years at least.
Cheryl is the vice chair and she has been vice chair about the same time.
Commissioner Houpt –The other thought is that you don't want to turn everybody over at once but there is something to say for having some new blood on this board as well, but I will go with whatever you guys want but I think that Sean Mello would.
Commissioner Samson – We met with Sean, he was there at the gravel pit and a fine young man doing a great job for the community, etc. But I guess where I'm coming from Cheryl has done a good job and very thorough in her review especially of the Comprehensive Plan. He clarified with Fred the way the membership works and how the alternatives with the most seniority move up.

Motion

Commissioner Samson – I think Cheryl should stay on the Board, whether she remains as vice chair or not that would be up to the board to decide, but I guess I would move that we reappoint Cheryl Chandler for another three year term to the regular membership of the County Planning Commission.
Commissioner Houpt- Second. In favor: Houpt – aye Samson – aye Martin – aye
Fred will prepare a letter for the Chairman's signature and then John will mail those out to those members letting them know what your action was today.
Executive Session - Legal direction and update on pending litigation. Carey requested an executive session.
Commissioner Samson moved to go into an Executive Session. Commissioner Houpt –Second.
Motion carried. Cassie Coleman was needed for the session.
Commissioner Samson moved to come out of Executive Session. Commissioner Houpt - Second.
Motion carried.
No action, just information.

COMMISSIONER ISSUES:
COMMISSIONER REPORTS
Commissioner Samson will be covering the 10th Annual Coordination Meeting dinner starting at 4:00 p.m. at Fairgrounds, meetings and then the dinner is at 6 p.m. and ends at 7 p.m.
Chairman Martin said he will try to attend but has another obligation at the Elks Club for the Art Guild at 6 p.m.
COMMISSIONER CALENDARS
Commission Samson – Tomorrow morning, Tuesday – 9 a.m. with Scott Tipton at the Airport.

APPROVAL OF MINUTES
COMMISSIONER AGENDA ITEMS

ADJOURNMENT

TRAVELERS HIGHLANDS PUBLIC IMPROVEMENT DISTRICT
BOCC MEETING ROOM: 108 8TH STREET, ROOM 100, GLENWOOD SPRINGS
DECEMBER 13, 2010

At a regular meeting of the Board of County Commissioners for Garfield County, Colorado, sitting as the Board of Directors of the Travelers Highlands Public Improvement District, held at the County Administration Building in Glenwood Springs on Monday, the 13th day of December 2010, there were present Tresi Houpt, Commissioner; Mike Samson , Commissioner; John Martin, Commissioner Chairman; Carolyn Dahlgren, County Attorney and Ed Green, County Manager and Jean Alberico, Clerk to the Board

Agenda

Chairman Martin announced the Travelers Highlands Public Improvement District meeting at the BOCC Board room, today's agenda is a noticed meeting, and we had to post this at the boundary line.
Carolyn – Not at the boundary line but in the district for 72 hours so staff was charged with doing that and Betsy verified she did the posting in three different locations, and they are still up.
CR 300/US 6 INTERSECTION IMPROVEMENT PROJECT STAKEHOLDER PARTICIPATION UPDATE – BETSY SUERTH
CONSIDERATION OF FUNDING FROM TRAVELER'S HIGHLAND PID FOR THE CR300/US 6 PROJECT – BETSY SUERTH
Betsy gave the same Power Point as presented this morning and explained the update to the PID Board. The PID mill levy is based on 50 mills. She had visited with the Assessor's office and obtained a preliminary estimate of valuations.
Karl Hanlon, representing a number of property owners in the PID said no one objects to the 50 mills. He reminded the Board that cost to the intersection would be closer to $200,000 and one of the developers and property owners put in $100,000 already towards the entrance to the PID. An additional $75,000 is needed to complete the access improvements. Still needed are the internal improvements in Travelers Highlands including drainage issues, internal roads, snowplowing, etc. Two years ago, we submitted a reimbursement agreement regarding formation costs and the PID Board committed to consider. Therefore, Karl wanted to renew this request. It is statutorily permitted and the decision is yours. The cost of the election and legal fees was around $10,000. Therefore, in looking at the $450,000 number, keep these numbers in mind and remember the other costs were included in the 50 mills. Travelers Highlands and the Strong PUD are actually carrying $522,000. Amount the $1.5 million and he requested this be lowered to $400,000 versus $450,000 and factoring in the cost of $200,000 for Travelers Highlands is aggressive for a 3-year period.
Commissioner Houpt – This would need to go back to the BOCC to see what the numbers would look like.
Betsy – We estimated the revenue generation to be $160,000 for 2011, and then reduced it 30%.
Karl – The original valuation was 2006 in 2008 and we used conservative estimates. He also proposed Travelers Highlands pay the county over time. If the RTZ project goes forward that would be a cost reimbursement to us.
Commissioner Houpt – The County is putting up-front monies and this has value.
Karl – Would like to keep the door open for money to come back to the PID if more development occurs and others join in the cost for the intersection of CR 300.
Chairman Martin – Actually Frac Tech offered $300,000, got their feelings hurt but now have a new representative that wants to revisit the offer.
Karl – His understanding is that Frac Tech has a pending SUP requiring a CDOT access permit and Betsy confirmed they need excel and decel lanes.
Carolyn asked if the PID Board wanted a "development plan" however, it is not required and can be done through an IGA.
Karl explained how internal improvements were being handled presently.
Commissioner Houpt would like a "development plan" as it would be helpful in meeting the needs of the Travelers Highlands and paying back the County.
Karl suggested 40 mills for debt and 10 mills for operations. Need to talk to property owners and Betsy to see what those numbers would look like.
Chairman Martin – The original document of Travelers Highlands was 1963 and he thinks $300,000 would be acceptable and agreed with Tresi that more than 3-years adjusted to 5-years would be reasonable.
Betsy suggested to decide on a dollar amount but not add a timeframe.
Carolyn – the improvements for Travelers Highlands are listed in the rules and regulations and they reference a "development plan."
Karl – Over the next month, he could arrange to meet with his clients, develop a 5-years horizon, put some ideas together and project a time line.
Chairman Martin – Another meeting is necessary.

EXHIBIT A

Cost Share Options, as presented on September 13, 2010, with New Modified Option 3

Partner	Share Option 1($)	Notes	Share Option 2 ($)	Notes	Modified Share Option 3 ($)	Notes
Strong PUD	72,077	Based on project generated traffic estimates	72,077	Based on project generated traffic estimates	72,077	Based on project generated traffic estimates
Travelers Highlands	75,000	Based on Mr. Hick's opinion of obligation	705,758	Based on project generated traffic estimates	450,000	Based on applying 2010 taxes due plus estimated tax revenues for 2011, 2012 and 2013
Energy Companies	500,000	Based on 3-way split between partners	300,322	Based on project generated traffic estimates	385,000 to 500,000	Based on Commitments from Williams, Encana, Laramie and Antero
Una Gravel Pit	33,000	Voluntary participation by Grand Junction Pipe	33,000	Voluntary participation by Grand Junction Pipe	33,000	Voluntary participation by Grand Junction Pipe
Garfield County	821,535	Remainder	390,455	Remainder	446,535 to $561,535	Remainder

APPROVAL OF RESOLUTION TO CERTIFY MILL LEVY FOR CALENDAR YEAR 2011 – BETSY SUERTH

Staff is relaying a BOCC request for funding from the Travelers Highlands PID for the CR 300/U.S. 6 Intersection Improvements project and is presenting a resolution to certify the mil levy for the calendar year 2011.

Carolyn – One of the questions was whether the election really had occurred on November 4, 2008. I think it was November 2nd. Betsy – No, I checked it myself – that is correct.

Carolyn – Then on paragraph 2 on page 2 based on information provided to the Board in association with the November 2, 2008 election and as of updated in 2011. Isn't that what your report said to the PID board that the Assessor has updated the valuation to include personal property.

Betsy – That is correct. I have the corrected version here but I do recall and it is 2010 valuation for calendar year 2011, so just that is clarified.

Carolyn – And then Number 3, this is nitpicky lawyer thing; there really is no testimony because this is a meeting and not a hearing so it is based on information provided on December 13, 2010.

Chairman Martin – You're saying information, you're saying a public hearing.

Carolyn – And Betsy was sworn in.

Chairman Martin – Information provided would be fine.

Commissioner Houpt – So the only change that came out of that was deleting "and testimony in paragraph 3.

Chairman Martin – Information provided considered testimony. This Board needs a motion to certify that and forward that to the Board of County Commissioners.

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRAVELERS HIGHLAND PUBLIC IMPROVEMENT DISTRICT CERTIFYING THE MILL LEVY FOR THE TRAVELERS HIGHLAND PUBLIC IMPROVEMENT DISTRICT FOR CALENDAR YEAR 2011

The Resolution was submitted.

Motion

Commissioner Houpt - I would make a motion that we approve the Resolution of the Board of Directors of the Travelers Highlands Public Improvement District certifying the mill levy for the Travelers Highland Public Improvement District calendar year 2011at 50 mills and with the change in paragraph 3.

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

Rules and Regualations

Carolyn – We wanted to talk to you about the Rules and Regulations because they never got recorded and in the process we found a weird sentence fragment so we corrected that but I believe it to be in the nature of just a type so we would like to go ahead and approved get those recorded, the Rules and Regulations and By-Laws. You approved them back in July. In the first sentence of Article 3 in now reads, "the development including all land use and development plans, plats and related documents approved by the County or in the future collectively plats contains a general internal street alignment."

Motion

Chairman Martin – What we should do is reaffirm those with the corrections of the Scribners error and give directions to record those.
Commissioner Houpt – So moved. Commissioner Samson – Second.
In favor: Houpt – aye Martin – aye McCown - aye

Betsy's time reimbursed

It was determined that on 12/20/2010 the percentage, how often the County would invoice the PID and how much the PID would bear would be on the agenda. It would come out of the $450,000.
Commissioner Houpt had concerns and voiced that the stakeholders should be involved in Betsy's cost.
Chairman Martin suggested 1/3 from the PID and stakeholders and 2/3 from the BOCC. We need to estimate the rate, agree on it and forward this back to the BOCC.
Betsy – Currently but not including today, the total cost if $3,000. This includes the scope of work, IGA but the IGA was never adopted.
Carolyn – The 6 items were collaborated with the stakeholders and that has 3 subdivision to draft the development plan that we are talking about which hasn't happened yet but is in your head sort of and Karl's head to conduct meetings as needed, formulate cost share concepts, that has happened, coordinate financing with the underwriter and the bond counsel, that happened, facilitate process with PUC and Union Pacific, that happened, the liaison with CDOT, Building and Planning, County purchasing contract, that is ongoing; interface with the County Attorney's office, that is ongoing, provide project updates including financials as need, that is ongoing.
Chairman Martin – And so the overall account that we have, operating expenses collective presently, how much we have in the bank, is how much.
Betsy – It's about $27,000.
Chairman Martin – And you're asking for $3,000.
Betsy – Delinquent taxes are about $56,000.
Carolyn – Certain property owners within the PID have not paid their taxes and that's why we can't go out for bonding, because that just makes in an unsalable issue.
Chairman Martin – Total amount being requested by you to be paid for reimbursement, $3,000 even.
Betsy – It's $2,925.72.
Commissioner Houpt – I don't mind paying for that as or spending that money as long as I understand the equation of how we're doing that and what the PID is being assessed in relation to the rest of your time, so maybe that's something that comes back with a full report on, you explained much of it but I still don't have a clear understanding of what the County pays for and what other stakeholders would be assessed.
Carolyn – There's never been a discussion of assessing any other stakeholders to my knowledge.
Chairman Martin – Exactly, it was between the Board of the PID and the Board of County Commissioners and so we should pay our …
Commissioner Houpt – So, it's not over and above the $450,000 so we also need to make sure that it doesn't go over that amount. We can that come back with the breakdown of the internal need of Travelers and the project cost and the administration costs, can that all be put together.
Betsy – Sure.
Carolyn – Then perhaps we should not this on the IGA on for the December 20th BOCC, we should wait until after the first of the year.
Commissioner Houpt – It might make more sense as you move through this project.
Chairman Martin – We can't do much about it today, can't do any construction anyway. Identify those things.
Carolyn – I was just being unhappy that we don't have a seal yet so we could we put the seal on your hats because the PID has to have its own seal.
Chairman Martin – Our business is concluded. Then we'll notice out next meeting and we'll post it as well as we have done before.

Adjourn

Karl Hanlon – What I took out of that was to with Betsy and sort out some of that stuff.
Commissioner Houpt – But working off the $450,000.